

EARLY RESOLUTION CONCILIATION AGREEMENT
BETWEEN
THE U. S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
AND
BANK OF AMERICA

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (“OFCCP”) is currently evaluating the following Bank of America (“BOA”) facilities:

- (1) 1400 Merrill Lynch Drive, Pennington, NJ 08534 (NJ 2140);
- (2) 4803 Deer Lake Drive West, Jacksonville, FL 32246 (FL 9802);
- (3) 210 Townpark Drive, Kennesaw, GA 30144 (GA 9080);
- (4) 7105 Corporate Drive, Plano, TX 75024 (TX 2973);
- (5) 16001 No. Dallas Parkway, Addison, TX (TX 8044);
- (6) 4200 Amon Carter, Fort Worth, TX (TX 2980);
- (7) 901 W. Trade Street, Charlotte, NC (NC 1003); and
- (8) 135 S. LaSalle Street, Chicago, IL (IL 4135).

(“Reviewed Establishments”). OFCCP is alleging that BOA was not in compliance with Executive Order 11246, as amended (“E.O. 11246”) and its implementing regulations at 41 C.F.R. Sections 60-1 – 60-3.

In the interest of resolving the purported violations without engaging in further proceedings and in exchange for the prospective relief described in this document, OFCCP and BOA enter into this Early Resolution Conciliation Agreement (the “Agreement”) and agree to all the terms stated below.

This Agreement does not constitute an admission by BOA of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been any adjudicated finding that BOA violated any laws. BOA denies that it has failed to comply with E.O. 11246 and its implementing regulations and denies that it has discriminated in any manner on the basis of any protected classification.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for BOA’s fulfillment of all obligations in Parts IV and V of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, based on the violations described in more detail in Part IV below or related to the Reviewed Establishments. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part IV if BOA materially violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations, including during the 5-year exemption period, if BOA is in material breach of the Agreement. In exchange for BOA’s fulfillment of all obligations in

Parts IV and V of the Agreement, OFCCP further agrees not to initiate any new audits at any BOA establishments until at least 60 days after BOA submits the final progress report described in Part VI of this Agreement and the OFCCP confirms to BOA that it has fully complied with the terms of this Agreement.

2. BOA agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents as may be relevant to the matter under investigation and pertinent to BOA's compliance with Parts IV and V of this Agreement. BOA will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents required.
3. This Agreement does not constitute an admission by BOA of any violation of or noncompliance with any laws or of any other wrongdoing whatsoever, including but not limited to any violation of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended ("Section 503"), the Vietnam Era Veterans' Readjustment Assistance Act of 1974 ("VEVRAA") and their implementing regulations at 41 CFR Chapter 60, or other laws, nor has there been an adjudicated finding that BOA violated any laws.
4. BOA understands that nothing in this Agreement relieves BOA of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.
5. BOA promises not to harass, intimidate, threaten, discriminate against, or otherwise retaliate against any individual because the individual benefits from this Agreement, or files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 CFR § 60-1.32(a).
6. OFCCP and BOA (the "parties") understand the terms of this Agreement and enter into it voluntarily.
7. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced therein. This Agreement contains all the terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing and signed by all parties.
8. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. This Agreement becomes effective on the day it is signed by the Regional Director of the Southeast Region (the "Effective Date").
10. This Agreement will expire sixty (60) days after BOA submits the final progress report required in the Reporting Section below, unless OFCCP notifies BOA in writing prior to the expiration date that BOA has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date BOA has met all of its obligations under the Agreement.

11. Each party shall bear its own fees and expenses with respect to this matter.

12. If BOA violates the Conciliation Agreement,

A. The procedures set forth at 41 CFR § 60-1.34 will govern:

- 1) If OFCCP believes that BOA violated any term of the Agreement while it was in effect, OFCCP will send BOA a written notice stating the alleged violations and summarizing any supporting evidence.
- 2) BOA will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
- 3) If BOA is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement for those establishments with an open review at the time of this Agreement and seek a full make-whole remedy for victims.
- 4) OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.

B. BOA may be subject to the sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief for violation of this Agreement. BOA reserves its defenses to the imposition of sanctions or other relief.

13. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor, and cannot be used as evidence that BOA is not in violation of any applicable federal, state, or local laws, including but not limited to E.O. 11246, Section 503, VEVRAA, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act.

14. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.

15. All references to “days” in this Agreement are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

PART III. SPECIAL TERMS AND CONDITIONS

1. OFCCP will not schedule any BOA establishments for a compliance evaluation, compliance check, focused review, audit, or Corporate Management Compliance Evaluation for a five-year period from the effective date of this Agreement. For purposes of this section, BOA means Bank of America Corporation and its subsidiaries.¹
2. Notwithstanding the prior section, OFCCP retains the right to investigate complaints of discrimination raised by an aggrieved applicant or employee at establishments covered by this Agreement under E.O. 11246, Section 503, and VEVRAA.
3. If BOA materially violates the terms of Part IV or V of this Agreement, OFCCP reserves the right to bring an enforcement action per the terms of 41 CFR 60-1.34 and the five-year scheduling exemption will be void.
4. This Agreement does not relieve BOA from its annual ongoing OFCCP requirements of equal employment opportunity through affirmative action and non-discrimination across its entire workforce, including monitoring an up-to-date AAP.

PART IV. SPECIFIC ALLEGED VIOLATIONS AND RESOLUTIONS

A. ALLEGED DISCRIMINATION FINDINGS – HIRING

OFCCP alleged that BOA is not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 § 202 and 41 C.F.R. § 60-1.4(a)(1). OFCCP's analysis of BOA's hiring process and selection procedures led the Agency to allege there was a statistically significant disparity in the hiring rates for the following groups for the following positions at the reviewed locations:

1. Black applicants for the Registered Phone Representative position and Hispanic applicants for the Client Service Representative position at the Pennington, NJ location during the period of January 1, 2012 through December 31, 2012;
2. Black applicants for the Registered Phone Representative position and the Client Service Representative position at the Jacksonville, FL location during the period of January 1, 2012 through December 31, 2012;
3. Female applicants for the Customer Service and Sales Specialist II position at the Kennesaw, GA location during the period of January 1, 2012 through December 31, 2012;
4. Black and female applicants for the Mortgage Underwriter (External) positions at the Plano, TX location during the period of March 26, 2011 through the August 31, 2012; And black applicants for Mortgage Underwriter (Internal) positions during the period of March 26, 2011 through March 25, 2013;
5. Black and/or female applicants for the Telephone Sales Associate I positions at the Addison, TX location during the period of February 17, 2008 through February 16, 2010;

¹ OFCCP further agrees to close any existing BOA compliance evaluations that are not included in the Reviewed Establishments, including those on OFCCP's 2019 Corporate Scheduling Announcement.

and

6. Black and female applicants for the Mortgage Underwriter (External) positions at the Fort Worth, TX location during the period of May 1, 2011 through July 31, 2012.

OFCCP's review of BOA's policies, procedures, file records, and interview results failed to provide a business necessity or job related reason that explains the disparity in selection rates. BOA maintains that the different selection rates are explained by lawful reasons.

B. MONETARY RESOLUTION

1. Notice. Within sixty (60) days of the Effective Date of this Agreement, BOA must notify the affected applicants listed in Attachment A (the "Class Members List") of the terms of this Agreement by mailing by certified mail and first class mail to each individual in the relevant affected class the following documents:
 - a. Notice to Affected Class (Attachment B (the "Notice"));
 - b. Information Verification Form (Attachment C (the "Claim Form"));
 - c. Release of Claims under Executive Order 11246 (Attachment D (the "Release")); and
 - d. a postage paid return envelope.

BOA will notify OFCCP of all letters returned as undeliverable fifteen (15) days after the response deadline. In addition, within thirty (30) days after expiration of the response deadline set out in the Claim Form, BOA will provide OFCCP with a list of the individuals in the affected class who have not yet responded to the Notice and/or have not returned a signed Claim Form. OFCCP will then attempt to obtain and provide updated addresses to BOA within fifteen (15) days of receiving the list from BOA. BOA agrees to mail a second Notice, the Claim Form, the Release, and postage paid return envelope to all individuals for whom updated addresses were obtained within thirty (30) days of receiving the updated addresses. BOA may use a qualified settlement fund and/or a claims administrator to administer its obligations under this Part IV, Section B.

2. Eligibility. All members of the affected class (listed on Attachment A) who sign and return the Claim Form and Release to BOA within thirty (30) calendar days of the postmarked date on the envelope containing the first or second Notice and Claim Form ("Eligible Class Members") will receive a share of the monetary settlement under this Agreement. If an individual receives, but does not return the Claim Form and Release to BOA within thirty (30) calendar days of the postmarked date on the envelope containing the first or second Notice and Claim Form, he/she will no longer be entitled to a payment under this Agreement.

Within one hundred and ninety (190) days after the response deadline set out in the Claim Form, BOA will provide OFCCP with a list of the Eligible Class Members (individuals who returned the Claim Form and Release by the deadline). Within ten (10) calendar days after receiving the list, OFCCP will approve the final list of Eligible Class Members or discuss with BOA any issues necessary to finalize the list, such as the inclusion or exclusion of certain individuals.

OFCCP and BOA agree that there shall be no further liability for back pay, interest, or any other relief under this Agreement to any Class Member who cannot be located within the

timeframes enumerated above or who does not submit a completed Claim Form and executed Release within the deadlines indicated in the notices.

3. Monetary Settlement. BOA agrees to distribute a total of \$4,200,000 (back pay in the amount of \$1,894,700.59, interest in the amount of \$205,299.41, and a lump sum of \$2,100,000 in lieu of job offers), less withholdings required by law on the portion representing back pay and the lump sum only (such as federal, state and/or local taxes and the class members' share of FICA and FUTA taxes) These amounts will be distributed to Eligible Class Members on the final approved list for each establishment as follows, with the Eligible Class Members for a given establishment receiving equal shares:

	Kennesaw, GA	Jacksonville, FL	Addison, TX	Fort Worth, TX	Plano, TX	Pennington, New Jersey
Back pay	\$250,750.81	\$54,757.33	\$518,684.10	\$398,325.11	\$383,466.95	\$288,716.28
Interest	\$27,169.99	\$5,933.21	\$56,201.77	\$43,160.33	\$41,550.39	\$31,283.72
lump sum	\$277,920.80	\$60,690.54	\$574,885.88	\$441,485.45	\$425,017.34	\$320,000.00
Total	\$555,841.60	\$121,381.08	\$1,149,771.75	\$882,970.89	\$850,034.68	\$640,000.00

In addition to the back-pay, interest, and for applicable Class Members lump sum amounts, BOA will mail each Eligible Class Member an IRS W-2 Form reporting the portion of the payment representing back pay and lump sum and an IRS Form 1099 for the portion of the payment representing interest. These IRS forms will be mailed by the deadline imposed by applicable laws. BOA will disburse the monetary settlement within thirty (30) calendar days after OFCCP approves the final list of Eligible Class Members. No Eligible Class Member will be required to complete a W-4 or W-9 in order to receive payments.

Within ten (10) days of BOA's receipt of a check to an Eligible Class Member returned as undeliverable, BOA will notify OFCCP of this fact via e-mail sent to Compliance Officer **Ex (7)(C), Ex (7)(E)** at **Ex (7)(C)**@dol.gov and Assistant District Director Kevin Kollgaard at **Ex (7)(C)**@dol.gov. For Texas facilities BOA will notify District Director LaQuandra Adebajo at **Ex (7)(C)**@dol.gov. OFCCP will attempt to locate the Eligible Class Member, and if OFCCP obtains an alternate address, BOA will re-mail the check within ten (10) calendar days of receiving an alternate or corrected address. Any check that remains uncashed 120 days after the initial date the check was mailed to the Eligible Class Member will be void. With respect to any uncashed funds, BOA will make a second distribution to all Eligible Class Members who cashed their first check, provided, however, if the total amount of uncashed funds would result in a payment of less than \$100.00 to each Eligible Class Member who cashed the first disbursement check, BOA will use those uncashed funds to provide training in equal employment opportunity to its personnel. If needed for administrative reasons, BOA may extend any deadline in this Section 3.A. by up to fifteen (15) days by providing notice to OFCCP.

C. NON-MONETARY RESOLUTION

BOA will ensure that all applicants for the Monitored Positions (as defined below) are afforded equal employment opportunities. BOA agrees to continue and/or to implement the corrective actions detailed below:

1. Eliminate Discriminatory Selection Procedures: BOA agrees to comply with all OFCCP regulations concerning selection procedures for each of the Monitored Positions, including 41 C.F.R. Part 60-3. BOA will not use any selection procedure that has an adverse impact, as defined in 41 C.F.R. § 60-3.4 (D), on Female, Black or Hispanic applicants, unless it properly validates the procedure pursuant to these regulations. In evaluating if a selection procedure has adverse impact with respect to a Monitored Position, the analyses will be conducted on a semi-annual basis by job title and location using a Mantel-Haenszel aggregation technique that aggregates across applicants by month of application or across job requisitions. Following the Mantel-Haenszel aggregation, the standard deviations will be computed using the hypergeometric standard deviation with a continuity correction.
2. Monitoring: During the five year period of time from January 1, 2020 through December 31, 2024 (the “**Five Year Period**”), BOA will monitor hiring rates by gender and race, as set forth below, for the following positions at the following locations (such positions at such sites are collectively referred to as the “**Monitored Positions**”):
 - a. Pennington, NJ (NJ2140)
 - (1) Client Services Representative (WS311) - race
 - (2) Financial Services Representative (WS138)- race
 - b. Jacksonville, FL (FL9802)
 - (1) Client Services Representative (WS311) - race
 - (2) Financial Services Representative (WS138) - race
 - c. Kennesaw, GA (GA9080)
 - (1) Client Services Representative II (CD052) – gender
 - d. Addison, TX (TX 8044)
 - (1) Customer Relationship Manager II (OK202) – gender and race
 - e. Fort Worth, TX (TX 2980)
 - (1) Client Services Representative II (CD052) - gender
 - (2) Senior Fraud Analyst (DC054) - gender

The parties have agreed to these positions being included in the Monitored Positions in part because BOA no longer has employees in some of the positions identified in Part IV, Section A at the Reviewed Establishments.

If, at any time during the Five Year Period, BOA no longer has employees in one of the Monitored Positions, BOA will inform OFCCP of that fact and the parties will discuss in good faith if there is a successor position to which the duties were transferred at such site that should become a Monitored Position.

Where it is determined as described above that a selection procedure has an adverse impact, as defined in § 60-3.4(D), on the hiring of the applicants to these positions for a group identified above during a semi-annual period, BOA agrees to maintain and make available to OFCCP records concerning the impact of the selection process for such group with respect to such position. This includes the number of persons hired by gender, race and/or ethnicity (depending upon the monitoring requirements for the specific position), the number of applicants who applied by gender, race and/or ethnicity (depending upon the monitoring requirements for the specific position), the number of job seekers for the specific position, and the selection procedures utilized. This information will be maintained until the expiration of this Agreement or as long as required by the regulations, whichever is later.

3. Training: Within twelve (12) months of the Effective Date of this Agreement, BOA must train all recruiters involved in any way in recruiting, selecting, or tracking applicants for any of the Monitored Positions. The training will include instruction in BOA's equal employment obligations and complying with OFCCP requirements. BOA will provide OFCCP documentation regarding the dates of the training, the names and job titles of all attendees, an outline of the topics discussed in the training, and the name and job titles of each person who conducted the training. This training is further discussed in Part V below.
4. Staffing Firms: For each staffing firm that provides workers to any of the establishments at which there is a Monitored Position, BOA agrees to: (a) ensure that the E.O. 11246 equal opportunity clause is incorporated by reference in its contract with such staffing firm; and (b) contact such staffing firm at least annually to notify the staffing firm that BOA is an equal employment opportunity and affirmative action employer and expects the staffing firm to ensure that it selects workers to be assigned to BOA without unlawful consideration of race, sex, disability, or veteran status. The terms in this section shall remain in effect during the Five Year Period.

PART V. ENHANCED COMPLIANCE PROVISIONS

1. The Agreement will be in effect for a five-year period beginning on the Effective Date of the Agreement.
2. During the 5-year exemption period, to proactively facilitate compliance with Executive Order 11246, as amended, BOA will take the steps described below to enhance its compliance with Executive Order 11246 in the hiring of people into Monitored Positions and neutrality in compensation as described below.
3. In order to confirm neutrality in compensation, BOA shall complete the following:
 - a. BOA's lawyers will engage a labor economist with expertise in conducting compensation analyses (the "**Expert**"). At a time between January 15, 2020 and February 29, 2020, BOA's lawyers will work with the Expert to conduct a privileged compensation analysis for the two following Bank of America establishments, evaluating base pay for the employees at such establishment using a model and factors deemed appropriate by the Expert: 901 West Trade Street, Charlotte, NC (NC 1003) and 135 LaSalle Street, Chicago, IL (IL 4135). BOA will provide the Expert access to documents, data and people as the Expert reasonably requests to perform such analyses.

The Expert will be required to sign BOA's confidentiality agreement for vendors.

- b. BOA will work with its lawyers and the Expert to investigate any statistically significant compensation disparities based on race or gender that are identified by the Expert. If any such disparities cannot be explained by legitimate factors, then BOA will remedy such disparities through salary adjustments and BOA will conduct training for applicable recruiters and compensation personnel focused on BOA's equal employment opportunity policies. In order to preserve the attorney-client privilege, BOA is not required to share with OFCCP compensation data or the results from these privileged compensation analyses, but by April 15, 2020 BOA will certify to OFCCP that the Expert has completed the compensation analyses required by this Section and that unexplained and statistically significant disparities, if any, based on race or gender have been remedied through salary adjustments.
 - c. Pay Transparency. BOA agrees to conduct a pay transparency review to confirm its commitment to compliance with 41 CFR 60-1.35. BOA's review will include confirming policy dissemination through BOA's handbook and review of all locations to confirm pay transparency posters are displayed.
 - d. Training.
 - i. During the Five Year Period, BOA will continue to conduct annual training for all team members in the United States on its Code of Conduct, which includes that BOA does not tolerate unlawful discrimination of any kind as outlined in BOA's Harassment and Discrimination Prevention Policy.
 - ii. During the Five Year Period, BOA will continue to provide all managers in the United States involved in compensation decisions written guidance on the compensation process and BOA's commitment to equal employment opportunity with respect to all compensation decisions.
4. BOA will retain a Human Resources Consultant ("Consultant") for the purpose of evaluating the policies and procedures related to the hiring process for the Monitored Positions to ensure that hiring decisions are made without regard to protected status of the applicants. The Consultant will have the relevant educational background and substantial experience in developing and implementing job-related and neutral employee selection processes.
 5. The Consultant will evaluate the policies and procedures BOA currently uses to hire for the Monitored Positions (including successor positions as discussed above). The Consultant will conduct on-site visits to a representative sample of work locations using a sampling methodology that is consistent with professional standards for job analysis to gain an understanding of the jobs and applicable policies, in order to ensure a comprehensive and thorough evaluation of BOA's hiring policies and procedures, interview process and applicant tracking system for the Monitored Positions.
 6. Proposal: Within sixty (60) days after the Effective Date of this Enhanced Compliance Provision, the Consultant will submit to BOA and OFCCP a proposal that describes the methodology to be used in the evaluation. The proposal will estimate the time necessary to

conduct a comprehensive evaluation of BOA's hiring practices with respect to the Monitored Positions and write a report containing the Consultant's findings and recommendations. The evaluation and recommendations will cover the following areas for the Monitored Positions:

- a. Procedures to recruit, screen, interview, select, reject, and hire applicants for the Monitored Positions (including successor positions) without regard to sex, sexual orientation, gender identity, race/ethnicity, color, national origin, and religion in compliance with Executive Order 11246.
 - b. Evaluation of recruitment efforts (methods and sources) for the Monitored Positions (including successor positions).
 - c. Procedures to limit subjectivity and implicit bias in the hiring process, including identifying objective qualifications and criteria to be used to select and/or eliminate from further consideration persons expressing an interest in employment at each step of the hiring process (*i.e.*, application screen, interview, post-offer screen, etc.).
 - d. Procedures to ensure that persons expressing an interest in employment are tracked and dispositions are documented consistently at each step in the hiring process.
 - e. Procedures to ensure that each step of the total selection process is analyzed and that information on individual components of the process are collected, maintained and available.
 - f. Procedures to ensure that documents are retained in accordance with 41 CFR 60-1.12(a) and Part 60-3.
 - g. Procedures to train all employees involved in the hiring process on the policies and practices related to BOA's selection of the Monitored Positions.
 - h. Procedures to ensure that adverse impact analyses are conducted in accordance with 41 CFR Part 60-3 and as described in Part IV, Section C.1 of this Agreement, including evaluation of the individual components and qualifications if statistical disparities exist.
 - i. Evaluation of BOA's company culture relating to racial/gender stereotypes and other biased perceptions, family-friendly benefits, and implementation of BOA sexual harassment policy.
7. The proposal will also outline provisions for the Consultant's monitoring of the implementation and effectiveness of the Consultant's recommendations. None of the consultant's findings and recommendations shall be considered final and/or binding on BOA. Upon receipt of the proposal BOA and OFCCP will negotiate in good faith any amendments thereto.
 8. Within sixty (60) days after BOA / Consultant concludes the evaluation, the Consultant will provide a report to BOA and OFCCP to include the following:
 - a. A description of the evaluation conducted by the Consultant.

- b. A summary of the Consultant's findings regarding BOA's current policies, procedures and practices related to the recruitment and hiring of the Monitored Positions.
 - c. The Consultant's findings and recommendations regarding each of the items set forth in Part V above, as well as any other items included in the Consultant's proposal.
 - d. Any additional recommended actions or revisions to the policies, procedures and practices for the Monitored Positions to ensure equal opportunity for all persons expressing an interest in employment.
 - e. Recommendations for training for all individuals as described in Part IV, Section C.3 above.
9. At a mutually-agreeable date after receipt of the Consultant's Report, but as soon as reasonably possible, BOA, the Consultant, and OFCCP's Regional Director for the Southeast Region will meet to review the Consultant's Report in detail to discuss and evaluate the Consultant's recommendations. The parties will jointly agree on the timing, location, and structure of the meeting to facilitate maximum exchange of ideas and data sharing. If BOA or OFCCP disagrees with any of the recommendations, the parties will discuss the reasons for the disagreement and possible alternatives. After the parties agree to the scope and nature of the recommendations, if any, to be implemented, BOA will work with the Consultant, with input from OFCCP as requested, to fully implement such recommendations within one hundred and eighty (180) days. Should implementation of the agreed upon recommendations (or segments thereof) require more than one hundred and eighty (180) days, BOA and OFCCP will work together in good faith to establish reasonable timelines for implementation.
10. As set forth above in Part IV, Section C.3, BOA will, in consultation with the Consultant, develop and conduct a training program to be presented to all recruiters involved in the hiring process of the Monitored Positions. The training program will include instruction on the Consultant's recommendations that BOA agrees to implement. The training will be mandatory for the personnel identified above, and any employees who are not able to attend the in-person or WebEx training will be required to watch a video of the training or be separately trained. BOA will also, in consultation with the Consultant, develop materials or a training program for hiring managers for the Monitored Positions about BOA's policies.
11. BOA, in consultation with the Consultant and/or additional resources, will monitor the implementation of and results achieved from the revised hiring process for the Monitored Positions, and will provide reports to OFCCP as described in this Agreement for the duration of this Agreement. During the five-year period, the monitoring reports will indicate whether the revised hiring process has been fully implemented and whether the individuals involved in the revised hiring process are following the revised policies and procedures. The monitoring reports will also include appropriate recommendations, if any, to alter or change the revised hiring process, its implementation, or training, to ensure a nondiscriminatory hiring process.
12. During the five-year period, BOA will conduct adverse impact analyses of hiring in the Monitored Positions consistent with the requirements of 41 CFR 60-3.4 and 3.15 and as described above in Part IV, Section C.1 on at least a semi-annual basis. If BOA finds statistically significant disparities in hiring of the Monitored Positions at any facility, BOA shall work with the

Consultant to investigate the cause of the disparities and take appropriate action, such as providing refresher training or making additional changes to the hiring process.

13. During the five-year period, BOA will certify that it has conducted adverse impact analyses as described above in Part IV, Section C.1 for hiring for each of the Client Service Representative (WS311), Financial Services Representative (WS138), Client Services Representative II (CD052), Customer Relationship Manager II (OK202), and Senior Fraud Analyst (DC054) positions at each of its establishments in the United States on at least an annual basis. If BOA finds statistically significant disparities in hiring for such positions, BOA shall work with the Consultant to investigate the cause of the disparities and take appropriate, forward-looking action, such as providing refresher training or making additional changes to the hiring process. With respect to this Section 13, BOA is not required to share these adverse impact analyses or the underlying data with OFCCP, but BOA may in its discretion elect to share such information with the Consultant or with OFCCP.
14. During the five-year-period, BOA will continue its robust and on-going efforts to affect targeted outreach to females, minorities, veterans and individuals with disabilities.
15. During the five-year-period, BOA and OFCCP's Regional Director for the Southeast Region (and if appropriate, the Consultant) will meet once a year to discuss BOA's progress in implementing the adopted recommendations, to discuss concerns, and to continue to chart a path toward a mutually-beneficial partnership. The parties will jointly agree on the timing, location, and structure of the meeting to facilitate maximum exchange of ideas. Should the parties deem a meeting unnecessary, it can be waived by mutual agreement.
16. These Enhanced Compliance Provisions between BOA and OFCCP does not provide BOA with any grant of immunity or protection from its requirement to comply with non-discrimination statutes.
17. These Enhanced Compliance Provisions between BOA and OFCCP may be modified upon the written consent of the parties, and such consent will not be unreasonably withheld.
18. These Enhanced Compliance Provisions are between OFCCP and BOA (as collectively defined above) and does not confer any rights or benefits to any other parties, other than any successor to, parent of, or subsidiary of BOA or OFCCP. In case of a disagreement over the implementation of these Enhanced Compliance Provisions, the parties agree to negotiate in good faith prior to enforcement.

PART VI. REPORTS REQUIRED

BOA must submit the documents and reports described below to:

Joanne Karayiannidis
District Director
OFCCP New Jersey District Office
Diamond Head Building
200 Sheffield Street, Suite 102
Mountainside, NJ 07092

1. Within thirteen months of the Effective Date of this Agreement, BOA must submit:
 - a. Documentation regarding the training described above in Part IV, Section C.3. The documentation must include the dates of the training, the names and job titles of all attendees, and outline of the topics discussed in the training, and the name and job titles of each person who conducted the training.
 - b. Confirmation of the pay transparency review as described in Part V.
2. Within the prescribed timeframes, BOA must submit all documents and information referenced in the Part IV (B) Monetary Resolution terms including:
 - a. Within **one hundred (100) calendar days** of the Effective Date of this Agreement, BOA must submit:
 - i. Documentation of the mailing of the Notice, Information Verification Form, and Release to the class members.
 - ii. A list of class members who failed to respond to the Notice along with copies of the undeliverable envelopes.
 - b. Within **one-hundred and fifty (150) calendar days** of the Effective Date of this Agreement, BOA must submit documentation of the mailing of the Notice, Information Verification Form, and Release to class members for whom OFCCP has located updated addresses.
 - c. Within **one-hundred and ninety (190) days** from the Effective Date of this Agreement, BOA must submit a final list of class members who shall be entitled to monetary benefits provided for in this Agreement.
 - d. Within ten (10) days of BOA's receipt of a check returned as undeliverable, BOA must submit notification to OFCCP of the undeliverable/returned check to BOA.
 - e. Within thirty (30) days of any second distribution required by Part IV, BOA must submit documentation of monetary payments provided to all Eligible Class Members as specified in Part IV. The documentation must include the names of Eligible Class Members who were paid, and, for each Eligible Class Member, the number and amount of the check and the date the check cleared the bank. BOA must provide OFCCP with copies of all canceled checks upon request.

BOA must submit five additional progress reports. Each of these progress reports will cover one calendar year, for each of 2020, 2021, 2022, 2023, and 2024. Each report will be due 60 days following the end of the applicable calendar year.

The progress reports shall contain the following:

- a. For each of 2020 and 2021, the total number of applicants and hires and the breakdown by gender, race and/or ethnic group (depending upon the monitoring requirements of a specific position) of applicants and hires for the Monitored Positions for each semi-annual period.
- b. For all years, certification that BOA completed semi-annual analyses as described above in Part IV, Section C.1 as to whether its total selection process has adverse impact, as defined in 41 C.F.R. § 60-3.4 (D), on the Monitored Positions. For each case where the total selection process has an adverse impact, as defined in 41 C.F.R. § 60-3.4 (D), on applicable applicants for a Monitored Position for a semi-annual period of time, the results of BOA's evaluation of the individual components of the selection process for adverse impact and/or the actions taken by BOA upon determining that any component of the selection process has an adverse impact on applicable applicants.

BOA will retain all records and data pertinent to the violations resolved by this Agreement and/or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later.

3. In addition to these reports, BOA will submit reports as required under Part V, Enhanced Compliance Provisions.

TERMINATION DATE: This Agreement will expire pursuant to the terms in Part II, Section 10 above.

INTEGRATION CLAUSE: This Agreement represents the full Agreement between BOA and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither BOA nor OFCCP relies upon any promise, representation of fact or law, or other inducement that is not expressed in this Agreement. This Agreement may be modified only by written agreement of the Parties affected and may not be modified by any oral agreement.

ATTACHMENTS

- A. Class Member Lists
- B. Notice
- C. Information Verification Form ("Claim Form")
- D. Release

PART VII. SIGNATURES

This Conciliation Agreement is hereby executed by and between the OFCCP and Bank of America.

Ex (6), Ex (7)(C)

Robert Scott Randolph
Employee Relations Executive
Bank of America

Date: 9/24/19

Ex (6), Ex (7)(C)

Samuel B. Maiden
Regional Director
OFCCP - Southeast/Midwest Region

Date: 9/25/19

Ex (6), Ex (7)(C)

Melissa Speer
Regional Director
OFCCP - Southwest Region

Date: 9-25-2019

Ex (6), Ex (7)(C)

Diana Sen
Regional Director
OFCCP - Northeast Region

Date: 9/25/19

**ATTACHMENT B
NOTICE TO AFFECTED CLASS (“NOTICE”)**

Dear [NAME]:

Bank of America (“BOA”) and the Department of Labor’s Office of Federal Contract Compliance Programs (“OFCCP”) have entered into an Early Resolution Conciliation Agreement (“Agreement”) to resolve alleged violations of Executive Order 11246 (“E.O. 11246”) that OFCCP asserted during a compliance review of BOA’s facility located at [insert location].

BOA has not admitted to and denies any violation of E.O. 11246, and there has not been any adjudicated finding that BOA violated any laws. OFCCP and BOA entered into the Agreement to resolve the matter without resorting to further legal proceedings. You have been identified as an individual who applied for a [insert job] position during the [insert period] time period, but was not hired.

As part of this Agreement, you are eligible to receive a distribution of at least \$ _____, less lawful payroll deductions. Under the terms of this Agreement it may take up to fourth months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return both the enclosed Information Verification Form and enclosed Release. You should complete and mail back the forms as soon as possible; it *must* be postmarked to the address below no later than 30 days after the date this Notice was mailed out (postmarked) for you to be entitled to participate in this settlement. The completed forms must be returned to:

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification Form (“Claim Form”) and the signed Release.

If you have any questions you may call [NAME] at PHONE NUMBER], or OFCCP Compliance Officer _____ at _____. Your call will be returned as soon as possible.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED INFORMATION VERIFICATION (CLAIM) FORM AND RELEASE OF CLAIMS WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS POSTMARKED, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.

Enclosure: Information Verification Form (“Claim Form”)
Release of Claims

**ATTACHMENT C
INFORMATION VERIFICATION FORM
("CLAIM FORM")**

You must complete this form in order to be eligible for the monetary payment under the terms of the Conciliation Agreement ("Agreement") between Bank of America ("BOA") and the Department of Labor's Office of Federal Contract Compliance Programs. Please print legibly, except for the signature.

Name: _____
Address: _____
Telephone Nos.: Home _____ Cell _____ Work _____

Notify BOA at the address below if your address or phone number changes within the next six months.

Your Social Security Number (to be used for tax purposes only): _____ - _____ - _____

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED INFORMATION VERIFICATION (CLAIM) FORM AND RELEASE OF CLAIMS WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS POSTMARKED, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.

The completed forms must be returned to:

Signature

Date

ATTACHMENT D
RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246

This Release of Claims under Executive Order 11246 ("Release") is a legal document. This document states that in return for Bank of America paying you money, you agree that you will not file any lawsuit against Bank of America for allegedly violating Executive Order 11246 in connection with its selection procedures for applicants for [] positions. It also says that Bank of America does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of at least \$_____ (less deductions required by law) by Bank of America to me, which I agree is acceptable, I _____ agree to the following:
print name

I.

I hereby waive, release and forever discharge Bank of America, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my non-selection for employment as a [] at any time through the effective date of this Release.

II.

I understand that Bank of America denies that it treated me unlawfully or unfairly in any way and that Bank of America entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") and agreed to make the payment described above to resolve alleged disparities in hiring and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP on [INSERT DATE]. I further agree that the payment of the aforesaid sum by Bank of America to me is not to be construed as an admission of any liability by Bank of America.

III.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

IV.

I understand that if I do not sign this Release and return it to Bank of America WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS RELEASE WAS POSTMARKED, I will not be entitled to receive any payment (less deductions required by law) from Bank of America.

IN WITNESS WHEREOF, I have signed this document on this _____ day of _____, 20__.

Signature

**ATTACHMENT A
Class Member Lists**

LIST OF CLASS MEMBERS – PENNINGTON, NJ

**Black Applicants Eligible for Back Pay and Interest (But Not Lump Sum Amount):
Registered Phone Representative Position**

	Last Name	First Name
1	Ex (7)(C)	
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35	Ex (7)(C)
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41	
42	

Black Applicants Eligible for Back Pay, Interest, and Lump Sum Amount: Registered Phone Representative Position. These applicants were not employed by BOA.

	Last Name	First Name
1	Ex (7)(C)	
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31	Ex (7)(C)
32	
33	
34	
35	

Hispanic Applicants Eligible for Back Pay and Interest (But Not Lump Sum Amount): Client Service Representative Position

	Last Name	First Name
1	Ex (7)(C)	
2		
3		
4		

Hispanic Applicants Eligible for Back Pay, Interest, and Lump Sum Amount: Client Service Representative Position. These applicants were not employed by BOA.

	Last Name	First Name
1	Ex (7)(C)	
2		
3		

LIST OF CLASS MEMBERS – KENNESAW, GA¹

Kennesaw, GA- Customer Service and Sales Specialist II- Female Class Members

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Ex (7)(C)

¹ The parties agree to work together in good faith to identify which class members were later hired by BOA such that they are not eligible for the Lump Sum Amount part of the settlement vs. class members who were not later hired by BOA and are eligible for the Lump Sum Amount part of the settlement. The parties will then update this Attachment accordingly.

