

Protecting Customers' Civil Liberties and Privacy

Whereas: Financial institutions increasingly intrude on the privacy rights of United States citizens with questionable justification, claiming they must comply with requirements under laws such as the Right to Financial Privacy Act, the Bank Secrecy Act, and the USA Patriot Act. As stewards of the most personal of their customers' information and assets, these institutions are still ethically and constitutionally bound to take great care in how information is shared.

Supporting Statement: In March 2024 the U.S. House Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government released a damning report that revealed Bank of America Corporation (“BofA” or “Company”) maliciously conspired with government agencies to violate the civil liberties of customers the Company promised to protect.¹

The 56-page report revealed, in part, that the Company:

- “Voluntarily and without legal process, provided the FBI with a list of names of all individuals who used a [BofA] credit or debit card in the Washington, D.C. region between the dates of January 5 and January 7, 2021,” according to a now-retired FBI analyst;
- Used Merchant Category Codes “to comb through transactions... [of] Americans doing nothing other than shopping or exercising their Second Amendment rights ... despite ... having no criminal nexus;”
- “Federal law enforcement and [the Company] used January 6, 2021, as a pretext for surveilling potentially thousands of Americans without a warrant ... show[ing] a pattern of financial surveillance aimed at millions of Americans who hold conservative viewpoints...”

According to officials with the FBI's intelligence and domestic terrorism operations, BofA “data-mined its customer base,” despite no directive from the agency to do so. The Company provided information that the FBI never asked for. “One of the [list's] criteria . . . in terms of Bank of America's data . . . was related to purchases that had been made at either gun shops or...stores that would sell firearms.” The information “was sent to other FBI field offices across the country.”

The Company's customer privacy and security disclosures are weak and vague as they pertain to release of data to authorities, stating only that it shares personal information with “Government Agencies as required by laws and regulations.”^{2 3}

¹ <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/How-Federal-Law-Enforcement-Commandeered-Financial-Institutions-to-Spy.pdf>

² <https://www.bankofamerica.com/security-center/privacy-overview/>

³ <https://www.bankofamerica.com/security-center/overview/>

As BofA's release of customer data relate to the findings in the Weaponization Subcommittee report, the evidence shows *no* firearms were used at the Jan. 6, 2021 incident, and no one at the U.S. Capitol was injured or killed with one, except one woman protester by an officer. Thus the Company's actions fall outside the scope of U.S. disclosure laws, and are incongruent with BofA's assurances that it keeps customer information private. As a result, the Company deceived its customers and betrayed their trust.

Resolved: Shareholders request the Company Board of Directors issue a public report, omitting proprietary and privileged information, concerning the legality and judgment of management's decision-making, and insufficient disclosure specificity, regarding the dissemination to government agencies of customers' personal information.