



April 18, 2024

Brian Moynihan
Chief Executive Officer
Bank of America
100 North Tryon Street
Charlotte, NC 28255

Dear Mr. Moynihan:

We the undersigned are state financial officials responsible for state investment vehicles that hold financial positions in Bank of America. We write to express our concerns over Bank of America's troubling track record of politicized de-banking. Bank of America's de-banking policies and practices threaten the company's financial health, its reputation with customers, our nation's economy, and the civil liberties of everyday Americans.

Bank of America has a track record of de-banking religious organizations.

We are especially troubled by Bank of America's track record of discriminating against religious ministries. Notable examples include Memphis-based charity Indigenous Advance Ministries, the Timothy Two Project, and Christian author and speaker Lance Wallnau.

In April 2023, Bank of America closed the account of Indigenous Advance Ministries, a Christian organization that partners with on-the-ground groups in Uganda to care for orphaned and at-risk children, educate vulnerable children and prisoners, stop sex trafficking, and provide other essential needs.¹ The bank also closed the accounts of a Memphis, TN church that

¹ Jamie Joseph, [Christian nonprofit claims it was 'debanked' by Bank of America over its religious views](#), Fox News (August 25, 2023).

donates to Indigenous Advance and a separate business, Indigenous Advance Customer Center, that provides jobs to impoverished Ugandans.² The bank provided only vague reasons for the closures, claiming that it no longer wanted to serve their “business type” and that the organization’s activities exceeded the “bank’s risk tolerance.” Indigenous Advance repeatedly asked for an explanation, but bank employees would only read from the closure letters.³ Months later—after being confronted by an international media organization—the bank then claimed that it closed the accounts because the for-profit business engaged in “debt collection.”⁴ Neither Indigenous Advance Ministries nor the church collect debts, nor was the bank able to point to any policy prohibiting account holders from engaging in such activities.⁵ In other words that rationale was a ruse, and even if legitimate, would only apply to one of the closed accounts.

In 2020, Bank of America closed the account of Timothy Two Project International.⁶ Timothy Two trains pastors in over 65 countries in some of the most impoverished areas of the world, and had held a Bank of America account since 2011. In a letter that came “out of the blue” and that invoked the same amorphous “business type” excuse as it did with Indigenous Advance, the bank informed Timothy Two its account was being closed because it was “operating a business type we have chosen not to service.”⁷

Bank of America also froze the accounts of Christian author, preacher, and podcaster Lance Wallnau, alleging he was suspected of money laundering but refusing to provide any evidence.⁸ The bank eventually unfroze his account but required him to answer a series of invasive questions to do so.

Other instances point to systemic biases against political and religious views.

This pattern of religious de-banking strongly suggests that systemic drivers of religious and political bias may be at work within Bank of America. One objective indicator of such a problem is the bank's egregiously low score on the Viewpoint Diversity Score Business Index, the premier benchmark for measuring corporate respect for free speech and religious freedom. Bank of America scored a meager 8% out of a possible 100%.⁹

² Ian M. Giatti, *Bank of America closes accounts tied to Christian outreach ministry*, THE CHRISTIAN POST (Aug. 24, 2023).

³ Press Release, Alliance Defending Freedom, *Bank of America boots charity serving impoverished Ugandans under vague 'risk tolerance' policies* (Aug. 22, 2023).

⁴ Helena Kelly, *EXCLUSIVE: 'Debanking' row breaks out after Bank of America shuts down account for ultra-conservative Christian charity that serves impoverished Ugandan*, Daily Mail (Aug. 22, 2023).

⁵ Giatti, *supra* note 2.

⁶ Steve Curtis, *Why is Bank of America canceling the accounts of religious organizations?*, Washington Examiner (November 12, 2023).

⁷ *Id.*

⁸ Steve Warren, *Bank of America Freezes Ministry Account of Lance Wallnau in Latest Case of Banks Canceling Christians*, CBN (March 13, 2023).

⁹ <https://www.viewpointdiversityscore.org/company/bank-of-america>.

The company's score breakdown revealed a troubling lack of transparency related to internal decision-making on service cancellations and respect for diverse viewpoints in its corporate governance. The Business Index also identified vague and imprecise policies that afford Bank of America broad discretion to deny or restrict service for arbitrary reasons. Bank of America's vague terms of service allow the bank to deny financial services based on a client's religious or political views. For example, the company states that it may deny services to clients whom bank employees deem "promote intolerance...or hate."¹⁰ These vague terms can be weaponized against clients for their First Amendment-protected viewpoints on hot-button cultural issues.

It also highlighted the bank's viewpoint-discriminatory and anti-religious giving policies. Indeed, Bank of America funds and partners with anti-free speech organizations, like the Human Rights Campaign and the Center for American Progress, while preventing employees from giving to faith-based groups in their employee gift match program.¹¹

In addition to the bank's religious account closures and disregard for viewpoint diversity, we are also deeply concerned about recent revelations that Bank of America *voluntarily* shared its customers' private financial data with the federal government as part of a wildly overbroad financial surveillance scheme intended to identify domestic terrorists. A report released on March 6, 2024 by the House Select Subcommittee on the Weaponization of the Federal Government reveals that, following the events of January 6, 2021, "the federal government was engaged in broad financial surveillance, prying into the private transactions of American consumers."¹² This surveillance "was not predicated on any specific evidence of particularized criminal conduct and, even worse, it keyed on terms and specific transactions that concerned core political and religious expression protected by the Constitution."¹³ Specifically, federal agencies instructed banks to search through transactions to identify potential domestic terrorists by using keywords like "Cabela's," "Dick's Sporting Goods," "Bass Pro Shop," "MAGA," and "Trump."¹⁴ They also warned that "the purchase of books (including religious texts) and subscriptions to other media containing extremist views" could be evidence of "Homegrown Violent Extremism."¹⁵ Finally, the agencies also urged banks to surveil donations to so-called

¹⁰ *Id.*

¹¹ Bank of America, [Matching Gifts Program](#), "Matching Gifts Features and Eligibility", "Eligibility criteria" ("We do not provide general funding to any organization whose purpose is to promote or to discourage the observance or proselytization of religious beliefs. However, we will support such organization's funding of homeless shelters, soup kitchens or other social service needs. The organization may be asked to provide proof of the community project receiving funding. We do not provide funding to any organization that discriminates based on race, religion, color, sex, sexual orientation, gender identity, age, national origin, ancestry, citizenship, veteran, or disability status, or espouses hate.").

¹² Comm. On the Judiciary and Select Subcomm. On the Weaponization of the Federal Gov't, 118th Cong., [Financial Surveillance in the United States: How Federal Law Enforcement Commandeered Financial Institutions to Spy on Americans](#), Interim Staff Rep't at 1 (Mar.. 6, 2024).

¹³ *Id.*

¹⁴ *Id.* at 2.

¹⁵ *Id.*

“hate groups,” and shared a list of such groups prepared by an activist outfit that includes several mainstream conservative and Christian organizations.¹⁶

The Select Subcommittee reported that Bank of America “voluntarily and without legal process, provided the FBI with a list of names of all individuals who used a BoA credit or debit card in the Washington, D.C. region between the dates of January 5 and January 7, 2021.”¹⁷ The report states that the bank also voluntarily provided the FBI with “a list of individuals who had ever used a BoA credit or debit card to purchase a firearm, regardless of when or where it was purchased.”¹⁸ Apparently, the FBI itself pulled the private customer data Bank of America had shared from the FBI system because “the leads lacked allegations of federal criminal conduct” and “out of ‘concern[]’ from where it ‘originated.’”¹⁹

We are shocked that Bank of America would so cavalierly disregard its customers’ privacy and their First, Second, and Fourth Amendment rights at the behest of the federal government.

Bank of America’s Net-Zero Banking Alliance Commitments will also lead to de-banking.

A recent multi-state letter from 16 state attorneys general to Wells Fargo highlights another of our de-banking concerns.²⁰ Like Wells Fargo, Bank of America is a member of the Net-Zero Banking Alliance. As the Wells Fargo letter explains, the greenhouse gas emission commitments Alliance members make “necessarily lead to debanking.”²¹ That is because the unrealistic and unscientific Net-Zero emissions reduction goals “depend on emissions *produced by clients*.”²² Like Wells Fargo, to meet its aggressive 2030 oil and gas emissions targets, Bank of America will likely have to either: “(1) condition financing on emissions reductions; and/or (2) cut off financing to enough oil and gas companies to achieve the specified reductions.”²³ Forthcoming Net-Zero financing commitments will likely cause Bank of America to impose similar de-banking measures for many other sectors of the economy, including real estate, iron, steel, and cement manufacturing, coal, transport, and agriculture.²⁴

A coalition of 12 state agriculture commissioners also recently wrote to Bank of America and five other banks on this exact issue.²⁵ They warned you that “[a]chieving net-zero greenhouse gas emissions in agriculture requires a complete overhaul of on-farm

¹⁶ *Id.* at 32.

¹⁷ *Id.* at 5.

¹⁸ *Id.*

¹⁹ *Id.* at 6.

²⁰ Press Release, Office of the Montana Attorney General, [Attorney General Knudsen Demands Answers from Wells Fargo for Debanking Practices](#) (Mar. 7, 2024).

²¹ [Multi-state attorney general letter to Wells Fargo](#) at 5 (Mar. 6, 2024).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Thomas Catenacci, [Dozen state GOP agriculture commissioners launch probe of US banks over ESG investing: ‘It must be stopped’](#), Fox Business (Jan. 29, 2024).

infrastructure” and that “[t]his would have a catastrophic impact on our farmers.”²⁶ These costs would “increase food costs and decrease food production at a time when global food demand is expected to rise dramatically” and “the average American has been struggling to keep up with inflation.”²⁷

De-banking poses serious financial and reputational risks to Bank of America and jeopardizes our economy and civil liberties.

This pattern of internal political and religious bias at Bank of America poses risks for public funds invested in the company as well as for the millions of individuals, businesses, and nonprofits who rely on its services. Many of the funds we manage or oversee include pension funds and endowment funds which are direct shareholders of Bank of America, and as stewards of our states’ investment dollars, we are concerned that the company’s recent pattern of politically motivated de-banking constitutes a breach of its fiduciary duty. Under the law, you and the other officers of the company must act to maximize shareholder value and must not subordinate the company’s long-term financial well-being to extraneous political ends. Bank of America’s de-banking policies and practices improperly subordinate financial well-being to other factors and place the company’s business interests at risk.

Even the appearance of politicized de-banking harms the company’s reputation with its customers. A recent poll found that 72% of likely voters “disagree with the statement, ‘Banks and financial institutions should be allowed to deny services to customers based on the customer’s political, social, or religious views.’”²⁸ The same study reported that 67% of voters across the political spectrum “express a great deal of distrust in banks and financial institutions that deny services to customers based on the customer’s political, social, or religious views.” The study also found that voters “have ‘hardly any trust’ or ‘no trust at all’ in financial institutions that discriminate against their employees based on religious or political views.”

This is part of the growing consensus that companies should not politicize their services. According to a recent poll, 57% of respondents said that they were likely to stop purchasing products or services or cancel subscriptions from brands that do not respect their values.²⁹ A recent Gallup poll also found that only 41% of Americans think businesses should take a public stances on controversial issues, down from 48% the year before.³⁰ Indeed, companies like InBev, Disney, and Target had substantial drops in performance and shareholder value after they took divisive stances on political and social issues.³¹

²⁶ [Joint Agriculture Official Letter to Banks](#) at 3 (Jan. 29, 2024).

²⁷ *Id.*

²⁸ Travis Taylor, [2023 Debanking Poll](#), Center for Excellence in Polling (May 24, 2023).

²⁹ Viewpoint Diversity Score, [2023 Freedom at Work Survey](#) Q13.

³⁰ Kristin Schwab, [Fewer Americans want brands to take a stand on controversial issues](#), Marketplace (Oct. 10, 2023).

³¹ Bowyer Research, [Corporate Political Activism and Shareholder Value: The Examples of Bud Light, Disney, and Target](#) (last visited March 15, 2024).

These numbers paint a bleak picture for Bank of America, which not only de-banks clients for political and religious reasons but also, as noted above, expressly discriminates against employees who desire to give to religious charities. Moreover, Bank of America's recent spate of religious account closures and voluntary disclosure of customers' private financial data as part of the federal government's improper financial surveillance scheme has drawn significant and adverse attention from the media and the U.S. Congress.

As the second largest bank in the United States and the beneficiary of an anti-competitive charter system³² and a host of government subsidies,³³ Bank of America is obligated to use its privileged legal status to ensure equal access to the marketplace for all, not play politics. Unfortunately, it is doing the latter in a manner that violates the fiduciary duty it owes its shareholders and harms the economy and everyday Americans' constitutional freedoms.

Conclusion

Considering the above, we ask that Bank of America take these initial steps to demonstrate good faith in addressing our concerns:

1. Eliminate existing viewpoint discriminatory terms that govern customers and employees, including "intolerance" and "hate" from its Online Banking Service Agreement and "espouses hate" from its employee matching gift policy. In addition, eliminate the following sentence from the matching gift policy: "We do not provide general funding to any organization whose purpose is to promote or to discourage the observance or proselytization of religious beliefs."
2. Update your terms of service to include a commitment not to discriminate against customers based on their religious or political views. Bank of America has attested that it will not "deny service based on political or religious beliefs" or other ESG criteria to qualify as a Qualified Public Depository in Florida³⁴ and has likely made similar attestations in contracts with public entities in Utah, Texas, Alabama, Arkansas, Idaho, Kentucky, Montana, Oklahoma, and West Virginia. The bank should include this promise in its terms of service. Otherwise, it looks like mere lip service, especially considering the bank's de-banking record noted above.

³² Banking Strategist, *De Novo Bank Chartering Trends* (since 2008, there has been a sharp downward trend in new banks, that "for every 100 banks that merged, liquidated or failed, less than 4 new banks have been formed," and "[t]his trend is probably irreversible") (last accessed Mar. 4, 2024).

³³ Brian Knight and Trace Mitchell, *Private Policies and Public Power: When Banks Act as Regulators Within a Regime of Privilege*, 13 NYU J. L. & Lib. 66, 73 (2020) ("Banks operate in a highly distorted market. This distortion takes many forms, including barriers to entry, direct support from the government in the form of certain services, and, for some banks, government rescue from failure.").

³⁴ Eric Daugherty, *Over 100 Florida banks sign anti-ESG agreement to not 'politically discriminate'*, Florida's Voice (Jan. 19, 2024).

3. Participate in a survey designed to help the bank assess its impact of its customers' and employees' civil liberties, such as the Viewpoint Diversity Score Business Index. Bank of America discloses detailed information regarding a host of other issues, including climate change³⁵ and diversity & inclusion.³⁶ It also participates in the Human Rights Campaign's Corporate Equality Index, and even publicly celebrates its ranking.³⁷ The bank should demonstrate its concern for its impact on people's fundamental First Amendment freedoms and its commitment to equal transparency by participating in the survey.
4. Either withdraw from the Net-Zero Banking Alliance or explain what Bank of America will do if its existing clients do not reduce emissions enough for Bank of America to meet its emissions reduction targets.
5. Allow the shareholders to consider the de-banking shareholder proposal submitted by Leonard Crumpler, identified in your 2024 Proxy Statement as Proposal 5: Report on Risks of Politicized De-banking.

Thank you for your attention to this important matter. Please send your responses concerning the five requests outlined above no later than May 17, 2024.

Sincerely,


Alabama Auditor Andrew Sorrell


Arizona Treasurer Kimberly Yee


Indiana Comptroller Elise Nieshalla


Indiana Treasurer Dan Elliott


Kansas Treasurer Steven Johnson


Kentucky Auditor Allison Ball

³⁵ Press Release, Bank of America, [Bank of America Announces 2030 Financing Activity Targets as Part of Net Zero Commitment](#) (Apr. 13, 2022).

³⁶ Bank of America, [Annual Report 2023](#) at 56-60.

³⁷ *Id.* at 65.


Louisiana Treasurer John Fleming


Mississippi Treasurer David McRae


Nebraska Auditor Mike Foley


Nebraska Treasurer Tom Briese


Nevada Controller Andy Matthews


North Dakota Treasurer Thomas Beadle


Oklahoma Treasurer Todd Russ


South Carolina Treasurer Curtis Loftis


Utah Treasurer Marlo Oaks