

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

TAMI BRUIN and ELINE BAROKAS, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

BANK OF AMERICA, N.A.,

Defendant.

CASE NO. 3:22-cv-140-MOC-WCM

**AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

AMENDED CLASS ACTION COMPLAINT

Plaintiffs Tami Bruin and Eline Barokas (“Plaintiffs”), on behalf of themselves and all persons similarly situated, allege the following based on personal knowledge as to allegations regarding the Plaintiffs and on information and belief as to other allegations.

INTRODUCTION

1. Plaintiffs bring this action on behalf of themselves and classes of all similarly situated consumers against Defendant Bank of America, N.A. (“Defendant,” “BofA,” or “Bank”), arising from its deceptive practice of misleading accountholders into paying ACH Transfer Fees.

2. For those looking to make a dishonest dollar, the question is a perennial one: how to convince unsophisticated consumers to spend money on an otherwise free or valueless service? The answer is also perennial: use superior information to trick consumers who don’t understand a complicated system or novel product.

3. This action concerns the National Automated Clearinghouse (“NACHA”) system, a complex electronic payments system operating invisibly in the background of much of the nation’s

economic activity. With many actors playing specialized roles, all tying thousands of banking institutions, merchants, and payment processors together, the system is well beyond the comprehension of individual consumers like Plaintiffs.

4. As described further herein, BofA exploits its informational advantage to deceive its accountholders into paying \$3 or \$10 ACH Transfer Fees. It does so with a multi-prong effort to misrepresent and obscure the truth about the NACHA payment processing system. That truth is as follows: *any* transfer over the NACHA system can *always* be made for free.

5. Plaintiffs, on behalf of themselves and Classes of similarly situated consumers (defined below), seek to end BofA's deceptive practices and force it to refund improper ACH Transfer Fees. Plaintiffs seek damage, restitution, and injunctive relief, as set forth more fully below.

JURISDICTION AND VENUE

6. This Court has original jurisdiction of this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because the aggregate claims of the putative class members exceed \$5 million, exclusive of interest and costs, and at least one of the members of the proposed class is a citizen of a different state than BofA.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because BofA is subject to personal jurisdiction here and regularly conducts business here, and because a substantial part of the events giving rise to the claims of Plaintiffs asserted herein occurred in this District.

PARTIES

8. Plaintiff Bruin is a citizen and resident of North Carolina. Plaintiff Bruin maintains a checking account at BofA. At all times relevant, Plaintiff patronized a BofA banking center located in North Carolina.

9. Plaintiff Barokas was a citizen and resident of New York, New York until July 2018. In July 2018, Plaintiff Barokas moved to New Jersey and became a citizen and resident of New Jersey. Plaintiff Barokas maintains a checking account at Bank of America. Prior to July 2018, Plaintiff Barokas patronized a BofA banking center located in New York, New York

10. Defendant BofA is a national bank with its headquarters and principal place of business located in Charlotte, North Carolina. Among other things, BofA is engaged in the business of providing retail banking services to consumers, including Plaintiffs and members of the putative classes.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

I. THE NACHA SYSTEM

11. The NACHA system is a complex electronic payments system operating invisibly in the background of much of the nation's economic activity. Without being aware of it, millions of consumer payments take place on the system daily, including for utility bills, insurance payments, deposits into investment accounts, gym and other monthly memberships, and even small-dollar PayPal and Venmo transfers.

12. In every ACH transaction, there is an Originator and a Receiver, and an Originating Depository Financial Institution ("ODFI") and a Receiving Depository Financial Institution ("RDFI").

13. The Originator of the ACH transaction is the individual or merchant requesting that an ACH debit or credit take place.

14. The Receiver of the ACH transaction is the individual or merchant that authorized the Originator to initiate the ACH transaction.

15. The ODFI is the financial institution that receives the request from the Originator and submits the request to the ACH network.

16. The RDFI is the financial institution that receives the ACH transaction from the ODFI and posts the transaction to the account of the Receiver.

17. This complicated, multi-actor system has a defining design feature: payees and payors are on equal footing. Any given transfer of money can be *affirmatively sent* to a payee or— with the proper authorization—that same payee can take the money directly from a payor’s account.

18. In other words, unlike with most all other consumer economic activity, which requires the payor to send or provide funds to a payee (as with writing a check or handing over cash), the NACHA system allows payees with proper authorization to “pull” money directly from accounts.

II. BOFA DECEIVES ACCOUNTHOLDERS INTO PAYING ACH TRANSFER FEES

19. That means, for any given payment or transfer, the NACHA system allows the payee to affirmatively send it *or* the payor to simply take funds from an account.

20. An accountholder wishing to make a transfer from their BofA account can easily accomplish this by *either* “pushing” the funds from BofA via BofA’s online banking portal or “pulling” the funds from BofA via a portal operated by the receiving financial institution. The end result is the same: money transferred seamlessly, electronically, and quickly between accounts.

21. Still, the workings of the NACHA system are a mystery to the millions of American consumers whose payments are sent on the system each day.

22. BofA is engaged in a multi-prong effort to deceive its accountholders about the workings of the NACHA system, so that it may use its superior knowledge about the system to extract fee income from its accountholders.

23. BofA misrepresents the central design feature of the NACHA system—that *any* transfer can be “pushed” from a payor or “pulled” from a payee, and that the latter is *free*—in three ways.

24. *First*, on its Online Banking interface and website, BofA misrepresents that transferring money from a BofA account to an account at another institution necessarily entails a charge:

▼ **Transfer money between your accounts**

Make immediate or future-dated transfers between your eligible Bank of America accounts or to your accounts at other U.S. banks. Transfers between your accounts at Bank of America are immediate, while transfers made to other banks are available in 3 delivery speeds: same business day using a wire, next business day or 3 business days, all for a fee. [View cutoff and processing times for transfers.](#)

Ex. A at 1.

25. But BofA’s representation that “transfers made to other banks are available in 3 delivery speeds . . . *all for a fee*” is false. As described above, the NACHA system’s design ensures that “transfers made to other banks” are always available for free when the payee simply requests the funds.

26. *Second*, BofA misrepresents the workings of the NACHA system in its Online Banking Agreement. BofA states that “you may send and receive the following types of ACH and Wire transfers” for \$3 or \$10 (depending on delivery speed):

B. Types of ACH and Wire Transfers

You may send and receive the following types of ACH and Wire transfers:

Types of Transfers ^{1, 2}	Sending Limits (24 hours) ³	Receiving Limits ³	Fees ⁴	Cut-Off Times (all eastern PM)
Three Business Day ACH (outbound) <ul style="list-style-type: none"> ▪ Consumer ▪ Small Business 	\$1000 \$5000	N/A	\$3.00 \$1.00	8:00 8:00
Three Business Day ACH (inbound) <ul style="list-style-type: none"> ▪ Consumer 	N/A	\$10,000 (per 24 hours) \$50,000 (monthly)	\$0.00	8:00
Next Business Day ACH (outbound) <ul style="list-style-type: none"> ▪ Consumer ▪ Small Business 	\$1000 \$5000	N/A	\$10.00 \$5.00	8:00 8:00
Next Business Day ACH (inbound) ⁵ <ul style="list-style-type: none"> ▪ Consumer 	N/A	\$10,000 (per 24 hours) \$50,000 (monthly)	\$0.00	8:00

Ex. B at 10-11.

27. But this too is false. As above, an accountholder may “send and receive” ACH transfers for free, with no fee whatsoever, by simply instructing the payee to pull funds from his or her account.

28. By stating that an accountholder may “send and receive” an ACH transfer only for \$3 or \$10, BofA deceives accountholders into believing that such fees are a fundamental part of moving money via the ACH system. That is not true, as described above.

29. Moreover, by stating that the fee is “\$0” *only* for “inbound” ACH transfers, BofA again deceives accountholders into believing the NACHA system does not allow the transfer of money from an account without a fee.

30. Immediately after it discloses its \$3 and \$10 fees for ACH transfers, BofA further misrepresents in its Online Banking Agreement that the only way to *avoid* such a fee for transferring money to a payee is to use “Zelle” or “Bill Pay” (two other services that are not universally accepted):

You may also move money within the U.S. without a transfer fee by using Zelle (described in Section 4 above) or Bill Pay (described in Section 3 above). ACH and Wire transfers are alternatives that allow you to transfer funds when delivery of funds domestically by a specific date is critical or when you are transferring funds outside the U.S.

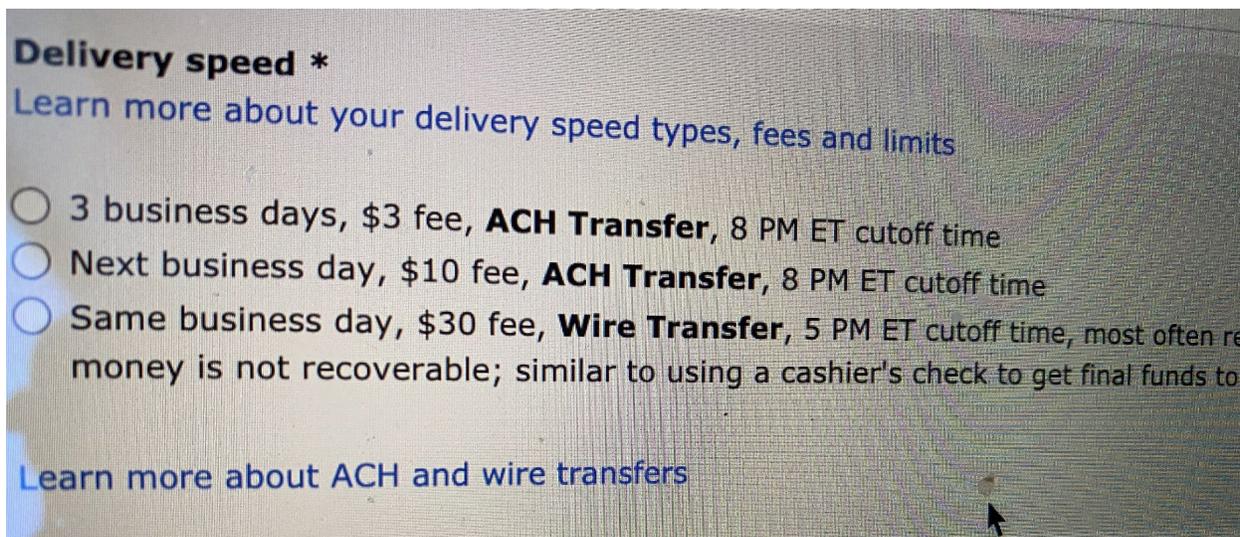
Id. (emphasis added).

31. But again, this is false. ACH transfers can “move money” without any fee as well, provided they are initiated at the receiving institution.

32. Accountholders can initiate the same ACH transfer from BofA to other financial institutions “without a transfer fee” provided they do so from the receiving financial institution. Thus, BofA’s disclosure again provides the misimpression that ACH and wire transfers always require a fee, when in fact, they do not.

33. *Third*, in the very design of its Online Banking interface, BofA yet again misrepresents the true nature of the NACHA system, misrepresenting that the *only* options for moving funds via ACH require a \$3 or \$10 fee.

34. When logged in to BofA's online banking, accountholders are provided the option to "Transfer" funds "Between My Accounts" "At Other Banks." On that screen, BofA lists the following options for executing the transfer:



35. BofA lists only three options—each of which requires a fee. The “3 business days” and “Next business day” “ACH Transfer” for \$3 or \$10 are the cheapest options, and consumers like Plaintiffs pay these fees under the mistaken belief that such fees are unavoidable.

36. BofA furthers this misconception by labeling it an “ACH Transfer” fee, which leads reasonable consumers to believe the fee is an unavoidable fee for the “transfer” of funds via the ACH network. That is not true, as described above.

37. As discussed herein, each of the above representations are false and misleading, as they lead reasonable consumers like Plaintiffs to believe that they must pay an ACH Transfer Fee in order to transfer money to a payee, when in fact they do not.

38. Because—in the absence of misrepresentations regarding the NACHA system—no reasonable consumer would ever pay to make an ACH transfer, none of BofA's major competitors charge ACH Transfer Fees like BofA does, *viz.*, Chase, Capital One, Citibank, HSBC, PNC, TD Bank, Ally, U.S. Bank, and Wells Fargo.

39. Through its misrepresentations, BofA deceives its accountholders into paying for a transfer that they otherwise could get for free.

C. Plaintiffs' Experiences

40. In support of their claims, Plaintiffs offer examples of fees that they would not have paid had they known they did not have to.

41. At various times while a BofA accountholder, Plaintiff Bruin transferred funds from her BofA account to her accounts at other financial institutions. Because of BofA's misrepresentations and deceptive design of its Online Banking Interface, Plaintiff Bruin unwittingly incurred fees for making ACH transfers. For example, on February 17, 2021, Plaintiff Bruin transferred funds from her BofA account to her account at another financial institution.

42. Believing she was required to pay an ACH Transfer Fee for sending money to a payee via NACHA, Plaintiff Bruin initiated the transfer from her BofA account and was charged and paid a \$3 fee.

43. Plaintiff Bruin paid the same fee to BofA numerous times while an accountholder at BofA, each time relying upon BofA's misrepresentations regarding the operation of the NACHA system.

44. Similarly, at various times while a BofA accountholder, Plaintiff Barokas transferred funds from her BofA account to her accounts at other financial institutions. Because of BofA's misrepresentations and deceptive design of its Online Banking Interface, Plaintiff Barokas unwittingly incurred fees for making ACH transfers. For example, on June 11, 2018, and on March 1, 2021, Plaintiff Barokas transferred funds from her BofA account to her account at another financial institution.

45. Believing she was required to pay an ACH Transfer Fee for sending money to a payee via NACHA, Plaintiff Barokas initiated the transfer from her BofA account and was charged and paid a \$3 fee each time.

46. Plaintiff Barokas paid the same fee to BofA numerous times while an accountholder at BofA, each time relying upon BofA's misrepresentations regarding the operation of the NACHA system.

47. Had Plaintiffs known that they could have made the exact same transfers for free had they initiated the transfers from the receiving bank account, they would not have paid the ACH Transfer Fees.

48.

CLASS ALLEGATIONS

49. Plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure. This action satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of Rule 23.

50. The proposed Nationwide Class is defined as:

All current and former Bank of America accountholders in the United States who, during the applicable statute of limitations, paid and were not refunded fees to Bank of America in connection with a push transfer of funds from his/her account via the National Automated Clearing House Association network to his/her own external account.

51. The alternative North Carolina state subclass is defined as:

All current and former Bank of America accountholders in the state of North Carolina who, during the applicable statute of limitations, paid and were not refunded fees to Bank of America in connection with a push transfer of funds from his/her account via the National Automated Clearing House Association network to his/her own external account.

52. The alternative New York state subclass is defined as:

All current and former Bank of America accountholders in the state of New York who, during the applicable statute of limitations, paid and were not refunded fees to Bank of America in connection with a push transfer of funds from his/her account via the National Automated Clearing House Association network to his/her own external account.

53. The alternative New Jersey state subclass is defined as:

All current and former Bank of America accountholders in the state of New Jersey who, during the applicable statute of limitations, paid and were not refunded fees to Bank of America in connection with a push transfer of funds from his/her account via the National Automated Clearing House Association network to his/her own external account.

54. The Class and alternative state subclasses defined above are collectively referred to herein as the “Class.” Plaintiffs reserve the right to modify or amend the definitions of the proposed Classes before the Court determines whether certification is appropriate.

55. Excluded from the Classes are BofA, its parents, subsidiaries, affiliates, officers and directors, any entity in which BofA has a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

56. The members of the Classes are so numerous that joinder is impractical. The Classes consists of thousands of members, the identity of whom is within the knowledge of, and can be ascertained only by resort to, BofA’s records.

57. The claims of the representative Plaintiffs are typical of the claims of the Classes they seek to represent in that the representative Plaintiffs, like all Class members, were charged improper and deceptive fees as alleged herein. The representative Plaintiffs, like all Class members, have been damaged by BofA’s misconduct in that they have been assessed deceptive

ACH Transfer Fees. Furthermore, the factual basis of BofA's misconduct is common to all Class members and represents a common thread of unfair and unconscionable conduct resulting in injury to all members of the Class. And BofA has no unique defenses that would apply to Plaintiffs and not the Class.

58. There are numerous questions of law and fact common to the Class and those common questions predominate over any questions affecting only individual Class members.

59. Among the questions of law and fact common to the Class include the following:

- a. Whether BofA violated the consumer protection laws of certain states through its fee policies and practices;
- b. The proper method or methods by which to measure damages;
- c. Whether BofA was unjustly enriched; and
- d. Whether Plaintiffs and the class are entitled to declaratory and injunctive relief and the nature of that relief.

60. Plaintiffs' claims are typical of the claims of other Class members, in that they arise out of the same wrongful BofA ACH fee policies and practices. Plaintiffs have suffered the harm alleged and have no interests antagonistic to the interests of any other Class member.

61. Plaintiffs are committed to the vigorous prosecution of this action and have retained competent counsel experienced in the prosecution of class actions and, in particular, consumer class actions against financial institutions. Accordingly, Plaintiffs are adequate representatives and will fairly and adequately protect the interests of the Class.

62. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation, and due to the financial resources of BofA, no

Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the Class members will continue to suffer losses and BofA's misconduct will proceed without remedy.

63. Even if Class members themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

64. Plaintiffs know of no difficulty to be encountered in the maintenance of this action that would preclude its treatment as a class action.

65. BofA has acted or refused to act on grounds generally applicable to each of the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to each Class as a whole.

66. All conditions precedent to bringing this action have been satisfied and/or waived.

67. Application of North Carolina law to the Nationwide Class with respect to Plaintiffs' and Class members' claims is neither arbitrary nor fundamentally unfair because North Carolina has significant contacts and a significant aggregation of contacts that create a state interest in the claims of Plaintiffs and the Nationwide Class.

68. The State of North Carolina has a significant interest in regulating the conduct of businesses operating within its borders. North Carolina, which seeks to protect the rights and interests of North Carolina and all residents and citizens of the United States against a company

headquartered and doing business in North Carolina, has an interest in the Plaintiffs' claims.

69. The principal place of business of BofA in Charlotte, North Carolina, is the “nerve center” of its business activities—the place where its high-level officers direct, control, and coordinate the corporation’s activities, including account and major policy, financial, and legal decisions related to ACH Fees.

70. BofA’s corporate decisions regarding its misrepresentation and/or failure to disclose ACH Fees were made from and in North Carolina.

71. BofA’s tortious conduct emanated from North Carolina.

72. Under choice of law principles, the common law of North Carolina applies to the nationwide common law claims of all Class members. Additionally, given North Carolina’s significant interest in regulating the conduct of businesses operating within its borders, North Carolina’s consumer protection statutes may be applied to non-resident consumer plaintiffs.

FIRST CLAIM FOR RELIEF
North Carolina Consumer Protection Law
(On Behalf of Plaintiffs and the Nationwide Class and North Carolina Subclass)

73. Plaintiffs repeat, reallege, and incorporate by reference each of the foregoing paragraphs as if fully set forth herein.

74. As described herein, BofA’s practice of misleading accountholders into believing they must pay ACH Transfer Fees to transfer via the ACH network constitutes an unfair and deceptive trade practice under N.C.G.S. § 75.1-1 *et seq.*

75. As described herein, BofA’s description of its ACH Transfer Fees are deceptive, and they mislead customers into paying these fees when they can otherwise avoid them. And BofA’s description of its ACH Transfer Fees are material.

76. BofA’s actions affected commerce in North Carolina, as many of its North Carolina

customers were charged these unfair and deceptive fees.

77. Plaintiffs reasonably relied upon Bank of America's deceptive misrepresentations regarding its ACH Transfer Fees. Had Plaintiffs known that they could have made the exact same transfers for free, they would not have paid the ACH Transfer Fees.

78. Plaintiffs have been actually damaged as the direct and proximate result of BofA's unfair competition and unfair and deceptive trade practices.

79. Plaintiffs and the Class are entitled to recovery of treble damages and, in the discretion of the Court, reasonable attorneys' fees and costs by virtue of BofA's unfair and deceptive trade practices.

SECOND CLAIM FOR RELIEF
New York General Business Law, N.Y. Gen. Bus. Law § 349 et seq.
(On Behalf of Plaintiff Barokas and the New York Subclass)

80. Plaintiffs repeat, reallege, and incorporate paragraphs 1-78 as if fully set forth herein.

81. BofA's practice of misleading accountholders into believing they must pay ACH Transfer Fees to transfer via the ACH network violates New York General Business Law § 349 ("NYGBL § 349").

82. NYGBL § 349 prohibits deceptive acts or practices in the conduct of any business, trade, or commerce, or in the furnishing of any service in the state of New York.

83. As one of the largest banks in the United States with multiple branch locations in New York, BofA conducted business, trade or commerce in New York State.

84. In the conduct of its business, trade, and commerce, and in furnishing services in New York, BofA's actions were directed at consumers.

46. In the conduct of its business, trade, and commerce, and in furnishing services in

New York, BofA engaged in deceptive, unfair, and unlawful acts or practices, in violation of N.Y. Gen. Bus. Law § 349(a) by misrepresenting material facts, pertaining to the sale and/or furnishing of banking services to the New York Class by representing to accountholders that they must pay ACH Transfer Fees to transfer via the ACH network.

73. BofA systematically engaged in these deceptive, misleading, and unlawful acts and practices, to the detriment of Plaintiffs and members of the Class.

74. BofA willfully engaged in such acts and practices and knew that it violated NYGBL § 349, or showed reckless disregard for whether it violated NYGBL § 349.

75. As a direct and proximate result of BofA's deceptive trade practices, members of the New York Subclass suffered injury and/or damages, including being charged ACH Transfer Fees, and through the loss of the benefit of their respective bargains with BofA.

76. BofA's description of its ACH Transfer Fees are material.

77. Had Plaintiff Barokas known she could make the exact same transfer for free, she would not have paid the ACH Transfer Fee.

78. As a result of BofA's violations of NY GBL § 349, Plaintiffs and members of the putative Class have paid and will continue to pay excessive fees to BofA. Accordingly, they have suffered and will continue to suffer actual damages.

79. Accordingly, Plaintiffs and the New York Subclass members are entitled to relief under N.Y. Gen. Bus. Law § 349(h), including, but not limited to, actual damages, treble damages, statutory damages, injunctive relief, and/or attorney's fees and costs.

THIRD CLAIM FOR RELIEF
Violation of the New Jersey Consumer Fraud Act, N.J. STAT. ANN. § 56:8-1 et seq.
(On Behalf of Plaintiffs Barokas and the New Jersey Subclass)

80. Plaintiffs repeat, reallege, and incorporate paragraphs 1-79 as if fully set forth

herein.

81. BofA's representations regarding its ACH Transfer Fees are false, deceptive and misleading, as described above.

82. BofA's representations regarding its ACH Transfer Fees are material.

83. BofA misleads accountholders into believing they must pay ACH Transfer Fees to transfer funds via the ACH network.

84. BofA's violation of the New Jersey Consumer Fraud Act caused Plaintiff Barokas and putative New Jersey Subclass members to suffer ascertainable losses. Had Plaintiffs and class members known they could make the exact same transfer for free, they would not have paid the ACH Transfer Fees.

85. Plaintiffs and class members request all available relief including but not limited to damages, treble damages, statutory damages, restitution, attorneys' fees, and injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class demand a jury trial on all claims so triable and judgment as follows:

1. Certifying the Class and appointing Plaintiffs as Class Representatives and their counsel as Class Counsel;
2. Declaring BofA's ACH Fee misrepresentations described herein to be wrongful;
3. Restitution of all ACH Transfer Fees paid to BofA by Plaintiffs and the Class as a result of the wrongs alleged herein, in an amount to be determined at trial;
4. Disgorgement of the ill-gotten gains derived by BofA from its misconduct;
5. Actual damages in an amount according to proof;
6. Punitive and exemplary damages;

7. Pre-judgment interest at the maximum rate permitted by applicable law;
8. Treble damages, statutory damages, punitive damages, and attorneys' fees as provided by law;
9. Costs and disbursements assessed by Plaintiffs in connection with this action, including reasonable attorneys' fees pursuant to applicable law; and
10. Such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs and all others similarly situated hereby demand trial by jury on all issues in this complaint that are so triable as a matter of right.

Dated: September 11, 2023

Respectfully submitted,

By: s/ David M. Wilkerson
David M. Wilkerson
NC State Bar No. 35742
The Van Winkle Law Firm
11 North Market Street
Asheville, NC 28801
(828) 258-2991
dwilkerson@vwlawfirm.com

Christopher Gold
Edelsberg Law, P.A.
20900 NE 30th Ave., Suite 417
Aventura, FL 33180
(786) 289-9471
chris@edelsberglaw.com

Andrew Shamis
Shamis & Gentile, P.A.
14 N.E. 1st Ave. St. 1205
Miami, FL 33132
(305) 479-2299
ashamis@shamisgentile.com

Sophia Goren Gold
KALIELGOLD PLLC
950 Gilman Street, Suite 200
Berkeley, CA 94710
(202) 350-4783
sgold@kalielgold.com

Attorneys for Plaintiffs and the Class

EXHIBIT A

Help & Support

[Help & Support home](#) > [Common Topics](#) > Types of Transfers

Types of transfers I can make

You can make immediate or scheduled transfers to your own accounts or to your accounts at other U.S. banks, or make transfers from an eligible checking or savings account to another person using their email address, mobile number or account information on the **Transfers** tab.

[Go to Transfers](#)

Transfer money between your accounts

Make immediate or future-dated transfers between your eligible Bank of America accounts or to your accounts at other U.S. banks. Transfers between your accounts at Bank of America are immediate, while transfers made to other banks are available in 3 delivery speeds: same business day using a wire, next business day or 3 business days, all for a fee. [View cutoff and processing times for transfers.](#)

Higher dollar transfers to other banks may require enrollment in [Safepass](#). Please [see your Online Banking Service Agreement](#).

Send money using an account number

Send money using Zelle®

International Wire transfers



You can make transfers under:
Transfers

[Locations](#) | [Contact Us](#)

[Browse with a Specialist](#) | [Privacy](#)

[Security](#) | [Online Banking Service Agreement](#)

[Advertising Practices](#) | [Website Feedback](#)

Investing in securities involves risks, and there is always the potential of losing money when you invest in securities. You should review any planned financial transactions that may have tax or legal implications with your personal tax or legal advisor.

Securities products are provided by Merrill Lynch, Pierce, Fenner & Smith Incorporated (also referred to as “MLPF&S” or “Merrill”), a registered broker-dealer, registered investment adviser, [Member SIPC](#), and a wholly-owned subsidiary of Bank of America Corporation. MLPF&S makes available certain investment products sponsored, managed, distributed or provided by companies that are affiliates Bank of America Corporation.

Bank of America Private Bank is a division of Bank of America, N.A., Member FDIC and a wholly owned subsidiary of Bank of America Corporation. Trust and fiduciary services are provided by Bank of America, N.A. and U.S. Trust Company of Delaware. Both are indirect subsidiaries of Bank of America Corporation.

Insurance Products are offered through Merrill Lynch Life Agency Inc. (MLLA) and/or Banc of America Insurance Services, Inc., both of which are licensed insurance agencies and wholly-owned subsidiaries of Bank of America Corporation.

Banking, credit card, automobile loans, mortgage and home equity products are provided by Bank of America, N.A. and affiliated banks, Members FDIC and wholly owned subsidiaries of Bank of America Corporation. Credit and collateral are subject to approval. Terms and conditions apply. This is not a commitment to lend. Programs, rates, terms and conditions are subject to change without notice.

Investment and insurance products:

Are Not FDIC Insured	Are Not Bank Guaranteed	May Lose Value
Are Not Deposits	Are Not Insured By Any Federal Government Agency	Are Not a Condition to Any Banking Service or Activity

Bank of America, N.A. Member FDIC.

[Equal Housing Lender](#)

© 2020 Bank of America Corporation.

All rights reserved.

EXHIBIT B

Online Banking Service Agreement

[« Go to Online Banking Overview](#)

Bank of America Online Banking Service Agreement

Effective Date: January 29, 2021

Table of Contents: [Show all Topics](#)

1. General Description of Bank of America Online Banking Service Agreement (this "Agreement")
2. Internal Transfer Services
3. Bill Payment Services
4. Zelle® Network Service (Email and Mobile Transfers)
5. ACH and Wire Transfers
6. Online Banking Alerts
7. Error Resolution Procedures for Consumer Accounts
8. Additional Provisions Only Applicable to Small Business Accounts
9. Disclaimer of Warranties, Limitation of Liability and Indemnification
10. Other Terms and Conditions

1. General Description of Bank of America Online Banking Service Agreement (this "Agreement")

A. What This Agreement Covers

This Agreement is between each owner of an eligible account, a person applying for an eligible account, or authorized representative appointed or entitled to online access on another person's behalf ("you" or "your") and Bank of America, N.A. (Bank of America). This Agreement governs your use of any online or mobile banking services maintained by Bank of America and accessible through bankofamerica.com using a personal computer or a mobile device, including a smartphone, tablet, or any other eligible handheld or wearable communication device (the "Service(s)").

Under the terms of this Agreement, you may use the Services to obtain financial products and services, access and view account information, and, for certain accounts, move money electronically and perform authorized transactions, for eligible U.S.-based Bank of America consumer and small business accounts and affiliate accounts linked to the Service, such as those at Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill").

When used in the Agreement, the term "small business" includes sole proprietors, non-consumer business entities, and individual owners of the business, unless the context indicates otherwise. If you are a small business customer, additional or different terms and conditions applicable to the Services, as well as additional Services available exclusively to small business customers, are included in the Business Services Addendum, which is a part of this Agreement.

When you first set up your Online/Mobile ID, we will link all of your eligible Bank of America and affiliate accounts, including joint accounts. If you open an additional eligible account at a later date, we will link your new account to the Service, unless you tell us not to do so. Unless indicated otherwise by the context, "linked Bank of America accounts" or "linked accounts" refers to all of your accounts with Bank of America and its affiliates that are linked to the Service.

When your Service is linked to one or more joint accounts, we may act on the verbal, written or electronic instructions of any authorized signer.

Please note that some of the Services may not be available when using certain digital devices or applications. For example, some functions may be available online through a personal computer but not available through our mobile app.

B. Accepting the Agreement

When you apply for, enroll in, activate, download or use any of the Services described in this Agreement or authorize others to do so on your behalf, you are contracting for all Services described in the Agreement and agree to be bound by the terms and conditions of the entire Agreement, as well as any terms and instructions that appear on a screen when enrolling in, activating or accessing the Services.

C. Relation to Other Agreements

Your use of the Services may also be affected by your Deposit Agreement and Disclosures, including the applicable schedule of fees ("Deposit Agreement"), or other agreement with us for your linked Bank of America accounts and/or an agreement with our affiliates for your affiliate accounts linked to the Service, including your investment accounts at Merrill. When an account is linked to the Services, it does not change the agreements you already have with us or our affiliates for that account and you are still subject to the terms and conditions we gave you in the agreement and disclosure for the linked account. The terms and conditions for those account agreements, including any applicable fees, transaction limitations, liability rules and other restrictions that might impact your use of an account with the Services, are incorporated into this Agreement. In the event of a conflict between the terms of those account agreements and this Agreement, the terms of the applicable account agreement will prevail unless this Agreement specifically states otherwise.

If you use the Services to move money between your investment accounts governed by the Merrill Lynch Brokerage Website Terms and Conditions, which you agreed to when you became a Merrill online customer, that agreement, and not this Agreement will apply to your transaction.

2. Internal Transfer Services

A. Transfers Between Your Accounts

You may use the Service to transfer funds between your linked Bank of America accounts without a fee on either a one-time or recurring basis, including as a payment to a linked installment loan, credit card or mortgage.

Transfer From	Transfer To	\$ Limit ¹	Cut-off Time (all eastern PM)
Your Checking/Savings account	Your Checking/Savings account	\$9,999,999.99	10:45 ²
Your Checking/Savings account	Your Investment account	\$9,999,999.99	10:45
Your Investment account	Your Checking/Savings account	\$100,000.00 per 24 hours \$250,000 per week	10:45 ²
Your Checking/Savings or Investment account	Your Bank of America Loan Account	N/A	11:59 ³
Your Credit Card/ Business Line of Credit/HELOC	Your Checking/Savings, Investment account or Loan Account	N/A	11:59

There are no receiving limits for Internal Transfers between your own accounts.

^{1/} Higher limits may apply for Bank of America Private Bank, Merrill or small business accounts.

^{2/} Transfers to a Bank of America checking or savings account made after the applicable cut-off time indicated above but before 11:59 p.m. on a business day in the State where your checking or savings account was opened, will be posted as of the next business day in your transaction history, but will be included in the balance we use to pay transactions that night. This process may impact when fees apply to your account.

^{3/} Funds transferred as a payment to an eligible credit card, business line of credit, home equity line of credit during draw period (“HELOC”), installment loan or mortgage (together “Loan Accounts”) will be credited with the date the payment is submitted. Updates to account balances, funds availability, and transaction posting may take up to 2 business days.

- One-time transfers may be made at any time and are immediately debited from a checking or savings account's available balance or a credit account's available credit.
- Future dated or recurring transfers scheduled for a weekend or a non-business day will be debited from the funding account on the prior business day. All other scheduled and recurring transfers will be debited from the funding account at the beginning of the business day requested.
- Future scheduled and recurring transfers can be canceled prior to midnight ET on the business day prior to the date the transfer is scheduled to be made. A one-time immediate transfer cannot be canceled after it has been submitted.
- The best way to cancel a future scheduled or recurring transfer is to follow the instructions on our website. The cancel feature is found in the Transfer Activity or Recurring Transfers sections. You may also request to cancel a future scheduled or recurring transfer by calling us at **800.432.1000** for consumer accounts and **866.758.5972** for small business accounts. If you are calling from outside of the continental U.S., call us collect at **925.681.7600**.

B. Transfers to Someone Else Using Their Account Number

You may use the Service to make one-time transfers from a linked Bank of America checking, savings, money market or line of credit account to most checking, savings or money market accounts of other Bank of America customers using their account number.

Transfer From	Transfer To	\$ Limit ¹	Cut-off Time (all eastern PM)
Your Checking/Savings account	Checking/Savings account of Someone Else	\$3,500 per 24 hours \$10,000 per week	10:45

^{1/} You may be eligible for higher limits if you enroll in SafePass. Learn more about SafePass. Higher limits may also apply for Bank of America Private Bank, Merrill or small business accounts.

One time transfers may be made at any time and are immediately debited from a checking or savings account's available balance. A one-time transfer cannot be cancelled after it has been submitted.

You may receive transfers from other Bank of America customers in the aggregate of \$999,999.00 per week.

Internal Transfer send limits for both Sections 2.A and 2.B are set at the customer profile (Online ID) and apply to all accounts visible in the “From” dropdown when initiating an Internal Transfer. If you are a small business customer and are not receiving the small business limits, make sure you are signed in with your small business Online ID.

3. Bill Payment Services

A. Bill Pay for Checking, Money Market and Home Equity Line of Credit Accounts

Bank of America customers may use Bill Pay to make payments to companies or individuals (“Payees”) in the following manner:

- Payments can be scheduled from linked checking, money market savings, and HELOC accounts during the draw period. Note that you may not link HELOC accounts opened in Texas.
- Payments can be scheduled from a checking, money market savings or other consumer asset account maintained at another financial institution that you have added to Bill Pay. You certify that any account you add to Bill Pay is an account from which you are authorized to make payments, and any payment you make using Bill Pay will debit an account that you are legally authorized to use. When you add an account maintained at another financial institution, you do not change the agreements you have with that financial institution for that account. Please review those agreements for any applicable fees, limitations on the number of transactions you can make and for other restrictions that might

limit your use of the account with Bill Pay.

- Payments can be entered as a one-time transaction up to a year in advance, recurring transactions or as payments that are automatically scheduled upon the receipt of an electronic bill (e-Bill).
- Future scheduled or recurring payments that fall on a weekend or a non-business day will be processed on the prior business day.
- You authorize us to make payments in the manner we select from the following methods:
 - Electronic transmission. Most payments are made by electronic transmission.
 - Corporate check – This is a check drawn on our account or the account of our vendor. If a Payee on a corporate check fails to negotiate the check within ninety (90) days, we will stop payment on the check and re-credit your account for the amount of the payment. If a corporate check is returned to you prior to the end of the ninety (90) day period, please inform us immediately so that we can stop payment on the check and re-credit your account.
 - Personal check – This is a check drawn on your account when it is presented for payment.
- All payments under Bill Pay that are sent care of APO/FPO or similar addresses will be sent by corporate or personal check. Because all such payments will be made by check, they will not be Remittance Transfers (as defined in section 5.F. of this Agreement).
- Any obligations that you wish to pay through Bill Pay must be payable in U.S. dollars to a Payee located in the United States. We reserve the right to restrict categories of Payees to whom payments may be made using the Service. We recommend that you not use the Service to make:
 - Tax payments
 - Court-ordered payments
 - Payments to settle securities transactions
- Scheduling Bill Payments
 - The scheduled delivery date is the date you enter for the payment to be delivered to the Payee. For payments made by electronic transmission or corporate check, the payment amount will be debited from the account that you designate on the scheduled delivery date. For payments made by personal check, the account you designate will be debited when the check is presented to us for payment which may occur before, on or after the scheduled delivery date.
 - Payments (other than payments to a Bank of America Payee) initiated before 5:00 p.m. ET on a business day will be scheduled and begin processing on the same business day. Payments that are entered after this cut-off time or on a day that is a non-business day will be scheduled and processed the next bank business day.
 - For payments to a Bank of America Payee, such as a vehicle loan, HELOC or mortgage, Bank of America will process and credit the payment to the account effective the same business day, provided the payment is scheduled prior to the 5:00 p.m. ET cut-off.
 - For payments to Bank of America credit card and business line of credit accounts, Bank of America will process and credit the payment to the account effective the same day, provided the payment is scheduled prior to the 11:59 p.m. ET cut-off.
- Bill Discovery Service. At your option, we may offer you the opportunity to add Payees from our service provider's network or, with your consent, to access your credit report to help you identify Payees which you would like to add to this service. Information from these sources may make it easier for you to make payments or add relevant e-bills to your Service.

When you attempt to schedule a payment, we will inform you of the earliest available delivery date. To assure timely payment and obtain the full benefit of the Online Banking Guarantee described below, you must schedule payments, and your account must be in good standing and have sufficient available funds in the designated deposit account to cover the payment, at least five (5) bank business days before the payment due date, NOT the date after which late payment fees may be assessed.

If an account does not have sufficient available funds on the scheduled date, we may elect not to initiate one or more of the transfers. If we do elect to initiate the transfer, which may involve one or more attempts on subsequent business days, it may cause an overdraft in your account in which case you shall be fully responsible for the overdraft and any overdraft fees, as set forth in your Deposit Agreement, as well as all late fees, interest charges or other action taken by the Payee.

Under our Online Banking Guarantee, if we fail to process a payment in accordance with your properly completed instructions, we will reimburse you for any late payment fees. As indicated above, some payments may be made by a personal check. Since we can't predict the exact date that a personal check will be presented to us for payment, please make sure you have sufficient funds in your account beginning a few days before your scheduled delivery date and keep such funds available until the payment is deducted from your account.

Bill Pay payments sent via corporate or personal check with different Payee names may be combined in one envelope if those payments have the same mailing address, and your intended Payee has not registered their full/unique mailing address with the USPS, including their secondary

address designation, e.g., Suite, Room, Floor, Dept., Building, or Unit. If we need to, we'll change or reformat your Payee account number to match the account number or format required by your Payee for electronic payment processing and eBill activation.

B. Bill Pay for Credit Card, Business Line of Credit or Vehicle Loan (automotive, recreational vehicle, boat or aircraft) Only Customers

Bank of America credit card, business line of credit or vehicle loan account only customers may use Bill Pay in the following manner:

- Payments to your Bank of America credit card up to \$250,000, your business line of credit or vehicle loan account can be scheduled from a checking, money market savings or other consumer asset account maintained at another financial institution that you have added to Bill Pay.
- Payments can be entered as a one-time transaction up to a year in advance, or as payments that are automatically scheduled upon the receipt of an e-Bill.
- Payments to your credit card or business line of credit account initiated before 11:59 p.m. ET will be applied on the same day. Payments entered after this cut-off will be scheduled and processed on the next calendar day.
- Payments to your vehicle loan account initiated before 5 p.m. ET on a business day will be applied on the same day. Payments entered after this cut-off will be scheduled and processed on the next business day.
- If the financial institution upon which your payment is drawn rejects, refuses, or returns the payment, the payment to your Bank of America credit card, business line of credit or vehicle loan will be reversed and you may incur late payment or other fees. The institution holding your deposit account may impose a returned item or other fee.

C. E-Bills

E-Bills is a feature of the Bill Pay Service that enables you to receive bills electronically from participating Payees

- **Approval of e-Bills**
Participating Payees establish their own criteria for reviewing requests to receive e-Bills and have sole discretion to accept or decline your request.
- **Accessing e-Bills from a Third Party**
In some cases we obtain the e-Bill from the web site of the Payee. To do so, we will ask you for information needed for this purpose, such as any required password. When you provide this information, you authorize us to access the third party web site to retrieve the account information on your behalf, and you appoint us your agent for this limited purpose.
- **Timely Delivery of e-Bills.**
We take no responsibility if a Payee does not provide the necessary data to forward an e-Bill in a timely manner. If you do not receive an e-Bill, it is your responsibility to contact the Payee directly. We are not responsible for any late charges or other adverse consequences. Any questions regarding your e-Bill details should be directed to your Payee.
- **Stop e-Bills**
You or we can cancel the e-Bill service, or a particular e-Bill at any time. If you request that a particular e-Bill be discontinued, we require seven (7) business days for the Payee to receive and process the request. If an e-Bill from a Bank of America Payee is canceled, any e-Bills previously delivered but not paid will be removed from your list of payable e-Bills.
- **Privacy**
When you request e-Bills from a participating Payee you may be asked to provide certain information that will be forwarded to the Payee to complete your enrollment. When you provide this information, you authorize us to share it with the Payee.
- **Introductory e-Bill Opportunity**
You understand and agree that selected Payees may provide e-Bills to you through Bill Pay for up to three months in order to introduce you to the convenience of Bill Pay. We will notify you in advance of such introductory opportunities. Bank of America does not have access to and does not store detailed billing information contained in the e-Bill. Only you will have access to the detailed bill information. If at any time you choose not to participate in this introductory e-Bill opportunity, you have the following options:

You can discontinue a specific e-Bill by signing into Bill Pay and selecting "cancel the e-Bill trial."

To be removed from all future e-Bill trial enrollments, please e-mail customer care at optoutebill@customercenter.net from the email address that you use for the Service.

If you wish to continue to receive the e-Bills after the introductory period, please follow the instructions at the e-Bills page of Bill Pay.

D. Limits

Bill payments from your Bank of America account can be for any amount up to \$99,999.99. Please note, however, that some Payees may place limits on the amount they will accept via electronic transmission. When the limit is exceeded, the payment will be remitted by check.

E. Canceling Bill Payments

- In order to cancel a bill payment (including a payment you scheduled from an account maintained at another financial institution), follow the directions provided in Bill Pay. The cancel feature is found in the Payment History or Recurring Payments sections. You may also request to cancel a future scheduled or recurring transfer by calling us at **800.432.1000** for consumer accounts and **866.758.5972** for small business accounts. If you are calling from outside of the continental U.S., call us collect at **925.681.7600**.
- Future-dated or recurring payments can be canceled prior to 5 p.m. ET on the third bank business day prior to the scheduled delivery date. Once a payment has begun processing, it cannot be canceled.
- If a check has been issued for your bill payment, any stop payment provisions that apply to checks in the agreement governing your bill pay funding account will also apply to Bill Pay.

F. Fees

There are no service fees for use of the Bill Pay Service.

4. Zelle® Network Service (Email and Mobile Transfers)

A. Description of Service

We have partnered with the *Zelle*® Network to enable a convenient way to transfer money between you and others who are enrolled directly with *Zelle* or enrolled with another financial institution that partners with *Zelle* (each, a "User") using aliases, such as email addresses or mobile phone numbers. We will refer to financial institutions that have partnered with *Zelle* as "Network Banks."

Zelle provides no deposit account or other financial services. *Zelle* neither transfers nor moves money. You may not establish a financial account with *Zelle* of any kind. All money will be transmitted by a Network Bank.

Transfers will be governed by the rules of any funds transfer system through which the transfers are made, as amended time from time, including, without limitation, the National Automated Clearing House Association ("NACHA") or real time payment services ("RTP").

THE SERVICE IS INTENDED TO SEND MONEY TO FRIENDS, FAMILY AND OTHERS YOU TRUST. YOU SHOULD NOT USE THE SERVICE TO SEND MONEY TO RECIPIENTS WITH WHOM YOU ARE NOT FAMILIAR OR YOU DO NOT TRUST.

Zelle and the Zelle related marks are wholly owned by Early Warning Services, LLC and are used herein under license.

B. Eligibility and User Profile

When you enroll to use the Service or when you permit others to whom you have delegated to act on your behalf to use or access the Service, you agree to the terms and conditions of this Agreement. You represent that you have the authority to authorize debits and credits to the enrolled bank account. You agree that you will not use the Service to send money to anyone to whom you are obligated for tax payments, payments made pursuant to court orders (including court-ordered amounts for alimony or child support), fines, payments to loan sharks, gambling debts or payments otherwise prohibited by law, and you agree that you will not use the Service to request money from anyone for any such payments.

The Service allows you to send or receive money using your consumer or small business deposit account. We reserve the right to suspend or terminate your use of the Service if we believe, in our sole discretion, that you are using the Service for other purposes, or if we believe you are using the Service in a manner that exposes Bank of America or *Zelle* to liability, reputational harm or brand damage, including but not limited to using the Service to request, send or receive money related to any of the following:

Case 3:22-cv-00140-MOC-WCM Document 44-2 Filed 09/11/23 Page 7 of 22

Illegal or brand damaging activities include, but are not limited to:

- Any activity that is illegal under federal or applicable state law (e.g., drugs, gambling, counterfeit goods);
- Firearms, ammunition and other weapons;
- Sexual activities or materials;
- Pornography;
- Materials that promote intolerance, violence or hate;
- Ponzi schemes;
- Traveler's checks, money orders, equities, annuities, or currencies;
- Digital currencies such as bitcoins;
- Terrorist funding;
- Fraud, for example:
 - i. Unauthorized Payments that occur in instances of account takeover, lost/stolen debit cards or account information, etc.;
 - ii. Scams - Recipient convinces a Sender to send money with Zelle by (i). pretending to be or to represent another person or entity; or (ii). offering to provide a good, service, or additional funds while intending to provide nothing in return.
- Money laundering
- Use of the Zelle Payments Service in a manner for which it was not intended, or in a way that another customer finds harassing or inappropriate (e.g., use of memo fields to communicate with another customer with no intention of processing a Payment).

We may determine other eligibility criteria in our sole discretion.

C. Enrolling for the Service

- i. You must provide us with an email address that you regularly use and intend to use regularly and/or a permanent U.S. mobile phone number that you intend to use for an extended period of time.

You may not enroll in the Service with a landline phone number, Google Voice number, or Voice over Internet Protocol.

- ii. Once enrolled, you may:

- a. authorize a debit of your account to send money to another User either at your initiation or at the request of that User; and
- b. receive money from another User either at that User's initiation or at your request, subject to the conditions of the Section below titled "Requesting Money."

- iii. If at any time while you are enrolled, you do not receive money using the Service for a period of 18 consecutive months, we may contact you and/or take other steps to confirm that the U.S. mobile phone number or email address that you enrolled still belongs to you. If we are unable to confirm that you are the owner of the mobile phone number or email address, then you understand that we may cancel your enrollment and you will not be able to send or receive money with the Service until you enroll again.

D. Consent to Emails and Automated Text Messages

By participating as a User, you represent that you are the owner of the email address, mobile phone number, and/or other alias you enrolled, or that you have the delegated legal authority to act on behalf of the owner of such email address, mobile phone number and/or other alias to send or receive money as described in this Agreement. You consent to the receipt of emails or text messages from us, from *Zelle*, from other Users that are sending you money or requesting money from you, and from other Network Banks or their agents regarding the Services or related transfers between Network Banks and you. You agree that we may, *Zelle* may or our agents may use automatic telephone dialing systems in connection with text messages sent to any mobile phone number you enroll. You further acknowledge and agree:

- i. You are responsible for any fees or other charges that your wireless carrier may charge for any related data, text or other message services, including without limitation for short message service. You are also responsible for the content of the memos you send using Zelle. Please check your mobile service agreement for details or applicable fees.
- ii. You will immediately notify us if any email address or mobile phone number you have enrolled is (i) surrendered by you, or (ii) changed by you.

For your security, if we notice changes on the email or mobile number, we may delete it and notify you.

- iii. In the case of any messages that you may send through either us or *Zelle* or that we may send or *Zelle* may send on your behalf to an email address or mobile phone number, you represent that you have obtained the consent of the recipient of such emails or automated text messages to send such emails or text messages to the recipient. You understand and agree that any emails or text messages that we send or that *Zelle* sends on your behalf may include your name and the memo that you sent.
- iv. Your wireless carrier is not liable for any delay or failure to deliver any message sent to or from us or *Zelle*, including messages that you may send through us or through *Zelle* or that we may send or *Zelle* may send on your behalf.
- v. To cancel text messaging from us, text STOP to **53849**. This will unenroll you from the Service. For help or information regarding text messaging, text HELP to **53849** or contact our customer service at **800.933.6262** for consumer accounts and **866.758.5972** for small business accounts. You expressly consent to receipt of a text message to confirm your "STOP" request.
- vi. Bank of America's *Zelle* notifications are supported by many carriers, like AT&T, T-Mobile, Sprint, and Verizon Wireless. Check with your individual carrier to confirm availability.
- vii. We or *Zelle* may use information on file with your wireless operator to further verify your identity and to protect against or prevent actual or potential fraud or unauthorized use of the Service. By using the Service, you authorize your wireless operator (AT&T, Sprint, T-Mobile, US Cellular, Verizon, or any other branded wireless operator) to use or disclose information related to your wireless subscriber account (such as your mobile number, name, address, email, network status, customer type, mobile device identifiers and other device and subscriber status information) to Bank of America or its service providers, which they may use for the duration of your business relationship with them, solely to verify your identity and help prevent fraud. See *Zelle*'s Privacy Policy [<https://www.zellepay.com/privacy-policy>] for how it treats your data. For Bank of America's Privacy Policy, go to our Web site at <https://www.bankofamerica.com/privacy>.

E. Receiving Money; Money Transfers by Network Banks

Once a User initiates a transfer of money to your email address or mobile phone number enrolled with the Service, you have no ability to stop the transfer. By using the Service, you agree and authorize us to initiate credit entries to the bank account you have enrolled.

Most transfers of money to you from other Users will occur within minutes. There may be other circumstances when the payment may take longer. For example, in order to protect you, us, *Zelle* and the other Network Banks, we may need or *Zelle* may need additional time to verify your identity or the identity of the person sending the money. We may also delay or block the transfer to prevent fraud or to meet our regulatory obligations. If we block a payment that you have initiated through a request for money, we will notify you by email.

If you are receiving a payment from a business or government agency, your payment will be delivered in accordance with both this Agreement and the procedures of the business or government agency that is sending you the payment.

F. Sending Money; Debits by Network Banks

You may send money to another User at your initiation or in response to that User's request for money. You understand that use of this Service by you shall at all times be subject to (i) this Agreement, and (ii) your express authorization at the time of the transaction for us or another Network Bank to initiate a debit entry to your bank account. You understand that when you send the payment, you will have no ability to stop it. You may only cancel a payment if the person to whom you sent the money has not yet enrolled in the Service. If the person you sent money to has already enrolled with *Zelle*, either in the *Zelle* mobile app or with a Network Bank, the money is sent directly to their bank account (except as otherwise provided below) and may not be canceled or revoked.

In most cases, when you are sending money to another user, the transfer will occur in minutes; however, there are circumstances when the payment may take longer. For example, in order to protect you, us, *Zelle* and the other Network Banks, we may need additional time to verify your identity or the identity of the person receiving the money. During this period, and in any other circumstance when we need additional time to verify the transfer details, a hold will be placed on your account for the amount of the transfer. You understand and acknowledge that a person to whom you are sending money and who is not enrolled as a User may fail to register with *Zelle*, or otherwise ignore the payment notification, and the transfer may not occur. If the person to whom you are sending money does not enroll, set up an email address or mobile number and accept the transfer within 14 days, the transfer will be canceled.

The money may also be delayed or the transfer may be blocked to prevent fraud or comply with regulatory requirements. We will notify you by email if we block a payment that you have initiated using the Service.

We have no control over the actions of other Users, other Network Banks or other financial institutions that could delay or prevent your money from being delivered to the intended User.

G. Liability

Except as otherwise provided in this Agreement, neither we nor *Zelle* shall have liability to you for any transfers of money under the Service, including without limitation, (i) any failure, through no fault of us or *Zelle* to complete a transaction in the correct amount, or (ii) any related losses or damages. Neither we nor *Zelle* shall be liable for any typos or keystroke errors that you may make when using the Service.

THE SERVICE IS INTENDED FOR SENDING MONEY TO FAMILY, FRIENDS AND OTHERS WHOM YOU TRUST. YOU SHOULD NOT USE *ZELLE* TO SEND MONEY TO RECIPIENTS WITH WHOM YOU ARE NOT FAMILIAR OR YOU DO NOT TRUST. NEITHER WE NOR *ZELLE* OFFER A PROTECTION PROGRAM FOR AUTHORIZED PAYMENTS MADE THROUGH THE SERVICE (FOR EXAMPLE, IF YOU DO NOT RECEIVE THE GOODS OR SERVICES THAT YOU PAID FOR, OR THE GOODS OR SERVICES THAT YOU RECEIVED ARE DAMAGED OR ARE OTHERWISE NOT WHAT YOU EXPECTED).

H. Requesting Money

You may request money from another User. You understand and acknowledge that Users to whom you send payment requests may reject or ignore your request. Neither we nor *Zelle* guarantee that you will receive money from other Users by sending a payment request, or that you will receive the amount that you request. If a User ignores your request, we may decide or *Zelle* may decide, in our sole discretion, that we will not send a reminder or repeat request to that User.

By accepting this Agreement, you agree that you are not engaging in the business of debt collection by attempting to use the Service to request money for the payment or collection of an overdue or delinquent debt; to request money that is owed to another person; or to collect any amounts that are owed pursuant to a court order. You agree to indemnify, defend and hold harmless us, *Zelle*, our and their owners, directors, officers agents and Network Banks from and against all claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorney's fees, resulting from or arising out of any request for money that you send that is related to overdue or delinquent amounts.

You agree to receive money requests from other Users, and to only send requests for legitimate and lawful purposes. Requests for money are solely between the sender and recipient and are not reviewed or verified by us or by *Zelle*. Neither we nor *Zelle* assume responsibility for the accuracy or legality of such requests and do not act as a debt collector on your behalf or on behalf of the sender of a request for money.

We reserve the right, but assume no obligation, to terminate your ability to send requests for money in general, or to specific recipients, if we deem such requests to be potentially unlawful, abusive, offensive or unwelcome by the recipient.

I. Fees

There is no fee for sending or receiving a transfer under the Service.

J. Cancellation

A transfer submitted through the Service may not be canceled once the recipient has enrolled. If the recipient has not yet enrolled, you may cancel by going to the Zelle section of the Bank of America website or mobile app and tapping on "Activity".

K. Limits

The following limits apply to Zelle transfers.¹

	Every 24 hours	Every 7 days	Every Month
Consumer	\$3500 / 10 Transactions	\$10,000 / 30 transactions	\$20,000 / 60 Transactions
Small Business ²	\$15,000 / 20 Transactions	\$45,000 / 60 Transactions	\$60,000 / 120 Transactions

¹/Private Bank and Merrill Lynch Wealth Management clients may be subject to higher dollar limits and total transfers. Please contact your advisor for more information on your limits.

²/ Zelle send limits are set at the customer profile (Online ID) and apply to all accounts visible in the "From" dropdown when initiating a Zelle payment. If you are a small business customer and are not receiving the small business limits, make sure you are signed in with your small business Online ID.

There are no receiving limits for Zelle transfers.

5. ACH and Wire Transfers

Transfers sent outside of the United States that are initiated by consumers primarily for personal, family or household purposes ("Remittance Transfers"), are governed by federal law (see section 5.F below). This Agreement governs not only Remittance Transfers, but also certain other transfers between your linked accounts at Bank of America and your accounts at other financial institutions, or to someone else's account, using an account number and financial institution identifier.

For transfers other than Remittance Transfers, including general questions, requests for cancellation of payments and transfers, or to report unauthorized transactions, please call us at **800.432.1000** or **866.758.5972** for small business accounts, available Monday through Friday from 7:00 a.m. to 10:00 p.m., and Saturday and Sunday from 8:00 a.m. to 5:00 p.m., local time. From outside of the continental U.S., call us collect at **925.681.7600**.

You may also write us at:

Bank of America
FL1-300-02-07
P.O. Box 25118
Tampa, FL 33622-5118

For Remittance Transfers, please see the contact information in Section 5.F. below.

A. Security Procedures

By enrolling in the Service and accessing it using your Online ID and passcode, and such other security and identification methods as we may require from time to time, such as security questions or one-time passcodes, you acknowledge and agree that this system includes security procedures for transfers initiated through this Service that are commercially reasonable. You agree to be bound by instructions, whether authorized or unauthorized, which we implement in compliance with these procedures, unless you have given us prior notice of possible unauthorized use of your passcode and we had a reasonable opportunity to act on such notice.

B. Types of ACH and Wire Transfers

You may send and receive the following types of ACH and Wire transfers:

Types of Transfers ^{1, 2}	Sending Limits (24 hours) ³	Receiving Limits ³	Fees ⁴	Cut-Off Times (all eastern PM)
Three Business Day ACH (outbound) <ul style="list-style-type: none"> Consumer Small Business 	<ul style="list-style-type: none"> \$1000 \$5000 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> \$3.00 \$1.00 	<ul style="list-style-type: none"> 8:00 8:00
Three Business Day ACH (inbound) <ul style="list-style-type: none"> Consumer 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> \$10,000 (per 24 hours) 	<ul style="list-style-type: none"> \$0.00 	<ul style="list-style-type: none"> 8:00

		• \$50,000 (monthly)		
Next Business Day ACH (outbound)				
<ul style="list-style-type: none"> • Consumer • Small Business 	<ul style="list-style-type: none"> • \$1000 • \$5000 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • \$10.00 • \$5.00 	<ul style="list-style-type: none"> • 8:00 • 8:00
Next Business Day ACH (inbound) ⁵				
<ul style="list-style-type: none"> • Consumer 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • \$10,000 (per 24 hours) • \$50,000 (monthly) 	<ul style="list-style-type: none"> • \$0.00 	<ul style="list-style-type: none"> • 8:00
Same Business Day (domestic) Wire Transfer (outbound)				
<ul style="list-style-type: none"> • Consumer • Small Business 	<ul style="list-style-type: none"> • \$1000 • \$5000 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • \$30.00 • \$30.00 	<ul style="list-style-type: none"> • 5:00
International Wire Transfer (outbound)				
<ul style="list-style-type: none"> • Consumer • Small Business 	<ul style="list-style-type: none"> • \$1000 • \$5000 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • \$45.00 (US Dollar transfer) • \$0.00 (Foreign currency transfer) • \$45.00 (US Dollar transfer) \$0.00 (Foreign currency) 	<ul style="list-style-type: none"> • 5:00

^{1/} For domestic transfers, funds will be debited from your Bank of America account on the business day you direct us to initiate processing of the transfer, and typically will be credited to the receiving account on the same business day, next business day or third business day after the transfer is initiated, depending on your choice.

^{2/} For Direct Payments Service, see the Business Services Addendum for details on fees and limits.

^{3/} Higher limits may apply for Bank of America Private Bank or Merrill. You may be eligible for higher limits if you enroll in SafePass. Learn more about SafePass.

^{4/} You will be charged \$25 for each transfer trace that you ask us to execute for you. International transfers may be subject to additional fees charged by intermediary, receiving and beneficiary banks.

^{5/} To be eligible to receive a next business-day ACH transfer, you must first have received an aggregate of \$500.00 in one or more three business day ACH transfers, and the first three business day ACH transfer must have been at least 60 days prior to the first next business day ACH transfer.

^{6/} For international outbound transfers, funds will be debited from your Bank of America account on the business day you direct us to initiate processing of the transfer. Bank of America will send the payment out on that business day and, except for Remittance Transfers the beneficiary's bank typically receives the funds 1 to 2 business days later and the funds typically will be credited to the beneficiary within 2 business days. See Section 5.F for special rules applicable to Remittance Transfers.

ACH/Wires send limits are set at the customer profile (Online ID) and apply to all accounts visible in the "From" dropdown when initiating an ACH/Wire payment. If you are a Small Business customer and are not receiving the Small Business limits, make sure you are signed in with your Small Business Online ID.

You may also move money within the U.S. without a transfer fee by using Zelle (described in Section 4 above) or Bill Pay (described in Section 3 above). ACH and Wire transfers are alternatives that allow you to transfer funds when delivery of funds domestically by a specific date is critical or when you are transferring funds outside the U.S.

C. Transfer Rules

- Small business customers may transfer funds from their business checking account to an individual's or vendor's account at another financial institution, but may not transfer funds from an external account to their small business account. Before scheduling a transfer to an individual, you agree that you will have received a signed authorization from the payee, and that the authorization will not have been revoked. You agree to provide a copy of the authorization to us upon our request. Before scheduling any vendor payment, you agree that you will have received authorization from the vendor to make the payment by electronic means.
- You will need to provide certain identifying information about each non-Bank of America account in order to register that account for this Service. For inbound transfers, you agree that you will only attempt to register non-Bank of America personal accounts that you own or for which you have the authority to transfer funds. Same-Business-Day Wire transfers are not available for inbound transfers. Transfers to accounts located outside the United States are available for outbound transfers only and are subject to the delivery times indicated above. Next-Business-Day and Three-Business-Day ACH transfers are not available for international transfers.
- Bank of America cannot guarantee the timely delivery or return of funds as a result of the failure of another financial institution to act in a timely manner. Please note that beneficiary banks located in some countries may take several days or even weeks to credit the receiving account. There may be some risk in making a transfer to a slow-to-pay country. Currency conversion charges also may apply to international outbound transfers.
- For each transfer, we will e-mail a confirmation to you at the e-mail address indicated in our records. The confirmation will note the date and the amount of the transfer and the bank or institution to or from which the transfer was made. You agree to examine the confirmation promptly upon receipt and to notify us immediately of any discrepancy between the confirmation and your records. Bank of America will not be liable for interest compensation, as otherwise set forth in this Agreement, unless Bank of America is notified of the discrepancy within 30 days from the date of your receipt of the confirmation or your bank statement including the transfer, whichever is earlier. You acknowledge and agree that if a payment order relating to a transfer describes a beneficiary inconsistently by name and account number, payment might be made by the beneficiary's bank on the basis of the account number, even if it identifies a person different from the named beneficiary, and that your obligation to pay the transfer issued by you to us shall not be excused by such payment.
- You agree that you will have sufficient available funds in the designated deposit account to cover all outbound transfers on the date scheduled. If an account does not have sufficient available funds on the scheduled date, we may elect not to initiate one or more of the transfers. If we do elect to initiate the transfer, which may involve one or more attempts on subsequent business days, it may cause an overdraft in your account in which case you shall be liable for the overdraft and any overdraft fees, as set forth in your Deposit Agreement.
- You agree that Bank of America may use any means or routes which we in our sole discretion consider suitable to execute your transfer. For small business customers, if you transfer funds in U.S. dollars to a non-U.S. dollar account, your payment may be converted into the local currency by any originating, intermediary or receiving bank, payment system or payment service provider, including Bank of America or an affiliate, as applicable. We and/or an affiliate include a mark-up or fee on such currency conversion and may profit in connection with any such currency conversion. Bank of America hereby gives notice that Same-Business-Day domestic transfers and international outbound transfers may be executed through Fedwire, a funds transfer system operated by the Federal Reserve Banks, through CHIPS (Clearing House Interbank Payments System), a funds transfer system operated by The Clearing House or through SWIFT (Society for Worldwide Interbank Financial Telecommunication). With respect to payment orders relating to the transfer which are executed through Fedwire, Federal Reserve Regulation J and all applicable Federal Reserve operating rules shall govern the payment orders. With respect to payment orders relating to the transfer which are executed through CHIPS, the CHIPS Operating Rules shall govern the payment orders. With respect to payment orders relating to the transfer which are executed through SWIFT, the SWIFT operating rules shall govern the payment orders. However, with respect to Remittance Transfers, to the extent of any inconsistencies between the above referenced rules and the provisions of the Electronic Funds Transfer Act ("EFTA"), the provisions of EFTA shall prevail. Notwithstanding anything to the contrary contained herein, the rights and obligations that apply to Remittance Transfers are set forth in the EFTA and, as applicable, as set forth in New York law. Three-Business-Day ACH transfers and Next-Business-Day ACH transfers may be made through the Automated Clearing House processor selected by us or directly to another bank, and you agree will be subject to the National Automated Clearing House Association rules or our agreement with the other bank, in effect at such time, as applicable.

Future scheduled or recurring transfers scheduled for a weekend or a non-business day will be processed on the prior business day.

D. Cancelling Transfers

- Except for Remittance Transfers, if you direct us to begin processing a transfer immediately or a transfer's status is In Process or Processed, you no longer have the right to cancel it. Bank of America may at its option accept your cancellations or amendments to a transfer. You acknowledge that if Bank of America attempts to cancel or amend a transfer, then the reversal request or amendment must be agreed to by each financial institution which has accepted a payment order related to the transfer at issue before it will be acted upon and you further agree that Bank of America shall have no liability if a cancellation or amendment is not completed.
- Except for Remittance Transfers, you can cancel future scheduled and recurring domestic transfers prior to midnight ET on the date processing for the transfer is scheduled to be initiated by accessing the Transfers page and selecting To/From my accounts at other banks or To someone else or business This is the preferred method for cancelling transfers. You may also request to cancel a future scheduled or recurring transfer by calling us at **800.432.1000** for consumer accounts and **866.758.5972** for small business accounts. If you are calling from outside of the continental U.S., call us collect at **925.681.7600**. After you cancel a future-dated transfer, the status changes to Canceled.

- Once an international outbound transfer has been sent, or, in the case of Remittance Transfers, after the 30 minute cancellation period has passed, you may request that a transfer be recalled, and we will communicate your request to the beneficiary's bank. If the beneficiary's bank agrees to return the funds to us, then upon confirmation of receipt of funds in our account, we will credit your account at the current Bank of America retail buy rate for that currency that day (see below). Please note that the exchange rate may be different from the original rate applicable to the transfer, which may result in a loss to you. Furthermore, the beneficiary's bank may assess charges for their services, which will be deducted from the amount returned to you. We will have no liability to you if the beneficiary's bank or foreign beneficiary refuses your request to recall the international wire transfer.
- If a transfer is returned by the receiving bank or beneficiary's bank for no fault of ours, we will credit your account at the current Bank of America retail buy rate for the currency that day (see below). Please note that the exchange rate will be different from the original rate applicable to the transfer, which may result in a loss to you. Furthermore, a returning bank and/or beneficiary's bank may assess charges for their services, which will be deducted from the amount returned to you.

Please see Section 5.F for the cancellation procedures applicable to Remittance Transfers.

E. Liability

- The following applies to Same-Business Day Domestic Wire transfers and all ACH and Wire transfers from a business account. The liability for Three-Business Day ACH transfers and Next-Business Day ACH transfers involving a transfer to or from a Bank of America consumer account is described in Section 7 below. The liability for Remittance Transfers is described in Section 5.F. below.
- If we fail or delay in making a transfer pursuant to your instructions, or if we make a transfer in an erroneous amount that is less than the amount per your instructions, unless otherwise required by law or as otherwise provided in this Agreement, our liability shall be limited to correcting the error. If we make a payment or transfer in an erroneous amount that exceeds the amount per your instructions, or if we permit an unauthorized payment or transfer after we have had a reasonable time to act on a notice from you of possible unauthorized use, unless otherwise required by law or as otherwise provided in this Agreement, our liability will be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the transfer to the date of the refund, but in no event to exceed 60 days' interest. If we become liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average federal funds rate at the Federal Reserve Bank in the district where Bank of America is headquartered for each day interest is due, computed on the basis of a 360-day year. Unless otherwise required by law, in no event will Bank of America be liable to you for special, indirect or consequential damages including, without limitation, loss or damage from subsequent wrongful dishonor resulting from our acts or omissions or lost profits, even if we are advised in advance of the possibility of such damages. We shall not be liable for your attorney's fees, except as required by law.
- You expressly agree that Bank of America shall be liable to you only for our negligent performance or non-performance of the ACH and Wire Transfer services, and that our responsibility shall be limited to the exercise of reasonable and ordinary care. Unless otherwise required by law, Bank of America shall not be liable for any error or delay on the part of any third party or for any other act or omission of any third party, including without limitation third parties used by Bank of America in executing any payment order relating to a transfer or performing a related act, and no such third party shall be deemed to be our agent.

We do not accept any liability for our exchange rates. Any and all liability relating to this information and the rates provided herein is disclaimed, including without limitation, direct, indirect, or consequential loss, and any liability if our exchange rates are different from rates offered or reported by third parties, or offered by us at a different time, at a different location, for a different transaction amount, or involving a different payment media (including, but not limited to bank notes, checks, wire transfers etc.) For Remittance Transfers, the exchange rate to be applied to the transfer will be set forth in disclosures provided to you for the transfer in accordance with federal law.

F. Special Rules for Remittance Transfers

The following applies to Remittance Transfers.

- As described above, a Remittance Transfer is an electronic transfer of funds initiated by a consumer primarily for personal, family or household purposes to a designated recipient in a foreign country. Federal law provides certain rights and obligations related to Remittance Transfers that may differ from rights and obligations that apply to other types of funds transfers, including disclosure, cancellation and error resolution rights. Your rights with respect to Remittance Transfers will be explained to you in a disclosure provided to you at the time you initiate each Remittance Transfer.
- Prior to sending a Remittance Transfer, we will provide you with certain important disclosures including, if applicable: (i) the amount that will be transferred to the recipient, (ii) a description of any fees or taxes we impose, (iii) the total amount of the transaction (which is the sum of (i) and (ii) above,) and (iv) the exchange rate we will use in the event you tell us that the receiving account is denominated in a foreign currency and you identify such currency. In addition, if you chose to transfer money in foreign currency, the disclosures will also include the following items in such foreign currency: (x) the transfer amount, (y) the fees imposed by third parties in connection with the transfer, and (z) the total amount to be received by the recipient (which is the difference between (x) and (y) above.) Please note the recipient may receive less than the total amount disclosed due to foreign taxes and fees charged by the recipient's financial institution for receiving a Remittance Transfer into an account, which are not required to be disclosed.

Once you confirm your acceptance of the Remittance Transfer terms, you will be shown a receipt which includes the items listed above and, in addition, (i) the date the funds will be available to the recipient, (ii) information you provide that identifies the recipient, and (iii) a statement of your rights in the event of an error or if you wish to cancel the transfer, as described below.

You are hereby notified that in the event that you provide an incorrect account number or institutional identifying number, and we are not able to recover the funds, you may lose the amount of the payment order.

If you think there has been an error or problem with your Remittance Transfer:

Call us at **877.337.8357**; or, from outside the U.S. call us collect at **302.781.6374**.

You can also write to us at:

Bank of America, N.A.
PO Box 25118
Tampa, FL 33622-5118

Frequently asked questions about wire transfers including error resolution procedures, can be viewed by accessing <https://www.bankofamerica.com/deposits/wire-transfers-faqs/>.

You must contact us within 180 days of the date we indicated to you that funds would be made available to the recipient. When you do, please tell us:

1. Your name and address or telephone number;
2. The error or problem with the transfer, and why you believe it is an error or problem;
3. The name of the person receiving the funds, and if you know it, his or her telephone number or address;
4. The dollar amount of the transfer; and
5. The confirmation code or number of the transaction.

We will determine whether an error occurred within 90 days after you contact us and we will correct any error promptly. We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of any documents we used in our investigation.

What to do if you want to cancel a Remittance Transfer:

You have the right to cancel a Remittance Transfer and obtain a refund of all funds paid to us, including any fees, within 30 minutes of your confirmation of the transfer. The best way to cancel a transfer is to sign in to your account at www.bankofamerica.com and select Transfers>Send Money To Someone>Using their account number at another bank to access the right transfers activity tab. Alternatively, you may call us at **877.337.8357**, Monday through Friday from 7:00 a.m. to 10:00 p.m., and Saturday and Sunday from 8:00 a.m. to 5:00 p.m., local time. From outside the U.S., call us collect at **302.781.6374**. When you contact us, you must provide us with information to help us identify the transfer you wish to cancel, including the amount and location where the funds were sent. We will refund your money within three business days of your request to cancel a transfer as long as the funds have not already been picked up or deposited into a recipient's account.

G. Currency Exchange Rates

We may determine a currency exchange rate and assign it to your transaction without notice to you. Exchange rates fluctuate, at times significantly, and you acknowledge and accept all risks that may result from such fluctuations. If we assign an exchange rate to your foreign exchange transaction, that exchange rate will be determined by us in our sole discretion based upon such factors as we determine relevant, including without limitation, market conditions, exchange rates charged by other parties, our desired rate of return, market risk, credit risk and other market, economic and business factors, and is subject to change at any time without notice. You acknowledge that exchange rates for retail and commercial transactions, and for transactions effected after regular business hours and on weekends, are different from the exchange rates for large inter-bank transactions effected during the business day, as may be reported in *The Wall Street Journal* or elsewhere. Exchange rates offered by other dealers or shown at other sources by us or other dealers (including online sources) may be different from our exchange rates. The exchange rate you are offered may be different from, and likely inferior to, the rate paid by us to acquire the underlying currency. We reserve the right to refuse to process any request for a foreign exchange transaction.

We provide all-in pricing for exchange rates. The price provided may include profit, fees, costs, charges or other mark ups as determined by us in our sole discretion. The level of the fee or markup may differ for each customer and may differ for the same customer depending on the method or venue used for transaction execution.

We do not accept any liability for our exchange rates. Any and all liability for our exchange rates is disclaimed, including without limitation direct, indirect or consequential loss, and any liability if our exchange rates are different from rates offered or reported by third parties, or offered by us at a different time, at a different location, for a different transaction amount, or involving a different payment media (including but not limited to banknotes, checks, wire transfers, etc.).

6. Online Banking Alerts

A. General Information

We provide three types of alerts:

1. General & Security Alerts are sent to you when important changes are made online to your account, such as changing your email or home address, telephone number, Online ID or passcode, or unusual card activity.

General and Security alerts are automatically activated and sent to your primary email address. If you choose, you may turn off General alerts, but not Security alerts.

2. Automatic Alerts provide you with important account notifications, such as information about a money transfer, insufficient funds or availability of a paperless statement.

Automatic alerts are automatically activated and sent to your primary email address only. You may not turn off Automatic Alerts.

3. Account Alerts allow you to choose optional alert messages for your accounts, such as payment reminders or transaction alerts for credit or debit card charges.

You must select and activate account alerts; you can turn off account alerts at any time.

Alerts are subject to the following:

- We may add new alerts from time to time, or cancel old alerts. We usually notify you when we cancel alerts, but are not obligated to do so. Because alerts are not encrypted, we will never include your full account number. However, alerts may include your name and some information about your accounts, such as your account balance or due date. Anyone who has access to your messages could view the alert information.
- Alerts will be sent to the email address you have provided as your primary email address for online banking. For General & Security and Account Alerts, you can also choose to have these sent to a secondary email address, a mobile device that accepts text messages or a mobile device that can receive our Mobile App Alerts through a push notification system. You can control mobile Push notification delivery within the Bank of America mobile app. If your email address or your mobile number changes, you are responsible for informing us of that change. While Bank of America does not charge for the delivery of the alerts, please be advised that text or data charges or rates may be imposed by your carrier.
- We do our best to provide alerts in a timely manner with accurate information, but alerts may be delayed or prevented by a variety of factors beyond our control (such as system failures or misdirected delivery). We don't guarantee the delivery or accuracy of alerts. You agree that we are not liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert or for any actions taken or not taken by you or a third party as the result of an alert.

B. Mobile Text Alerts

1. Online Banking Alerts via Text Message

You have the option of adding a mobile phone number to your online banking profile. By adding a mobile phone number to your online banking profile, you are certifying that you are the account holder for the mobile phone account or have the account holder's permission to use the mobile phone number for online banking. You are also consenting to receive online banking Alerts using auto-dialer technology and to receiving text messages. Text message fees may apply depending on your mobile carrier plan.

You can text STOP to **692632** at any time to stop SMS text alerts that you activated on the Alerts Settings pages. Alerts sent to your primary email address won't be affected by this action. To restore text alerts, go to the Alerts Settings pages and reactivate the alerts. For help with SMS text alerts, send the word HELP to **692632**.

Case 3:22-cv-00140-MOC-WCM Document 44-2 Filed 09/11/23 Page 16 of 22

2. Security Alerts via Text Message

We may also send credit card, business line of credit and/or debit card security text alerts to your mobile phone number when applicable. Text alerts will be delivered from a short code number which are Free to End User (FTEU), however, data rates may apply depending on your mobile carrier plan. You can opt out of security alerts anytime by sending the word STOP to the applicable short codes below. Opting out of the alerts will automatically STOP all security alerts from being sent to you. If you need further assistance text HELP to any of the following codes for more information.

Product	Short Code	Toll Free Number
Credit Card Security Alerts	322632	844.585.0488
Debit Card Security Alerts	39989	844.585.0485
Small Business Credit Card Security Alerts	96264	800.427.2399
Check Fraud Security Alerts	86006	877.887.8935
Digital Banking Security Alerts	55983	866.500.6260
Account Takeover Security Alerts	56433	866.376.7091
Zelle Payment Security Alerts	80814	866.376.4584

Account Restrictions alerts are sent from short code **85594**. You can opt out of this alert any time by texting STOP to **85594**. Opting out of this alert will automatically stop these account restriction alerts from being sent to you. Text HELP for SMS help, or call us at **800.427.2449**

For information about our privacy and security practices and a link to our U.S. Consumer Privacy Notice, go to our website at <https://www.bankofamerica.com/privacy>

7. Error Resolution Procedures for Consumer Accounts

A. In Case of Errors or Questions About Your Electronic Transactions

Send us a secure online mail message or call us at **800.432.1000**

If you are calling from outside of the continental U.S., call us collect at **925.681.7600**

You may also write us at:

Bank of America

FL1-300-02-07

P.O. Box 25118 [Case 3:22-cv-00140-MOC-WCM Document 44-2 Filed 09/11/23 Page 17 of 22](#)

<https://www.bankofamerica.com/online-banking/service-agreement.go>

Tampa, FL 33622-5118

Contact us immediately if you think:

- Your statement or transaction record is wrong
- You need more information about a transaction listed on your statement
- An unauthorized person has discovered your Online Banking passcode
- Someone has transferred or may transfer money from your account without your permission

We must hear from you no later than 60 days after we have sent the FIRST statement on which the problem or error appeared (or 90 days if the problem or error relates to a transfer from an account maintained at another financial institution).

If you tell us verbally, we may require you to send us your complaint or question in writing or via email within ten (10) business days (Online Banking customers may use secure online mail). When you contact us, please provide the following information:

- Your name and account number
- The date and dollar amount of the transaction in question
- The name of the Payee if the transaction in question is a bill payment
- The transaction number assigned by Online Banking, if available
- A description of the transaction about which you are unsure

Please explain as clearly as you can why you believe there is an error or why you need more information.

We will determine whether an error occurred within 10 business days after we hear from you, and we will promptly correct any error we have made. If we need more time, however, we may take up to 45 days to investigate your complaint or question. In this case, we will provisionally credit your account within 10 business days for the amount you think is in error, so that you have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing, and we do not receive your letter in 10 business days, we reserve the right not to provisionally credit your account. For errors involving new accounts, we may take up to 90 days to investigate your complaint or question and up to 20 business days to provisionally credit your account.

We will tell you the results within 3 business days after we complete our investigation. If we conclude there was no error, we will send you a written explanation. You may request copies of the documents that we used in our investigation.

If your transaction was a Remittance Transfer (transfer of funds initiated by a consumer primarily for personal, family or household purposes to a designated recipient in a foreign country), please see the error resolution procedures in Section 5.F.

B. Limitation of Liability for Online Banking Transactions

Tell us at once if you believe your Online Banking passcode has been compromised or if someone has transferred or may transfer money from your account without your permission. The best way to minimize your loss is to call us immediately. The unauthorized use of your Online Banking services could cause you to lose all of your money in your accounts, plus any amount available under your overdraft protection plan.

You will have no liability for unauthorized transactions if you notify us within 60 days after the statement showing the transaction has been mailed to you (or 90 days if the transaction was from an account maintained at another financial institution). If you do not, you may not get back any of the money you lost from any unauthorized transaction that occurs after the close of the 60-day period (or 90 day period if the transaction was from an account maintained at another financial institution), if we can show that we could have stopped the transaction if you had notified us in time. If a good reason (such as a long trip or hospital stay) kept you from telling us, we may extend the time periods.

If you give your Online ID and passcode and grant authority to make transfers to a person who exceeds the authority given, you are responsible for all transactions that person performs unless you notify us that the transfers by that person are no longer authorized. Transactions that you or someone acting with you initiates with fraudulent intent are also authorized transactions.

Note: These liability rules are established by Regulation E, which implements the federal Electronic Fund Transfer Act and does not apply to business accounts. Our liability policy regarding unauthorized Online Banking transactions on consumer deposit accounts may give you more protection, provided you report the transactions promptly. Also, the state law applicable to your account may give you more time to report an unauthorized transaction or may give you more protection.

C. Our Liability for Failure to Complete Transactions

If we do not complete a transaction to or from your account on time, or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. For instance, we will not be liable:

- If, through no fault of ours, you don't have enough available funds in your account (or available funds under your overdraft protection plan), or credit to cover the transaction or transfer
- If Online Banking services weren't working properly, and you knew about the malfunction when you started the transaction or transfer
- If circumstances beyond our control (such as fire or flood) prevented the transaction or transfer, despite reasonable precautions we've taken
- If there are postal delays or processing delays by the Payee
- There may be other exceptions not specifically mentioned

D. Our Liability for ACH and Wire Transfers

For the provisions governing our liability for Same-Business Day Outbound wire transfers and international transfers please see Section 5. Our liability for Three-Business Day ACH transfers and Next Business Day ACH transfers involving a transfer to or from a Bank of America consumer account is as described in this Section 7.

8. Additional Provisions Only Applicable to Small Business Accounts

A. Protecting Passcodes

If you think your passcode may have been compromised, or you believe there has been unauthorized or erroneous online activity with respect to your account, contact us at **866.758.5972**. If you are calling from outside of the continental U.S., call us collect at **925.681.7600**.

You agree that we may send notices and other communications, including passcode confirmations, to the current address shown in our records, whether or not that address includes a designation for delivery to the attention of any particular individual. You further agree that Bank of America will not be responsible or liable to you in any way if information is intercepted by an unauthorized person, either in transit or at your place of business. You agree to: 1) keep your passcode secure and strictly confidential, providing it only to authorized signers on your account(s); 2) instruct each person to whom you give your passcode that he or she is not to disclose it to any unauthorized person; and 3) immediately notify us and select a new passcode if you believe your passcode may have become known to an unauthorized person. Bank of America will have no liability to you for any unauthorized payment or transfer made using your passcode that occurs before you have notified us of possible unauthorized use and we have had a reasonable opportunity to act on that notice. We may suspend or cancel your passcode even without receiving such notice from you, if we suspect your passcode is being used in an unauthorized or fraudulent manner. For businesses who use the additional services described in the Business Services Addendum, this section applies to all Online Banking passcodes, including those assigned to users or Administrators. You are responsible for all transactions performed by you and any designated user(s), including Administrator(s), whether you specifically authorize the transactions or not. If you notify us that the person is no longer authorized, then only transactions that person performs after the time you notify us are considered unauthorized.

B. Acknowledgment of Commercially Reasonable Security Procedures

By using Online Banking, you acknowledge and agree that this Agreement sets forth security procedures for electronic banking transactions that are commercially reasonable. You agree to be bound by instructions, whether authorized or unauthorized, which we implement in compliance with these procedures, unless you have given us prior notice of possible unauthorized use as described above (and we had a reasonable opportunity to act on such notice).

C. Limitation of Bank's Liability

If we fail or delay in making a payment or transfer pursuant to your instructions, or if we make a payment or transfer in an erroneous amount that is less than the amount per your instructions, unless otherwise required by law, our liability shall be limited to interest on the amount that we failed to timely pay or transfer, calculated from the date on which the payment or transfer was to be made until the date it was actually made or you canceled the instructions. We may pay such interest either to you or the intended recipient of the payment or transfer, but in no event will we be liable to both parties, and our payment to either party will fully discharge any obligation to the other. If we make a payment or transfer in an erroneous amount that exceeds the amount per your instructions, or if we permit an unauthorized payment or transfer after we have had a reasonable time to act on a notice from you of possible unauthorized use as described above, unless otherwise required by law, our liability will be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the payment or transfer to the date of the refund, but in no event to exceed 60 days' interest. If we become liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average federal funds rate at the Federal Reserve Bank in the district where Bank of America is headquartered for each day interest is due, computed on the basis of a 360-day year. Unless otherwise required by law, in no event will Bank of

America be liable to you for special, indirect or consequential damages including, without limitation, lost profits or attorney's fees, even if we are advised in advance of the possibility of such damages.

For the provisions governing our liability for ACH or Wire Transfers, please see Section 5.E above.

9. Disclaimer of Warranties, Limitation of Liability and Indemnification

A. Disclaimer of Warranties

EXCEPT AS OTHERWISE PROVIDED HEREIN, AND SUBJECT TO APPLICABLE LAW, NEITHER WE NOR OUR VENDORS, INCLUDING OUR OR THEIR OWNERS, DIRECTORS, OFFICERS OR AGENTS, MAKE ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS WHATSOEVER WITH RESPECT TO THE SERVICES. WE AND OUR VENDORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, WITH REGARD TO THE SERVICES DESCRIBED OR PROVIDED. NEITHER WE NOR OUR VENDORS, INCLUDING OUR OR THEIR OWNERS, DIRECTORS, OFFICERS OR AGENTS, WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. FOR PURPOSES OF THIS AGREEMENT, "VENDOR(S)" MEANS ANY THIRD-PARTY SERVICE PROVIDER, NETWORK OR PARTNER FINANCIAL INSTITUTION WE MAY ENGAGE TO PERFORM FUNCTIONS FOR US UNDER THIS AGREEMENT.

NEITHER WE NOR OUR VENDORS, INCLUDING OUR OR THEIR OWNERS, DIRECTORS, OFFICERS OR AGENTS, WARRANT THAT THE WEB SITE, OR THE SERVER THAT MAKES THEM AVAILABLE, IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION OF PROBLEMS CAUSED BY VIRUSES OR OTHER HARMFUL COMPONENTS.

B. Limitation of Liability

EXCEPT AS OTHERWISE PROVIDED HEREIN, AND SUBJECT TO APPLICABLE LAW, IN NO EVENT WILL WE OR OUR VENDORS, INCLUDING OUR OR THEIR OWNERS, DIRECTORS, OFFICERS OR AGENTS BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR OTHER INDIRECT DAMAGES ARISING OUT OF (I) ANY TRANSACTION CONDUCTED THROUGH OR FACILITATED BY THE SERVICES; (II) ANY CLAIM ATTRIBUTABLE TO ERRORS, OMISSIONS, OR OTHER INACCURACIES IN THE SERVICES DESCRIBED OR PROVIDED, (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, OR (IV) ANY OTHER MATTER RELATING TO THE SERVICES DESCRIBED OR PROVIDED, EVEN IF WE OR OUR VENDORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF YOU ARE DISSATISFIED WITH THE SERVICES OR WITH THE TERMS OF THIS AGREEMENT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICES.

FURTHER, WE SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR FAILURE TO EXECUTE ANY TRANSFER OR PERFORM A RELATED ACT IF SUCH FAILURE IS DUE TO CAUSES OR CONDITIONS BEYOND OUR REASONABLE CONTROL, INCLUDING WITHOUT LIMITATION, STRIKES, RIOTS, INSURRECTION, WAR, MILITARY OR NATIONAL EMERGENCIES, ACTS OF GOD, NATURAL DISASTERS. FIRE, OUTAGES OF COMPUTERS OR ASSOCIATED EQUIPMENT, QUARANTINES, PANDEMICS. OR FAILURE OF TRANSPORTATION OR COMMUNICATION METHODS OR POWER SUPPLIES.

IN THOSE STATES WHERE THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES MAY NOT APPLY, ANY LIABILITY OF US OR OUR VENDORS, INCLUDING OUR OR THEIR OWNERS, DIRECTORS, OFFICERS AND AGENTS IN THOSE STATES IS LIMITED AND WARRANTIES ARE EXCLUDED TO THE GREATEST EXTENT PERMITTED BY LAW, BUT SHALL, IN NO EVENT, EXCEED ONE HUNDRED DOLLARS (\$100.00).

C. Indemnification

You acknowledge and agree that you are personally responsible for your conduct while using the Services, and except as otherwise provided in this Agreement, you agree to indemnify, defend and hold harmless us, our Vendors, including our or their owners, directors, officers, agents from and against all claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorney's fees, resulting from or arising out of your use, misuse, errors, or inability to use the Services, or any violation by you of the terms of this Agreement or your breach of any representation or warranty contained in this Agreement.

The provisions of Sections 9.A, B and C shall survive termination of this Agreement.

10. Other Terms and Conditions

A. Service Charges

Except as otherwise provided in this Agreement or your applicable account agreements and schedule of fees, there is no service charge for accessing your linked accounts with the Service.

In addition to the fees already described in this Agreement, you should note that depending on how you access the Services, you might incur charges for:

- Normal account fees and service charges, such as stop payment requests, check copy orders and account statement copy orders.
- Internet service provider fees.
- Wireless carrier fees.
- A non-sufficient funds fee, returned item, overdraft or similar fee may also apply if you schedule payments or transfers and your available balance is not sufficient to process the transaction on the date scheduled or, in the case of a personal check used for a bill payment, on the date when the check is presented to us for payment.

B. Service Hours

The Services are available 365 days a year and 24 hours a day, except during system maintenance and upgrades. When this occurs, a message will be displayed on-line when you sign on to Online Banking. Our Call Centers are available Monday through Friday from 7:00 a.m. to 10:00 p.m., and Saturday and Sunday from 8:00 a.m. to 5:00 p.m. local time, excluding bank holidays, and may be reached through the contact numbers contained in the applicable sections of this Agreement. You may also write us at:

Bank of America
FL1-300-02-07
P.O. Box 25118
Tampa, FL 33622-5118

C. Business Days

For the Services, our business days are Monday through Friday, excluding bank holidays. For investment accounts only, all stock exchange closures and holidays will be observed (such as Good Friday) as well as the bank holidays.

D. Changes to Agreement

We may add, delete or change the terms of this Agreement at any time. We will inform you of changes when legally required and will try to inform you of the nature of any material changes even when not legally required to do so. We may communicate changes by either mail, email or a notice on our website and will make the updated terms available on our website. You agree that by continuing to use the Services after the date that changes are posted to our website, such changes will be effective for transactions made after that date, whether or not you access the website or otherwise receive actual notice of the changes. If you do not agree with a change, you may discontinue using the Services.

E. Cancellation

The Services remain in effect until they are terminated by you or Bank of America. You may cancel one or more of your Services at any time by notifying us of your intent to cancel in writing, through Online Banking secure mail, or by calling customer service at **800.432.1000**. For small business accounts, call **866.758.5972**. This cancellation applies to your Services, and does not terminate your Bank of America accounts. We recommend that you cancel any scheduled payments prior to notifying us that you are discontinuing the Service. Otherwise, Bank of America will cancel any scheduled payments within two (2) business days from the date we receive your request to discontinue the Service. If you close your primary checking account, or there is no longer any eligible funding account linked to your Service, any unprocessed payments will be canceled. The Services will also end if you close all accounts linked to your Online Banking profile.

We may terminate your participation in any or all of your Services for any reason, including inactivity, at any time. We will try to notify you in advance, but we are not obliged to do so.

F. Disclosure of Account Information

We may disclose information about your accounts to consumer reporting agencies and to other persons or agencies who, in our judgment, have a legitimate purpose for obtaining information, as more fully described in the account agreement for the applicable account.

By enrolling in online and mobile banking, you will be automatically enrolled in the Bank's merchant rewards program, BankAmeriDeals, whereby the Bank will share anonymized transaction information with vendors in order to facilitate your participation in the rewards program and present offers that may be of interest to you. By participating in BankAmeriDeals, the Bank will also share anonymized transaction information with participating merchants, third parties and card networks to administer your benefits and rewards. As always, we will only use personally identifiable information if needed and in accordance with our Online Privacy Notice and U.S. Consumer Privacy Notice.

By using our services, you authorize your wireless operator (AT&T, Sprint, T-Mobile, US Cellular, Verizon, or any other branded wireless operator) to use, or to disclose to Bank of America, or other entities working with Bank of America, your mobile number, name, address, email, network status, customer type, customer role, billing type, mobile device identifiers (IMSI and IMEI) and other subscriber and device status details, if available, where provided in accordance with your mobile operator's privacy policy, for the duration of our business relationship solely to help verify your identity and to protect against or prevent actual or potential fraud or unauthorized use of our services.

We will only use personally identifiable information in accordance with our Online Privacy Notice and U.S. Consumer Privacy Notice. For more information, go to our Web site at <https://www.bankofamerica.com/privacy>.

We make security and the protection of your information a top priority. You can access our Online Privacy Notice and U.S. Consumer Privacy Notice at <https://www.bankofamerica.com/security-center/overview/>, which are incorporated into and made a part of this Agreement by this reference.

G. Consent to Provide Electronic Communications

As part of Online Banking enrollment, you consented to the Online Banking Electronic Communications Disclosure ("eCommunications Disclosure") which allows us to provide you with account-related communications electronically. Pursuant to this consent, we will deliver these communications electronically by either posting the communication to your online banking secure mailbox or to our website, sending it to your email address or by other electronic means. You are responsible for providing us with a valid e-mail address to accept delivery of electronic communications and you must notify us of any changes or updates to your email address. You agree that once we email or post the communications within our website, we have delivered the Communications to you in a form that you can retain. You have the option to view, save, or print PDF versions of your account documents from the Website via desktop, tablet or mobile device.

Business Services Addendum

Some accounts and services, and the fees that apply to them, vary from state to state. Please review the information for your state in the Personal Schedule of Fees (at www.bankofamerica.com/feesataglance or at your local Banking Center) and in the Online Banking Service Agreement at www.bankofamerica.com/serviceagreement.

Bank of America, N.A. Member FDIC. Equal Housing Lender 
© 2020 Bank of America Corporation. All rights reserved.

[Connect with us](#)