

Congress of the United States
Washington, DC 20510

June 4, 2026

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

Dear Mr. Moynihan,

We write to urge Bank of America to immediately remove the forced arbitration provision recently added to its Online Banking Service agreement. This inherently unjust provision denies consumers the right to hold corporations accountable and enforce their rights.¹

In 2009, Bank of America ended its use of forced arbitration clauses in credit card disputes.² The change, welcomed by advocates and consumers alike, followed a lawsuit alleging that Bank of America colluded with other banks to implement arbitration provisions – effectively severing a customer’s ability to enforce their rights in court.³ Bank of America’s decision not to include forced arbitration provisions in its terms thereafter persisted for almost 17 years.⁴ In fact, in response to a letter sent by Senator Elizabeth Warren in 2017, Bank of America even called its decision to remove the arbitration clauses the “right business practice to maintain relationships with its clients and customers.”⁵

However, in a significant departure from its historical commitments, Bank of America recently added a forced arbitration provision to its Online Banking Service Terms. As of May 18, 2026, customers will be forced to resolve almost every dispute with Bank of America through forced private arbitration, denying them their right to a jury trial or to participation in class-action lawsuits.⁶ Similarly troubling, the Online Banking Service agreement only gives

¹ Bank of America, “Online Banking Service Agreement,” May 18, 2026, <https://www.bankofamerica.com/content/documents/agreement/OnlineBankingServiceAgreementUpdateEN.pdf>.

² Kathy Chu, “Bank of America ends arbitration of credit card disputes,” *ABC News*, August 13, 2009, <https://abcnews.com/Business/story?id=8324675&page=1>.

³ Associated Press, “BofA Drops Credit Card Arbitration Requirement,” *CNBC*, August 14, 2025, https://www.citizen.org/article/coalition-letter-opposing-bank-of-americas-adoption-of-forced-arbitration-provisions-in-its-online-banking-service-agreement/#_ftn2.

⁴ *Ibid.*

⁵ Letter to The Honorable Elizabeth Warren from John Collingwood, Director of Federal Government Affairs for Bank of America, Sep. 1, 2017, https://www.warren.senate.gov/files/documents/2017_09_12_Responses_to_Arb_Letter.pdf.

⁶ Bank of America, “Online Banking Service Agreement,” May 18, 2026, <https://www.bankofamerica.com/content/documents/agreement/OnlineBankingServiceAgreementUpdateEN.pdf>.

customers 60 days to opt out of the clause – leaving most customers likely unaware that their rights are being stripped away.⁷

The new forced arbitration provision will force Bank of America’s customers into a private and secretive system, rigged against their interests. During the arbitration process, corporations can write the rules and have no obligation to make proceedings public. Without access to the public court system, discovery is typically limited, making it hard for consumers to obtain the evidence needed to prove their case.⁸ Additionally, there is no meaningful judicial review, frequently leaving consumers without the ability to appeal a decision even if the arbitrator gets it wrong. The process is binding, forcing consumers into an inherently biased system that they did not choose for themselves.⁹

We expect companies that pride themselves on consumer protection, like Bank of America, to stand up for its customers and not rely on forced arbitration clauses that quietly strip customers of their rights.¹⁰ At a time when costs are rising, Americans are struggling to get by, and the Trump administration has abandoned enforcement of even the most basic consumer protection policies, we are deeply disappointed that Bank of America is imposing yet another obstacle for customers seeking accountability and protection.

We urge Bank of America to immediately remove the forced arbitration clause and restore basic consumer protection principles. In addition, in order to gain a deeper understanding of Bank of America’s decision to add a forced arbitration clause to its Online Banking Service Terms, please provide detailed responses to the following questions by June 26, 2026:

1. Why is Bank of America reversing its 2009 decision to eliminate forced arbitration clauses from its contracts?
2. In 2017, in response to a letter sent by Senator Elizabeth Warren, Bank of America stated that it “implemented revisions to our arbitration policies and procedures almost ten years ago because we believe it is the right business practice for us to maintain relationships with our clients and customers.”¹¹
 - a. Is Bank of America no longer concerned with “maintain[ing] relationships with its clients and customers?”
 - b. Has Bank of America conducted any analysis of the effects this policy will have on its customers?

⁷ Ibid.

⁸ Economic Policy Institute, “The Arbitration Epidemic,” December 7, 2015, <https://www.epi.org/publication/the-arbitration-epidemic/>.

⁹ Ibid.

¹⁰ Bank of America, “Our Mission & Vision,” accessed May 19, 2026, <https://careers.bankofamerica.com/en-us/company/values>.

¹¹ Letter to The Honorable Elizabeth Warren from John Collingwood, Director of Federal Government Affairs for Bank of America, Sep. 1, 2017, https://www.warren.senate.gov/files/documents/2017_09_12_Responses_to_Arb_Letter.pdf.

3. Did Bank of America conduct internal reviews or analyses before deciding to add forced arbitration clauses to its Online Banking Service Terms?
 - a. If so, please provide any related insight or documentation explaining the factors that contributed to its decision to add forced arbitration clauses.
4. Has Bank of America projected any cost savings or any other return as a result of adding the forced arbitration clause?
5. Will Bank of America commit to reassessing its decision to include forced arbitration provisions?

Sincerely,



Richard Blumenthal
United States Senator



Elizabeth Warren
Ranking Member
Committee on Banking,
Housing, and Urban Affairs



Henry C. "Hank" Johnson, Jr.
Member of Congress

