November 6, 2020

Chairman and CEO Brian Moynihan
c/o Corporate Secretary
Bank of America Corporation
Bank of America Corporate Center
100 North Tryon Street, NC1-007-56-06
Charlotte, North Carolina 28255

Dear Chairman and CEO Moynihan,

In light of recent high profile police killings of Black people, the ensuing nationwide protests against racial injustice, and companies' responses to these events, we urge the board of Bank of America ("BofA") to conduct and disclose the results of a racial equity audit that would identify, prioritize, and remedy the adverse impacts of the company's policies and practices on non-white stakeholders and communities of color. The board should engage a variety of key stakeholders in undergoing this audit and evaluating the specific topics to be addressed, including civil rights organizations, employees, and customers.

As outlined further below, we believe that this disclosure would demonstrate concrete steps that the company has taken to address racial injustice and unequal treatment not only in its own workplace, but also within the community that it serves. BofA, like many other issuers, has made a public statement supporting Black Lives Matter and racial justice. While these statements are informative to investors, the meaning is lost without concrete action and introspection by company leadership.

The CtW Investment Group works with pension funds sponsored by unions affiliated with Change to Win, a federation of unions representing nearly 5.5 million members, to enhance long term shareholder value. These funds have over $250 billion in assets under management and are substantial BofA shareholders.

The Banking Industry's Role in Reinforcing Racial Inequality Raises Concern

The current reckoning on racial injustice facing the financial industry is not new, with the industry playing a significant role in the economic inequality facing communities of color. White households on average hold 10 times the wealth of Black households, which is largely attributable to institutionalized racism within the U.S. financial system. The driving factor for this inequality in wealth distribution is lenders failing to issue mortgages to minorities. By way of example, for every $1 loaned out to finance residential properties in white neighborhoods in Chicago from 2012-2018, a mere 12 cents was invested in Black neighborhoods, despite anti-discrimination laws that were passed in the 1960's that bar such practices, known as "redlining."[1]

Mortgage issuances are just one concern, however. Black and Hispanic banking customers have also been reported to face higher monthly checking account fees than white customers. According to a recent survey, Black and Hispanic customers reported paying $12 and $16 per month, respectively, for

[1] Jennifer Tescher, *American Banker*, "Bankers need to walk the walk on equality," June 9, 2020, *available at* https://www.americanbanker.com/opinion/bankers-need-to-walk-the-walk-on-equality.

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overdraft penalties and ATM surcharges, versus $5 per month for white customers.[2] A 2018 study by *New America* reinforced these findings, noting that Black and Hispanic communities face higher costs associated with opening accounts, higher maintenance fees, and larger minimum deposit requirements than their white counterparts.[3] Given that checking accounts effectively operate as a mechanism to participate more actively in the economy, these requirements redirect income and reduce the economic power of people of color, who also typically earn less than white customers. In light of the current pandemic and the significant spike in unemployment, these requirements threaten to reverse years of gains in the number of households having access to a bank account.

Further, there is a trend within the financial industry to not only charge more to communities of color, but exit those markets entirely effectively creating "banking deserts." In fact, more bank branches have been closed in predominantly Black neighborhoods, even wealthy ones, than any other community broken down by race. The lack of mainstream banking makes communities of color even more vulnerable as they are forced to resort to predatory financial alternatives, such as payday lenders and check cashing services that often charge significantly more fees than traditional banks.

The lack of bank branches not only impacts personal banking, but commercial banking that is based very much on the relationship between business owners and financial advisors. A 2018 Federal Reserve study noted that "banks without a local branch were much less likely to originate small business loans in that community."[4] Minority owned businesses continue to struggle with access to capital, much of which is restricted by the industry's low approval rates for funding small businesses within communities of color. The Federal Reserve has reported that more than half of Black-owned businesses that applied for a loan were rejected, twice the rate of a white owned business.[5] A study by *The Portland Business Journal* found that the four largest banks, including BofA, made 91% fewer Small Business Administration 7(a) loan guarantees to Black owned businesses in 2019 than in 2007.[6]

These trends have only been exacerbated further as a result of the coronavirus pandemic, with white-owned businesses receiving 83% of the first-round of loans authorized through the Paycheck Protection Program ("PPP"), from April 1-17, 2020 according to *Bloomberg*.[7] Although this gap narrowed once a second tranche of funding was released on April 27, the damage had already been done. Between February and April 2020, over 41% of Black-owned businesses and 32% of Hispanic-owned businesses

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[2] Kristopher J. Brooks, *CBS News*, "Blacks and Latinos say they pay higher bank fees, research suggests, they're right," January 16, 2020, ***available at*** https://www.cbsnews.com/news/minorities-report-paying-higher-banking-fees-than-white-people-bankrate-survey-says/.

[3] Jacob Faber & Terri Friedline, New America, *The Racialized Costs of Banking*, June 2018, ***available at*** https://d1y8sb8igg2f8e.cloudfront.net/documents/The_Racialized_Costs_of_Banking_2018-06-20_205129.pdf, p. 4-5.

[4] Zach Fox, et. al, *S&P Global*, "Bank Branch Closures Take Greatest Toll on Majority Black Areas," July 25, 2019, p. 5.

[5] Gene Marks, *The Guardian*, "Black owned firms are twice as likely to be rejected for loans. Is this Discrimination?" January 16, 2020, ***available at*** https://www.theguardian.com/business/2020/jan/16/black-owned-firms-are-twice-as-likely-to-be-rejected-for-loans-is-this-discrimination.

[6] Matthew Kish & Malia Spencer, *Portland Business Journal*, "One System, (Un)equal Access," October 15, 2020, ***available at*** https://www.bizjournals.com/portland/news/2020/10/15/unequal-access-how-the-us-financial-system-is.html?b=1602790745%5E21787983.

[7] Jason Grotto et.al., *Bloomberg*, "White America Got a Head Start on Small-Business Virus Relief," June 30, 2020, ***available at*** https://www.bloomberg.com/graphics/2020-ppp-racial-disparity/?sref=cdlcj118.

went out of business due to the pandemic. Only 17% of white-owned businesses were forced to close during the same period.

Finally, not only has the financial industry's external practices adversely impacted communities of color, but its internal practices reflect little progress in achieving racial equity within the industry's workforce and leadership teams. The House Financial Services Committee recently held a hearing on workforce diversity within the banking industry, noting that at "megabanks," like BofA, just under 10% of the workforce was Black. More alarming still was the fact that a mere 19% of executive senior level positions at all banks that reported back to the Committee were held by ethnic or racial minorities.[8] In order to better evaluate their full impact on communities of color, financial institutions must review their human capital management practices in relation to employees of color.

Bank of America's External and Internal Practices Raise Concerns Regarding Racial Inequality

We believe a racial equity audit would particularly benefit BofA given its controversial business record in communities of color and support of charitable causes that have come under scrutiny. BofA recently committed $1 billion to address economic and racial inequality with a focus on health, jobs, small business support, and housing. Simply pledging funds, however, is not enough to bridge the gap between decades of discrimination and the lack of wealth creation within Black and Brown communities. Specifically, the company recently announced that it would commit $200 million to minority owned businesses, and $50 million to minority depository institutions ("MDIs"). While providing this funding and even taking an equity position in MDIs may be beneficial to providing local credit to communities of color, these initiatives do not fully address the inequality in BofA's own lending practices and product offerings over the years. For example, in 2018 the Treasury Department's Office of the Comptroller found that BofA offered proportionately fewer home loans to minorities than to white applicants in Philadelphia. Such findings are especially concerning given that in 2011, BofA endorsed the NAACP's Mortgage Lending Principles that addressed these very issues.

Additionally, though BofA has committed to providing donations to community organizations, the company has also provided support to the very same law enforcement institutions that are now being criticized for discrimination and excessive force against Black and Brown communities. BofA employees hold seats on the Chicago and New York City police foundation boards, and the company has donated significant funds to the New York City Police Foundation, the Atlanta Police Foundation, and the Los Angeles Police foundation. Critics see such foundations to operate as a subversive means of funding equipment outside the public eye, including surveillance tools that are used by police departments against communities of color. We hope that this proposed audit would address BofA's relationships with police foundations.

The bank has also been involved in general bond issuances that fund settlement payments related to police brutality litigation. BofA is one of several banks that collected $261,000 in fees related to "police brutality" bonds in Milwaukee, Wisconsin. These bonds have been used to cover settlements ranging from $2.5 million to $6.5 million paid by Milwaukee related to police brutality or misconduct lawsuits.

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[8] U.S. House of Representatives, Financial Services Committee, *Diversity and Inclusion: Holding America's Large Banks Accountable*, February 2020, *available at* https://docs.house.gov/meetings/BA/BA13/20200212/110498/HHRG-116-BA13-20200212-SD003-U1.pdf (see Figures 5 and 6).

To profit from settlements that protect officers from misconduct related charges appears contradictory to BofA's public statements in support of the Black Lives Matter movement.

We also note that BofA has closed a significant amount of branches in majority-Black communities, reducing its number of branches by 29.1%, compared to 18.4% in non-majority Black areas from 2010 to 2018. Further, in 2018, BofA began to impose a minimum maintenance fee of $12 per month for checking account customers or a minimum daily balance of $1500. While the bank's earnings increased to $28.15 billion in 2018, the imposition of these checking account fees and minimum deposit thresholds likely impacted poorer communities disproportionately, forcing them towards predatory lenders. The impact of the bank's policies on Black-owned businesses can also be seen when the bank was one of three banks chosen to distribute the PPP funding authorized at the onset of the coronavirus pandemic, with BofA only accepting pre-existing customers' applications. Such policies only magnify the existing concerns with the lack of established banking relationship among Black and Brown owned businesses.

Lastly, we note that BofA, like many of its peers, appears to be lagging in its own hiring, development, and retention of Black and Hispanic employees. The company discloses that over 45% of its workforce are people of color, yet only 8% of the senior leadership team members within its C-suite are Black and only 4% are Hispanic. BofA's 2019 ESG report indicates that within a broader categorization of "senior level officials," Black and Hispanic executives only represent approximately 5% and 4% respectively of all senior executives. Further down the talent pipeline, Black and Hispanic employees only represent 9% and 13% of all first and mid-level officials. We question how BofA is addressing its promotion criteria and retention of employees of color as it attempts to create a sustainable, diverse, management talent pool.

Conclusion:

Implementation of any next steps by Bank of America to address racial injustice and economic inequality requires careful study of how its products and services have contributed to this imbalance. An audit that involves consultation with a variety of stakeholders, including employees and community groups, will provide a framework for this analysis. We note that due to the shareholder proposal filing deadline, we have also filed a shareholder proposal related to our request. If you would like to discuss our concerns, please contact my colleague Tejal K. Patel, Corporate Governance Director, at tejal.patel@ctwinvestmentgroup.com.

Sincerely,

Dieter Waizenegger
Executive Director