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Attorneys for Plaintiffs and the Class

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

TAMI BRUIN, on behalf of herself and all others
similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

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

CLASS ACTION

**DECLARATION OF
SCOTT M. FENWICK OF KROLL
SETTLEMENT ADMINISTRATION LLC
IN CONNECTION WITH FINAL
APPROVAL OF SETTLEMENT**

Date: April 30, 2024

Time: 9:30 a.m.

Dept: 5A

The Hon. Max O. Cogburn, Jr.

I, Scott M. Fenwick, declare as follows:

INTRODUCTION

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),¹ the Settlement Administrator appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision. This declaration is being filed in connection with Final Approval of the Settlement and supplements the *Declaration of Scott M. Fenwick of Kroll Settlement Administration LLC Regarding Direct Notice Compliance*, filed February 15, 2024 (the “Notice Compliance Declaration”), referenced herein in its entirety.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, labor and employment, consumer, and government enforcement matters. Kroll has provided notification and/or claims administration services in more than 3,000 cases.

BACKGROUND

3. Kroll was appointed as the Settlement Administrator to provide notification and administration services in connection with that certain Stipulation and Settlement Agreement and Release (the “Settlement Agreement”) entered into in this Action. Kroll’s duties in connection with the Settlement have and will include: (a) preparing and sending notices in connection with the Class Action Fairness Act; (b) receiving and analyzing the Class List from Defendant’s Counsel; (c) creating a Settlement Website; (d) establishing a toll-free telephone number; (e) establishing a post office box for the receipt of mail; (f) preparing and sending the Postcard Notice via first-class mail; (g) preparing and sending Email Notice; (h) receiving and processing mail from the United States Postal Service (“USPS”) with forwarding addresses; (i) receiving and

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement as defined below.

processing undeliverable mail, without a forwarding address, from the USPS; (j) receiving and processing opt outs and objections; and (k) such other tasks as counsel for the Parties or the Court request Kroll to perform.

NOTICE PROGRAM

The CAFA Mailing

4. As noted above, on behalf of the Defendant, Kroll provided notice of the proposed Settlement pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715(b) (“the CAFA Notice”). At Defendant’s Counsel’s direction, on September 21, 2023, Kroll sent the CAFA Notice, a true and correct copy of which is attached hereto as **Exhibit A**, listing the documents required, via first-class certified mail to (a) the Attorney General of the United States, (b) two (2) to Office of the Comptrollers of the Currency, (c) the Consumer Financial Protection Bureau, and (d) the fifty-six (56) state and territorial Attorneys General identified in the service list for the CAFA Notice, attached hereto as **Exhibit B**. The CAFA Notice directed the recipients to the website www.CAFANotice.com, a site that contains all the documents relating to the Settlement referenced in the CAFA Notice.

Data and Case Setup

5. On September 9, 2023, Kroll created a dedicated Settlement Website entitled www.ACHFirstPartyFeeSettlement.com. The Settlement Website went live on December 28, 2023, and contains information about the Settlement, including important dates and deadlines, such as the Opt-Out Deadline, the Objection Deadline, and the date of the Final Fairness Hearing. The Settlement Website also contains answers to frequently asked questions, instructions on how to opt-out of the Settlement, contact information for the Settlement Administrator, and copies of important documents, including but not limited to the First Amended Complaint, Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval Order, Long Form Notice, and motion seeking Fees and Costs Award and Service Award.

6. On September 19, 2023, Kroll established a toll-free telephone number, 833-933-5580, for Settlement Class Members to call and obtain additional information regarding the

Settlement through an Interactive Voice Response (“IVR”) system and have the option of leaving a voicemail to receive a callback from a live operator. As of March 28, 2024, the IVR system has received 941 calls and 103 callers have received a callback from a live operator.

7. On September 20, 2023, Kroll designated a post office box with the mailing address *Bruin v. Bank of America N.A.*, c/o Kroll Settlement Administration LLC, PO Box 5324, New York, NY 10150-5324, in order to receive requests for exclusion, objections and correspondence from Settlement Class Members.

The Notice Program

8. As previously set forth in the Notice Compliance Declaration, on December 29, 2023, Kroll caused 199,358 Postcard Notices to be mailed via first-class mail. *See* Dkt. No. 47-3, ¶ 4. A true and correct copy the Postcard Notice, as well as the Long Form Notice, are attached hereto as **Exhibits C and D**, respectively.

9. As previously set forth in the Notice Compliance Declaration, on December 29, 2023, Kroll caused the Email Notice to be sent to the 628,642 email addresses on file for Settlement Class Members. *See id.*, ¶ 7. A true and correct copy of a complete exemplar Email Notice (including the subject line) is attached hereto as **Exhibit E**. Of the 628,642 emails attempted for delivery, 78,484 emails were rejected/bounced back as undeliverable. On January 18, 2024, Kroll mailed Postcard Notices to those 78,484 Settlement Class Members.

NOTICE PROGRAM REACH

10. As of March 28, 2024, 2,118 Postcard Notices were returned by USPS with a forwarding address. Of those, 2,093 Postcard Notices were automatically re-mailed to the updated addresses provided by USPS. The remaining twenty-five (25) Postcard Notices were re-mailed by Kroll to the updated address provided by the USPS.

11. As of March 28, 2024, 11,929 Postcard Notices were returned by the USPS as undeliverable as addressed, without a forwarding address. Kroll ran 11,518 undeliverable records through an advanced address search. The advanced address search produced 7,257 updated addresses. Kroll has re-mailed Notices to the 7,257 updated addresses obtained from the advanced

address search. Of the 7,257 re-mailed Postcard Notices, 736 have been returned as undeliverable a second time. Kröll will continue to skip-trace the remaining 736 undeliverable Postcard Notices and any further Postcard Notices returned as undeliverable without a forwarding address.

12. Based on the foregoing, following all Postcard Notice re-mailings, Kröll has reason to believe that Email Notice and Postcard Notice likely reached 822,592 of the 828,000 persons to whom an Email Notice or Postcard Notice was sent, which equates to a reach rate of the direct email/mail notice of approximately 99.35%. This reach rate is consistent with other court-approved, best-practicable notice programs and Federal Judicial Center Guidelines, which state that a notice plan that reaches² over 70% of targeted class members is considered a high percentage and the “norm” of a notice campaign.³

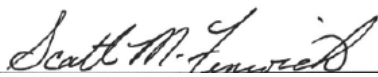
EXCLUSIONS AND OBJECTIONS

13. The Opt-Out Deadline and Objection Deadline was March 18, 2024.

14. Kröll has received ten (10) timely opt-out requests and no objections to the Settlement. A list of the opt-outs received is attached hereto as **Exhibit F**.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this declaration was executed on March 28, 2024, in Inver Grove Heights, Minnesota.


SCOTT M. FENWICK

² FED. JUD. CTR., *Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide* (2010), available at <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf>. The guide suggests that the minimum threshold for adequate notice is 70%.

³ Barbara Rothstein and Thomas Willging, *Federal Judicial Center Managing Class Action Litigation: A Pocket Guide for Judges*, at 27 (3d Ed. 2010).

Exhibit A

VIA U.S. MAIL

Date: September 21, 2023

To: All “Appropriate” Federal and State Officials Per 28 U.S.C. § 1715
(see attached service list)

Re: CAFA Notice for the proposed Settlement in *Bruin v Bank of America, N.A.*, Case No. 3:22-cv-00140-MOC-WCM, pending in the United States District Court for the Western District of North Carolina Charlotte Division.

Pursuant to Section 3 of the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715, Defendant Bank of America, N.A. (the “Defendant”) hereby notifies you of the proposed settlement of the above-captioned action (the “Action”), currently pending in the United States District Court for the Western District of North Carolina Charlotte Division (the “Court”).

Eight items must be provided to you in connection with any proposed class action settlement pursuant to 28 U.S.C. § 1715(b). Each of these items is addressed below, and all exhibits are available for download at www.CAFANotice.com under the folder entitled *Bruin v. Bank of America*:

1. 28 U.S.C. § 1715(b)(1) – a copy of the complaint and any materials filed with the complaint and any amended complaints.

The Class Action Complaint and Amended Complaint are available as **Exhibit A** and **A1**.

2. 28 U.S.C. § 1715(b)(2) – notice of any scheduled judicial hearing in the class action.

On September 11, 2023, Plaintiff filed a motion for Preliminary Approval of the class action settlement, and the date of the Preliminary Approval hearing has not yet been set. The Court has not yet scheduled the Final Approval Hearing for this matter. The proposed Preliminary Approval Order is available as **Exhibit B**.

3. 28 U.S.C. § 1715(b)(3) – any proposed or final notification to class members.

Copies of the proposed Email Notice, Postcard Notice and Long-Form Notice will be provided to Settlement Class Members and will be available on the Settlement Website created for the administration of this matter. These are available as **Exhibits C, D, and E**, respectively. The Class Notices describe, among other

things, the Settlement Class Members' rights to object or exclude themselves from the Settlement Class.

4. 28 U.S.C. § 1715(b)(4) – any proposed or final class action settlement.

The Settlement Agreement is available as **Exhibit F**.

5. 28 U.S.C. § 1715(b)(5) – any settlement or other agreement contemporaneously made between class counsel and counsel for defendants.

There are no other settlements or other agreements between Class Counsel and counsel for Defendant beyond what is set forth in the Settlement Agreement.

6. 28 U.S.C. § 1715(b)(6) – any final judgment or notice of dismissal.

The Court has not yet entered a Final Judgment and Order of Dismissal. Accordingly, no such document is presently available.

7. 28 U.S.C. § 1715(b)(7) – (A) If feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or (B) if the provision of the information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.

The definition of the Settlement Class in the proposed Settlement Agreement means all accountholders in the United States who, during the Class Period, paid and were not refunded an ACH First Party Fee.

At this juncture, it is not feasible to provide the name and state of residence for each of the estimated 803,000 class members covered by the proposed settlement. However, pursuant to Section (b)(7)(B), BANA provides the attached estimate of the number of class members residing in each state and the estimated proportionate share of the claims of those members to the settlement as **Appendix A**.

The proportionate share of the settlement amount that each class member is eligible to receive is dependent upon certain matters to be determined by the Court at the final approval hearing (including, for example, the amount of the attorneys' fees and litigation costs, if any, to award to class counsel and the amount of any class representative award to plaintiff), whether certain class members cannot be located, the results of additional diligence to resolve any discrepancies in Defendant's business records, and certain other matters that will not be known until the time of the final approval hearing (including, for example, the number of class members that request exclusion from the Bruin v Bank of America, N.A. Action).

At this time, and as set forth in detail in the Settlement Agreement, Defendant estimates that each class member who does not exclude himself or herself from the Bruin v Bank of America, N.A. Action will be eligible to receive either a credit to the account of current account members, or a check to remaining class members. Each Settlement Member shall receive a minimum payment of \$2.00.

8. 28 U.S.C. § 1715(b)(8) – any written judicial opinion relating to the materials described in 28 U.S.C. § 1715(b) subparagraphs (3) through (6).

There has been no written judicial opinion. Accordingly, no such document is presently available.

If you have any questions about this notice, the Action, or the materials available for download at www.CAFANotice.com under the folder entitled *Bruin v Bank of America*, please contact the undersigned below.

Respectfully submitted,

Maggie McGill
Senior Manager
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CAFA NOTICE SERVICE LIST

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APPENDIX A

State	Total Customers	Estimated Share
Foreign Address	6,259	0.68%
AA	24	0.00%
AE	697	0.09%
AK	820	0.10%
AL	2,603	0.35%
AP	388	0.06%
AR	3,167	0.38%
AS	4	0.00%
AZ	18,608	2.10%
CA	162,972	17.89%
CO	8,782	0.95%
CT	13,916	1.87%
DC	5,567	0.72%
DE	1,945	0.23%
FL	81,537	10.55%
GA	35,671	4.85%
GU	64	0.01%
HI	2,300	0.26%
IA	1,447	0.15%
ID	1,907	0.20%
IL	18,301	2.09%
IN	3,053	0.31%
KS	4,320	0.50%
KY	1,776	0.22%
LA	1,988	0.24%
MA	46,161	5.98%
MD	29,165	4.40%
ME	2,784	0.35%
MI	12,177	1.43%
MN	2,940	0.30%
MO	9,643	1.10%
MP	8	0.00%
MS	1,269	0.19%
MT	1,060	0.12%
NC	28,977	3.66%
ND	245	0.03%
NE	830	0.09%
NH	4,872	0.66%
NJ	32,160	3.86%
NM	3,320	0.47%
NV	9,932	1.27%
NY	43,506	5.41%
OH	5,420	0.56%
OK	3,625	0.49%
OR	8,711	1.01%

State	Total Customers	Estimated Share
PA	13,951	1.55%
PR	1,240	0.20%
RI	4,008	0.57%
SC	12,801	1.66%
SD	456	0.05%
TN	11,928	1.58%
TX	81,238	10.38%
UT	2,550	0.24%
VA	29,554	3.72%
VI	175	0.02%
VT	1,109	0.15%
WA	30,417	3.28%
WI	2,500	0.25%
WV	670	0.10%
WY	427	0.05%

Exhibit B

COMPANY	FULL NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP
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Vermont Attorney General	Charity Clark	109 State St.		Montpelier	VT	5609
Virginia Attorney General	Jason Miyares	202 North Ninth Street		Richmond	VA	23219
Washington Attorney General	Bob Ferguson	1125 Washington St. SE	P.O. Box 40100	Olympia	WA	98504
West Virginia Attorney General	Patrick Morrisey	State Capitol Complex Building 1, Room E-26	1900 Kanawha Blvd. E	Charleston	WV	25305
Wisconsin Attorney General	Josh Kaul	Wisconsin Department of Justice State Capitol, Room 114 East	PO Box 7857	Madison	WI	53707
Wyoming Attorney General	Bridget Hill	109 State Capitol	State Capitol Bldg.	Cheyenne	WY	82002
Guam Attorney General	Douglas Moylan	590 S Marine Corps Dr, Ste 706	Office of the Attorney General ITC Building	Tamuning	GU	96913
American Samoa Attorney General	Fainu'ulelei Falefatu Ala'ilima-Utu	Executive Office Building, Utulei	Territory of American Samoa	Pago Pago	AS	96799
Northern Mariana Islands Attorney General	Edward Manibusan	Administration Building	P.O. Box 10007	Saipan	MP	96950
U.S. Virgin Islands Attorney General	Ariel K. Smith	34-38 Kronprindsens	Gade Gers Building, 2nd Floor	St Thomas	VI	802
Puerto Rico Attorney General	Domingo Emanuelli Hernandez	PO Box 9020192		San Juan	PR	902
The Attorney General of the United States	Merrick B. Garland	U.S. Department of Justice	950 Pennsylvania Avenue, NW	Washington	D.C.	20530
Office of the Comptroller of the Currency	Robert Barnes, Deputy Examiner in Charge	201 North Tryon Street	19th Floor	Charlotte	NC	28202
Office of the Comptroller of the Currency	Greg Taylor, Director, Litigation Division	400 7th Street, S.W.		Washington	D.C.	20219
Consumer Financial Protection Bureau		1700 G Street NW		Washington	D.C.	20552

Exhibit C

Bruin, et al. v. Bank of America, N.A. Settlement
P.O. Box 5324
New York, NY 10150-5324

FIRST-CLASS MAIL
U.S. POSTAGE PAID
CITY, ST
PERMIT NO. XXXX

ELECTRONIC SERVICE REQUESTED

Legal Notice

If you had a consumer checking and/or savings Account with Bank of America, N.A., and paid certain ACH Transfer Fees for push transfers to your own external account, between April 4, 2018, and November 17, 2023, you may be entitled to payment from a class action Settlement.

(833) 933-5580

www.ACHFirstPartyFeeSettlement.com

<<Refnum Barcode>>

CLASS MEMBER ID: <<Refnum>>

Postal Service: Please do not mark barcode

<<MAIL ID>>

<<NAME 1>>

<<NAME 2>>

<<Address 1>>

<<Address 2>>

<<Address 3>>

<<Address 4>>

<<Address 5>>

<<City>>, <<State>> <<Zip>>

<<Country>>

A Settlement has been reached with Bank of America, N.A. (“BANA”) in a class action lawsuit about ACH Transfer Fees assessed for push transfers to Accountholders’ own external accounts (“ACH First Party Fees”) from **April 4, 2018, through November 17, 2023.**

Who is included? BANA records indicate that you are a “Settlement Class member” in this Settlement because you fit the following Settlement Class definition: All Accountholders in the United States who, during the Class Period, paid and were not refunded an ACH First Party Fee. Excluded from the Settlement Class is BANA, its parents, subsidiaries, affiliates, officers, directors, employees, all Settlement Class Members who make a timely election to opt-out, and all judges assigned to this Action and their immediate family members.

What does the Settlement provide? BANA will create an \$8,000,000 Settlement Fund. After deducting Attorneys’ Fees and Costs, a Service Award to the Class Representatives, and the Settlement Administration Costs, the Net Settlement Fund will be divided *pro rata* among all Settlement Class Members with a minimum payment of \$2.00.

What are my options? If you do nothing and the Settlement is approved by the Court and becomes final, you will automatically receive a Settlement Class Member Payment and your rights will be affected. If you do not want to be legally bound by the Settlement and receive a Settlement Class Member Payment, you must opt-out of the Settlement by **March 18, 2024**. Unless you opt-out, you will not be able to sue or continue to sue BANA for any claim made in this Action or released by the Settlement Agreement. If you stay in the Settlement (and do not opt-out), you may object to it by **March 18, 2024**.

The Court’s Final Fairness Hearing. The Court will hold a Final Fairness Hearing on **April 30, 2024 at 9:30am ET**. At this hearing, the Court will decide whether to approve: (1) the Settlement; (2) Class Counsel’s request for Attorneys’ Fees of up to 33% of the Settlement Fund and reimbursement of \$47,747.85 in Costs; and (3) a Service Award of \$5,000 for each of the Class Representatives. You or your lawyer may appear at the hearing at your own expense, but you do not have to.

Exhibit D

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS.

IF YOU HAD A CONSUMER CHECKING AND/OR SAVINGS ACCOUNT WITH BANK OF AMERICA, N.A. (“BANA”), AND PAID CERTAIN ACH TRANSFER FEES FOR PUSH TRANSFERS TO YOUR EXTERNAL ACCOUNT BETWEEN APRIL 4, 2018, AND NOVEMBER 17, 2023, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

The Court for the Western District of North Carolina has authorized this Class Notice; it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
DO NOTHING	If you were assessed, paid, and were not refunded the types of fees that are being challenged in this case, then you will receive a payment from the Settlement Fund so long as you do not opt-out of the Settlement (described in the next box).
OPT-OUT and EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS	You can choose to opt-out of the Settlement which means you are excluding yourself from the Settlement. This means you choose not to participate in the Settlement. You will keep your legal right to bring your individual claims against BANA, but you will not receive a Settlement Class Member Payment from this Settlement. The deadline to opt-out of the Settlement is March 18, 2024 . If you opt-out, but still want to recover against BANA, then you will have to file a separate lawsuit or claim.
OBJECT TO THE SETTLEMENT	If you do not opt-out, but instead wish to object to the Settlement or any matters described in the Class Notice, you may do so by filing with the Court a notice of your intention to object. The deadline to object to the Settlement is March 18, 2024 .

These rights and options—*and the deadlines to exercise them*—along with the material terms of the Settlement are explained in this Long Form Notice.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled: Tami Bruin and Eline Barokas v. Bank of America, N.A., Civil Action No. 3:22-cv-140 (“Action”). The people who sued are called the “Class Representatives” or “Plaintiffs.” The Defendant is “BANA.” The case is a “class action.” That means that Class Representatives are acting on behalf of the Settlement Class. The transactions at issue occurred **between April 4, 2018, and November 17, 2023** (“Class Period”).

All Accountholders in the United States who, during the Class Period, paid and were not refunded an ACH First Party Fee. Excluded from the Settlement Class is BANA, its parents, subsidiaries, affiliates, officers directors, employees, all Settlement Class Members who make a timely election to opt-out, and all judges assigned to this Action and their immediate family members.

BANA denies all wrongdoing and liability and denies that Plaintiffs’ claims entitle Plaintiffs or the Settlement Class Members to any relief and denies that anyone was harmed by the conduct that Plaintiffs allege.

2. Why did I receive a Class Notice of this Action?

You received the Class Notice because BANA’s records indicate that you are in the Settlement Class that was alleged to have been charged one or more of the fees at issue. The Court directed that the Class Notice be sent to all Settlement Class Members because each Settlement Class Member has a right to know about the proposed Settlement and the options available to him or her before the Court decides whether to approve the Settlement.

3. Why did the Parties settle?

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representatives’ lawyers’ job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, these lawyers, known as Class Counsel, make this recommendation to the Class Representatives. The Class Representatives have the duty to act in the best interests of the Settlement Class as a whole and, in this case, it is their belief, as well as Class Counsel’s opinion, that this Settlement is in the best interest of all Settlement Class Members for at least the following reasons:

There is legal uncertainty about whether a judge or a jury will find that BANA breached its agreements with customers or otherwise acted improperly by assessing the ACH Transfer Fees that are the subject of this Action. There is also uncertainty about whether the Class Representatives’ claims are subject to other defenses that might result in no or less recovery to Settlement Class Members. Even if the Class Representatives were to win at trial, there is no assurance that the Settlement Class Members would be awarded more than the current Settlement Fund, and it may take years of litigation before any payments would be made. By settling, the Settlement Class Members will avoid these, and other risks, and the delays associated with continued litigation.

While BANA disputes Plaintiff’s claims, it has agreed to settle to avoid the costs, distractions, and risks of litigation. Thus, even though BANA denies that it did anything improper, it believes the Settlement is in the best interest of both Parties and the Settlement Class.

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

If you received the Class Notice, then BANA’s records indicate that you are a Settlement Class Member who is entitled to receive a Settlement Class Member Payment.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

5. What options do I have with respect to the Settlement?

You have three options: (1) do nothing and you will receive a Settlement Class Member Payment according to the terms of this Settlement, but you give up your rights to sue BANA separately about the same legal claims in this Action; (2) opt-out of the Settlement and you will not receive a Settlement Class Member Payment; or (3) participate in the Settlement but object to it. Each of these options is described in a separate section below.

6. What are the critical deadlines?

If you do nothing, you will receive a Settlement Class Member Payment.

The deadline for sending a letter to opt-out or exclude yourself from the Settlement is **March 18, 2024**.

The deadline to file an objection with the Court is **March 18, 2024**.

7. Under what circumstances should I opt-out?

If you do not like the Settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire), and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting-out.

8. What happens if I file an objection?

If you believe the Settlement is unreasonable, unfair, or inadequate and the Court should reject the Settlement, you can object to the Settlement terms. The Court will decide if your objection is valid. If the Court agrees with you, then the Settlement will not be approved, and no payments will be made to you or any other Settlement Class Member. If your objection (and any other objection) is overruled, and the Settlement is approved, then you will still get a Settlement Class Member Payment.

9. What must happen for the Settlement to be approved?

The Court must decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide Preliminary Approval of the Settlement which is why you received this Class Notice. The Court will make a final decision regarding the Settlement at a Final Fairness Hearing, which is currently scheduled for **April 30, 2024 at 9:30am ET**.

THE SETTLEMENT PAYMENT

10. How much is the Settlement?

BANA has agreed to create a Settlement Fund of \$8,000,000 (“Settlement Fund” or “Settlement Amount”). As discussed separately below, Attorneys’ Fees and Costs, a Service Award to the Class Representatives, and Settlement Administration Costs will be paid out of this amount. The remainder is the Net Settlement Fund. Subject to Court approval, the Net Settlement Fund will be divided among all Settlement Class Members on a *pro rata* basis pursuant to the formula described in the Settlement Agreement.

11. How much of the Settlement Fund will be used to pay for Attorneys’ Fees and Costs?

Class Counsel will request that the Court award up to 33.33% of the Settlement Fund as Attorneys’ Fees, plus reimbursement of \$47,747.85 in litigation Costs incurred in prosecuting the Action. The Court will decide the amount of the Attorneys’ Fees and Costs based on a number of factors, including the risk associated with bringing the case,

the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

12. How much of the Settlement Fund will be used to pay the Class Representatives a Service Award?

Class Counsel, on behalf of the Class Representatives, will request a Service Award of \$5,000 for each of the Class Representatives. The Service Award must be approved by the Court.

13. How much will my payment be?

Subject to Court approval, the Net Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments *pro rata* with a minimum payment of \$2.00 as outlined in the Settlement Agreement, which may be found at www.ACHFirstPartyFeeSettlement.com. Current Accountholders of BANA as of the Effective Date of the Settlement Agreement will receive a credit to their BANA Accounts for the amount they are entitled to receive. Past Accountholders of BANA will receive a check from the Settlement Administrator.

14. Do I have to do anything if I want to participate in the Settlement?

No. Any amount you are entitled to under the terms of the Settlement will be distributed to you, unless you choose to opt-out of the Settlement. Opting-out from the Settlement means you choose not to participate in the Settlement. You will keep your legal right to bring your individual claims against BANA, but you will not receive a Settlement Class Member Payment. In that case, if you choose to seek recovery against BANA, then you will have to file a separate lawsuit or claim.

15. When will I receive my payment?

The Court will hold a Final Fairness Hearing on **April 30, 2024 at 9:30am ET**, to consider whether the Settlement should be approved. If there are no objections and the Court approves the Settlement, then Settlement Class Member Payments should be made within approximately 30 to 60 days after the Settlement's Effective Date. The Effective Date means the next business day after the entry of the Final Approval Order and Final Judgment and Order of Dismissal provided there are no objections to the approval of the Settlement Agreement. If there are objections, then the Effective Date shall mean the next business day following the last date on which a notice of appeal directed to the entry of the Final Approval Order and Final Judgment and Order of Dismissal could have been timely filed but with no notice of appeal having been filed; or, should a notice of appeal be filed, it shall mean the next business day after the Final Approval Order and Final Judgment and Order of Dismissal is affirmed, all appeals are dismissed, and no further appeal is permitted.

OPTING-OUT OF THE SETTLEMENT

16. How do I opt-out from the Settlement?

If you do not want to receive a Settlement Class Member Payment, or if you want to keep any right you may have to sue BANA for the claims alleged in this Action, then you must opt-out of the Settlement.

To opt-out, you **must** send a letter to the Settlement Administrator that you want to opt-out from the Settlement. Your letter can simply say, "I hereby elect to opt-out from the Settlement in the *Tami Bruin, et al. v. Bank of America, N.A.* class Action." Be sure to include your name, your address, and your signature. Your exclusion or opt-out request must be **postmarked by March 18, 2024**, and sent to the following address:

Bruin v. Bank of America Settlement
Opt-Out Requests: Bank of America ACH Fee Class Action
P.O. Box 5324
New York, NY 10150-5324

17. What happens if I opt-out of the Settlement?

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue BANA for the claims alleged in this case. However, you will not be entitled to receive a Settlement Class Member Payment from this Settlement.

18. If I opt-out of the Settlement, can I obtain a Settlement Class Member Payment?

No. If you opt-out, you will not be entitled to a Settlement Class Member Payment.

OBJECTING TO THE SETTLEMENT

19. How do I notify the Court that I do not like the Settlement?

You can object to the Settlement or any part of it that you do not like IF you do not opt-out from the Settlement. (Settlement Class Members who opt-out from the Settlement have no right to object to how other Settlement Class Members are treated). To object, you must do so by filing with the Court a notice of your intention to object. Your objection must include the following:

- A statement of your intention to object to the Settlement in the Tami Bruin, et al. v. Bank of America, N.A. class Action;
- the objector's full name, address, telephone number, and e-mail address (if any);
- information identifying the objector as a Settlement Class Member, including evidence that the objector is a member of the Settlement Class;
- a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;
- the identity of all counsel representing or assisting the objector, if any;
- the identity of all counsel representing the objector who will appear at the Final Fairness Hearing, if any;
- a list of all Persons who will be called to testify at the Final Fairness Hearing in support of the objection, if any;
- a statement confirming whether the objector intends to personally appear and/or testify at the Final Fairness Hearing;
- the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation), if any;
- a list, by case name, court, and docket number, of all other cases in which the objector (directly or through counsel) has filed an objection to any proposed class action settlement within the last 3 years;
- a list, by case name, court, and docket number, of all other cases in which the objector's counsel (on behalf of any Person) has filed an objection to any proposed class action settlement within the last 3 years;
- a list, by case name, court, and docket number, of all other cases in which the objector has been a named plaintiff in any class action or served as a lead plaintiff or class representative; and
- the objector's signature (an attorney's signature is not sufficient).

If your objection is made by or through an attorney, the objection must also include:

- the identity and number of the Settlement Class Members represented by objector's counsel;
- the number of such represented Settlement Class Members who have opted-out of the Settlement Class; and
- the number of such represented Settlement Class Members who have remained in the Settlement Class and have not objected.

The objection must also include the dates when the objector is available for deposition, which dates may be no later than 45 days before the Final Fairness Hearing.

Be advised that if you object to the Settlement and retain an attorney for purposes of objecting, you are solely responsible for paying that attorney’s fees and costs. If the attorney intends to seek attorneys’ fees and expenses from anyone other than the objector(s) he or she represents, the attorney shall also file with the Court and serve upon Class Counsel and BANA’s Counsel, not later than 45 days before the Final Fairness Hearing or as the Court may otherwise direct, a document containing the following: (i) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (ii) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (iii) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (iv) the attorney’s hourly rate.

If you fail to comply with the provisions herein, you will waive and forfeit any and all rights to appear and/or object separately and will be bound by the terms of the Settlement Agreement and the orders and judgments of the Court.

To be timely, written notice of an objection must be filed or received by the Settlement Administrator and/or Court by **March 18, 2024**, and served at the same time to Class Counsel and BANA’s Counsel to the following addresses:

SETTLEMENT ADMINISTRATOR	CLERK OF COURT	CLASS COUNSEL	BANA’S COUNSEL
Bruin v. Bank of America Settlement P.O. Box 5324 New York, NY 10150-5324	United States Courthouse Western District of North Carolina 401 West Trade Street Room 1200 Charlotte, NC 28202	Andrew Shamis Shamis & Gentile P.A. 14 N.E. 1 st Ave Suite 705 Miami, FL 33132 Chris Chagas Gold Edelsberg Law P.A. 15th 20900 NE 30 th Ave Suite 417 33180 Aventura, FL 33139 Sophia Goren Gold KalieGold PLLC 950 Gilman Street Suite 200 Berkeley, CA 94710 David M. Wilkerson The Van Winkle Law Firm P.O. Box 7376 Asheville, NC 28802	Bradley Kutrow MCGUIREWOODS LLP 201 North Tryon Street Suite 3000 Charlotte, NC 28202 Laura Brys Goodwin Procter LLP 601 S. Figueroa Street Suite 4100 Los Angeles, CA 900017 Allison Schoenthal Goodwin Procter LLP 620 Eighth Avenue New York, NY 10018

20. What is the difference between objecting and opting-out of the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a Settlement Class Member Payment if the Settlement is approved, but you will release claims you might have against BANA. Opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a Settlement Class Member Payment or release claims you might have against BANA for the claims alleged in this Action.

21. What happens if I object to the Settlement?

If the Court sustains your objection, or the objection of any other Settlement Class Member, then there may be no Settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

THE COURT'S FAIRNESS HEARING

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing on **April 30, 2024 at 9:30am ET**. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for Attorneys' Fees and Costs and how much the Class Representatives should get as a Service Award for acting as the Class Representatives.

23. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You or your lawyer may appear at the hearing at your own expense if you desire to do so, but you do not have to. If you have submitted an objection, then you may want to attend.

24. May I speak at the hearing?

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must separately file a "Notice of Intent to Appear" with the Court no later than **March 18, 2024**, and in that notice you must:

- state how much time the Settlement Class Member anticipates needing to present the objection;
- identify, by name, address, and telephone number all witnesses the Settlement Class Member proposes to have testify;
- summarize in detail the anticipated testimony of all such witnesses;
- identify all exhibits the Settlement Class Member intends to offer in support of the objection; and
- attach complete copies of all such exhibits.

You must also deliver a copy of the Notice of Intent to Appear with the above listed items to Class Counsel and BANA's Counsel.

IF YOU DO NOTHING

25. What happens if I do nothing at all?

If you do nothing at all, and if the Settlement is approved, then you may receive a Settlement Class Member Payment that represents your share of the Net Settlement Fund. You will be considered a part of the Settlement Class, and you will give up claims against BANA for the conduct identified in the Settlement. You will not give up any other claims you might have against BANA that are not released in this Settlement.

THE LAWYERS REPRESENTING YOU

26. Do I have a lawyer in this case?

The Court ordered that the lawyers and their law firms referred to in this Class Notice as Class Counsel will represent you and the other Settlement Class Members. You may hire your own attorney, at your own expense if you desire to do so, but you do not have to.

27. Do I have to pay the lawyer for accomplishing this result?

No. Class Counsel will be paid directly from the Settlement Fund.

28. Who determines what the Attorneys' Fees will be?

The Court will be asked to approve the amount of Attorneys' Fees and Costs at the Final Fairness Hearing. Class Counsel will file an application for Attorneys' Fees and Costs and will specify the amount being sought as discussed above. You may review a physical copy of the Fee and Costs Award at the website established by the Settlement Administrator, www.ACHFirstPartyFeeSettlement.com.

GETTING MORE INFORMATION

This Long Form Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at www.ACHFirstPartyFeeSettlement.com (or at the Office of the Clerk of the Western District of North Carolina, which is located at 401 West Trade Street, Charlotte, NC 28202, by asking for the court file containing the Motion for Preliminary Approval of Class Settlement [the Settlement Agreement is attached to the motion]).

For additional information about the Settlement and/or to obtain copies of the Settlement Agreement, the pleadings in this case, or to change your address for purposes of receiving a Settlement Class Member Payment, you should contact the Settlement Administrator as follows:

Bruin v. Bank of America Settlement
P.O. Box 5324
New York, NY 10150-5324
(833) 933-5580
www.ACHFirstPartyFeeSettlement.com

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF BANA CONCERNING THIS NOTICE OR THE SETTLEMENT.

Exhibit E

From: Kroll Settlement Administration
To:

Subject Line: Re: Legal Notice of Class Action Settlement

Class Member ID: <<Refnum>>

IF YOU HAD A CONSUMER CHECKING AND/OR SAVINGS ACCOUNT WITH BANK OF AMERICA, N.A. AND PAID CERTAIN ACH TRANSFER FEES FOR PUSH TRANSFERS TO YOUR OWN EXTERNAL ACCOUNT **BETWEEN APRIL 4, 2018, AND NOVEMBER 17, 2023**, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

**The District Court for the Western District of North Carolina has authorized this Notice.
It is not a solicitation from a lawyer.**

PLEASE READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS

For more information, including a more detailed description of your rights and options, please click [here](#) or visit www.ACHFirstPartyFeeSettlement.com

A Settlement has been reached with Bank of America, N.A. ("BANA") in a class action lawsuit about ACH Transfer Fees assessed for push transfers to Accountholders' own external accounts ("ACH First Party Fees") related to certain ACH transactions that were charged on Accounts from **April 4, 2018, through November 17, 2023**.

Who is included? BANA records indicate that you are a "Settlement Class Member" in this Settlement because you are in the following Settlement Class definition: All Accountholders in the United States who, during the Class Period, paid and were not refunded an ACH First Party Fee. Excluded from the Settlement Class is BANA, its parents, subsidiaries, affiliates, officers, directors, employees, all Settlement Class Members who make a timely election to opt-out, and all judges assigned to this Action and their immediate family members.

What does the Settlement provide? BANA will create an \$8,000,000 Settlement Fund. After deducting Attorneys' Fees and Costs, a Service Award to the Class Representatives, and the Settlement Administration Costs, the Net Settlement Fund will be divided *pro rata* among all Settlement Class Members with a minimum payment of \$2.00.

What are my options? If you do nothing and the Settlement is approved by the Court and becomes final, you will automatically receive a Settlement Class Member Payment and your rights will be affected. If you do not want to be legally bound by the Settlement and receive a Settlement Class Member Payment, you must opt-out of the Settlement by **March 18, 2024**. Unless you opt-out, you will not be able to sue or continue to sue BANA for any claim made in this Action or released by the Settlement Agreement. If you stay in the Settlement (and do not opt-out), you may object to it by **March 18, 2024**.

The Court's Final Fairness Hearing. The Court will hold a Final Fairness Hearing on **April 30, 2024 at 9:30am ET**. At this hearing, the Court will decide whether to approve: (1) the Settlement; (2) Class Counsel's request for Attorneys' Fees (up to 33.33% of the Settlement Fund) and Costs (up to \$47,747.85); and (3) a Service Award of \$5,000 for each of the Class Representatives. You or your lawyer may appear at the hearing at your own expense, but you do not have to.

For more information, including a detailed copy of the Long Form Notice and the full Settlement Agreement, visit www.ACHFirstPartyFeeSettlement.com or call (833) 933-5580.

Exhibit F

Exclusion List

Count	Record Identification Number
1	77904CMFXW8JW
2	77904CT2F2C9T
3	77904CMNRQ0KW
4	77904CGZV7K8F
5	77904CJ97TGVM
6	779043PPMWSTP
7	7790475M55X7B
8	77904BD1JQS2M
9	779047Z66W8N4
10	77904CGGRJ31Z