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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

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April 25, 2018

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

Dear Mr. Moynihan:

I write to express my concern with Bank of America's new policy on lending to certain firearm manufacturers. It is my understanding that this is not the first industry to fall into disfavor with Bank of America. In 2015, Bank of America announced it was denying credit to coal mining companies.

It is deeply concerning to me when large national banks like Bank of America, which receive significant forms of government support and benefits, use their market power to manage social policy by withholding access to credit to customers and companies they disfavor.

On March 22, Citigroup announced that it "would like to convene those in the financial services industry and stakeholders" to tackle challenges, including "the lack of existing technology in our industry [to] allow for a more targeted approach at point of sale." The collection of personally identifiable information (PII) by both the government and private companies like yours is something that has long troubled me. This announcement by Citigroup raises serious concerns about the banking industry's potential use of PII to monitor and deny financial services to individuals and companies who are engaging in completely legal and, in this case, Constitutionally-protected conduct.

The collection and use of PII will be a major focus of the Banking Committee moving forward, as there is broad-based interest on the Committee in looking into this. The people of the United States have a legitimate interest in protecting their personal privacy against both government and private sector abuse. It is important that Congress get a better understanding of what type of PII is being collected, by whom, and for what purposes.

Accordingly, please respond to the following:

- Provide details and specifics regarding Bank of America's new policy on lending to certain firearm manufacturers.
- Is Bank of America considering participating in any initiative to track or monitor point-of-sale transactions for the purpose of denying financial services to individual consumers?
- Identify any restrictions Bank of America plans to impose on retailers or consumers related to the sale or purchase of firearms.
- In 2015, Bank of America announced it was denying credit to coal mining companies. With the recent announcement regarding firearms, this is clearly a pattern for Bank of America. Provide a list of all legal transactions, industries, and businesses that Bank of America disfavors, prohibits, or boycotts, either currently or in the past.
- List all businesses, entities, and individuals consulted or contacted in determining Bank of America's new policy.

During the Obama Administration, I fought against "Operation Choke Point," an initiative in which Federal agencies devised and relied upon a list of politically disfavored merchant categories with the intent of "choking-off" these merchants' access to payment systems and banking services. Operation Choke Point was deeply concerning because law-abiding businesses were targeted strictly for operating in an industry that some in the government disfavored. Under fear of retribution, many banks stopped providing financial services to members of these lawful industries for no reason other than political pressure, which took the guise of regulatory and enforcement scrutiny.

The Department of Justice has admitted that Operation Choke Point was inappropriate and claims that it has been terminated. In a letter, the DOJ stated that businesses should not be targeted simply for operating in an industry that a particular administration might disfavor. Now, the Superintendent of the New York State Department of Financial Services is warning banks and insurers against doing business with the firearm industry and the National Rifle Association. This raises concerns that New York is trying to implement its own version of Operation Choke Point.

I am concerned when government agencies use their power to try to cut off financial services for lawful businesses they may disfavor. I am also concerned when large national banks use their market power for similar purposes. Such banks, including Bank of America, receive substantial government support and benefits and should not deny financial services to customers they disfavor to make social policy.

We should all be concerned if banks like Bank of America seek to replace legislators and policymakers and attempt to manage social policy by limiting access to credit. I appreciate your prompt attention to this request.

Sincerely,



Mike Crapo
Chairman