

February 19, 2021

The Honorable Wendy Carrillo  
Chair, Assembly Budget Subcommittee #4  
California Assembly  
California State Capitol  
Sacramento, CA 94249

Dear Chair Carrillo and Members of the Subcommittee:

I am responding to your letter dated February 5, 2020 in which members of Assembly Budget Subcommittee #4 submitted follow-up questions to the informational hearing held on January 26, 2021.

We appreciate the opportunity to provide additional information regarding the Bank's ongoing efforts to support the State unemployment benefits program administered by the Employment Development Department (EDD) and, in particular, to assist the program in addressing the unprecedented levels of unemployment benefits fraud occurring in California. For ease of presentation, we have grouped several of the questions under category headings below.

#### EDD Account Freezes

The letter asked for the number of claimants receiving unemployment benefits on debit cards issued by Bank of America, as well as the number of associated card accounts that have been frozen. To respond to the first question, since the pandemic began, the Bank has issued more than 9 million prepaid cards and distributed more than \$105 billion in unemployment benefits.

With respect to frozen cards, while the vast majority of recipients are receiving and using unemployment benefit payments through these cards without incident, the Bank has placed a freeze on a number of debit card accounts as a result of widespread fraud, most often during the enrollment process by criminals using stolen or fictitious identities. The freeze has been placed either at the direction of EDD or by the Bank. Approximately 488,000 prepaid card accounts were in a frozen status as the end of January 2021. A large majority of those accounts frozen (approximately 405,000) were placed in that status, starting in late September 2020, at the direction of EDD. Since September, approximately 75,000 card accounts were placed in a frozen status by the Bank, consistent with the cardholder agreements and its obligations as a financial institution under federal law. For comparison, as noted above, the Bank issued 9 million cards during the pandemic and there are roughly 13 million prepaid card accounts in total.

We assess that a small percentage of currently frozen accounts are potentially legitimate. This judgment is based in part on the relatively low volume of complaints and requests to reconsider made to our call centers and the total number of cardholder requests to unfreeze cards. For example, in the last two months, the Bank has received and recorded a request to unfreeze a card for less than 5% of the total cards frozen. At the same time, Bank of America fully appreciates that the measures taken to prevent fraud—including freezing accounts—can inadvertently impact legitimate beneficiaries. To address this challenge, Bank of America is working independently, and in partnership with EDD, to quickly identify and unfreeze the accounts of valid beneficiaries. For its part, the Bank has greatly expanded claim staffing to expedite “hardship” inquiries and provide additional notices to affected persons. We are also working with EDD to implement new initiatives that can leverage the department’s more robust verification procedures and utilize the department’s eligibility determinations.

Bank of America acts promptly when it receives confirmation from EDD that a frozen card account has been verified as legitimate. Once the Bank receives this information from EDD, we initiate the process to unfreeze the accounts, subject only to a brief review to determine whether the Bank has additional information (that EDD would not have access to) regarding potentially fraudulent activity that it must consider before unfreezing the account. In nearly all cases, no such information exists, and the Bank typically reactivates the cards within two to three business days after receiving the EDD file.

#### Error Claims for Unauthorized or Fraudulent Transactions

The letter also asks for additional information regarding the unauthorized or fraudulent transaction claims that have been closed by Bank of America.

Since the pandemic began, we have reimbursed cardholders hundreds of millions of dollars for claims made where they may have been the victim of an unauthorized transaction or fraud on their card. While fraudulent transactions typically affect a relatively low number of accounts, there has been a steep increase in monthly transaction-fraud claims since the pandemic began: for comparison, monthly claims have ballooned from about one thousand claims in a month to tens of thousands late last year.

To meet the challenge of responding to these claims, the Bank greatly expanded its call center staffing, which allowed us to continue to process claims within required standards and to notify claimants of the decision on their claim within 3 days as required by federal law. The Bank also has been able to maintain its process of reconsideration to any claimant who disagrees with the Bank’s decision. For cardholders whose claims were closed during the pandemic based on a concern about the claim, our notice to the cardholder explicitly offers an automatic reconsideration if the cardholder contacts us. Fewer than approximately 10% of cardholders with denied

claims request a reconsideration; and when we do get such a request we immediately reopen the claim and consider it anew.

### Financial Performance

Finally, you asked about the Bank's financial performance under its contract with EDD prior to 2020. We are able to share the most significant details of the program finances from the Bank's perspective.<sup>1</sup>

To begin with, and as we previously shared with the Budget Subcommittee, as a result of the pandemic and the criminal fraud-related aspects about which we have shared significant information, the Bank's costs in supporting the EDD program have far exceeded its revenue. Specifically, the Bank has seen total revenues of approximately \$687 million with costs incurred of approximately \$927 million, meaning Bank of America estimates that it has lost over \$240 million in total for its support of the program between 1/1/2011 and 12/31/2020. For the purpose of comparison, we estimate that in 2017 the Bank had an estimated positive pretax income of \$1 million; in each of 2018 and 2019, the Bank's estimated revenues and costs were in balance; and in 2020, the Bank had an estimated loss of \$178 million. Based on our calculations over the entire 2011-2020 period, we believe that 2017 was the only year that the Bank's revenue exceeded its costs.

We can put each of the major elements of revenues and costs in context.

As for revenues, the State does not provide any payment at all to the Bank for its services as the prepaid card provider, even though we service the entire program and we have issued approximately 9 million cards in California between March 2020 and February 18, 2021. Notably, the Bank also earns no interest or fee revenue from cardholders, other than service fees paid in connection with ATM transactions at out-of-network or international ATMs and fees related to replacing lost cards and emergency cash transfers (fees which are standard for consumer debit cards).

Instead, the Bank's primary source of revenue for its work on the program is interchange fees (*i.e.*, transaction fees paid by the merchant or other person accepting the use of the debit card). This is standard in the industry: virtually every debit card and credit card issuer relies on interchange fees as a backbone to provide the revenue necessary to operate card programs. The Bank also earns interest on outstanding funds that are on the prepaid debit cards, prior to the time the cardholder spends the card down (commonly referred to as "float"). As discussed below, this float revenue is subject to an offsetting "revenue share" expense.

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<sup>1</sup> The financial data is not audited, but is estimated based on readily available information and our best efforts to allocate revenues and expenses that we do not ordinarily break out specifically for the California program.

Against these revenues, the Bank incurs substantial losses and expenses related to its work with the California program.

As the servicer of the cards, the Bank provides the entire range of customer support functions that a program of this size and complexity requires: customer fulfillment, call centers, claims staffing, and management personnel dedicated to the EDD program. A significant expense is also involved in fraud detection and prevention by the Bank. The Bank also bears the initial losses for reimbursing cardholders that assert they are victims of criminal activity or unauthorized transactions on their cards. This is a very significant element of the Bank's operating expenses.

In addition, apart from these operational items, the contract between the Bank and the State has a "revenue share" component whereby the Bank pays the State an amount intended to capture interest the Bank might earn on the funds loaded onto the EDD prepaid debit cards during the time they remain unspent by cardholders. This arrangement has required the Bank to pay the State a total of approximately \$127 million since 2011, with \$31 million paid in 2020 alone. These payments have been made in all years, including the years in the program where the Bank estimates it lost money.

In light of the pandemic and the recent challenges to the program, every one of these elements of the Bank's costs in supporting the program have greatly increased, to the point where they have far exceeded program revenue for the Bank. In 2020 alone, the Bank incurred approximately \$533 million in expenses (up more than ten times the 2018 costs of \$40 million). Some of that is traceable to expenses associated with our increased servicing support to California cardholders. Through the course of the pandemic, we have expanded our support to ensure California constituents receive benefits in a timely manner. For example, we have expanded call center support from 300 full-time representatives to over 6,100 full-time representatives, increased debit card production, and upgraded technological support for the program by (i) implementing secure messaging to allow smoother communication between EDD and the Bank; (ii) designing and executing on new processes, routines and reporting, such as the "hardship" and card freeze protocols; and (iii) adding additional staffing and resources focused on fraud detection and prevention.

The Bank's costs have been compounded greatly since March 2020 as a result of fraud and fraud losses due to the pandemic. The unemployment benefits fraud we and the State have seen balloon since March 2020 takes several forms. The vast majority of fraud occurs when criminals who are ineligible for benefits improperly enroll in the program by creating accounts using false identification or stolen identities. The enrollment and cardholder verification processes are controlled by EDD, not by the Bank. But we have responded to that challenge by devoting substantial additional resources and attention to fraud prevention, including in working with EDD and independently to freeze suspicious cards, in adding extraordinary transaction monitoring

and response, and in working even closer with our state and federal law enforcement partners.

Many of those criminals also have taken fraudulent advantage of the Bank's process intended to cover losses suffered by legitimate cardholders from unauthorized transactions. As I believe the Subcommittee is aware, as a prepaid card issuer the Bank provides the funds to cardholders for provisional and final credits on their cards as part of processing consumer claims of improper transactions. But many of the criminals wrongfully holding cards have committed further fraud by making false allegations of an improper card transaction, and then drained credits before their frauds can be identified. We estimate, through this fraud, criminal cardholders diverted more than \$200 million during 2020—an amount the Bank has paid out.

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In closing, we at Bank of America want to reiterate that we share everyone's intention of doing what is necessary to ensure that legitimate claimants receive the unemployment benefits they deserve. Any constituent inquiries you receive about the constituent's account or service with Bank of America may be directed to me and I will ensure they receive the appropriate review.

Please let us know if you or any of the Assembly Members, or staff, have any further questions.

Sincerely,

A handwritten signature in black ink that reads "Brian Putler". The signature is written in a cursive, flowing style.

Brian Putler  
California Government Relations