A Change For the Worse

How the "Bank of Opportunity" Is Closing Doors on Chicago's Workers and Communities

An analysis of Bank of America's proposed takeover of LaSalle Bank

About the Coalition

*The Save Chicago Jobs and Community Investment Coalition i*s a group of faith leaders, community organizations and labor unions who are calling on Bank of America to preserve area jobs and community investment and to change policies that harm financially strapped customers. Inspired by Boston's example, we have united around a common goal. We know Bank of America can do better by Chicago—and America.

To join the coalition, please contact Erica Hade at 312-233-8789.

Please also contact Bank of America at 704-386-5681 and tell them to respect Chicago.

The Save Chicago Jobs and Community Investment Coalition *includes: Action Now; Citizen Action Illinois; Chicago Coalition for the Homeless; Chicago Interfaith Committee for Worker Issues; Chicago Jobs with Justice; Metropolitan Alliance of Congregations; National Training and Information Center; Northside Community Credit Union; Protestants for the Common Good; SEIU Local 1; and the Woodstock Institute.*

For more information, visit www.BankofAmericaBadforAmerica.org

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Executive Summary

On September 14, 2007, The Federal Reserve granted regulatory approval to Bank of America for its purchase of Chicago-based LaSalle Bank. The Federal Reserve approved the acquisition without holding a public hearing, despite numerous requests from elected officials, faith leaders, community organizations, and citizens, all of whom raised serious concerns about the merger. The Federal Reserve Board's decision to not hold a public contradicts significant recent precedent and means that the Fed's decision to approve the acquisition was reached without sufficient opportunity for public comment.

Bank of America is the nation's largest bank. This acquisition will catapult Bank of America from having a minor presence in Chicago to being its largest bank, as well as the biggest bank in neighboring Michigan. The acquisition will also bring Bank of America very close to the federal 10% cap on deposit share, a limit imposed by regulators who hoped to avoid mega-banks that could harm consumers with monopolistic pricing. The acquisition is likely to result in major job losses for Chicago, and may pose a threat to community investment.

Bank of America has become one of the world's most profitable corporations in part by hitting customers with high fees on banking products and credit cards, and high interest rates on credit cards. These practices may be putting low and middle-income people at risk of becoming mired in debt. *The Save Chicago Jobs and Community Investment Coalition i*s a group of faith leaders, community organizations and labor unions who are calling on Bank of America to preserve area jobs and community investment and to change policies that harm financially strapped customers.

Why Is Chicago So Concerned About A Bank Merger?

Operating in 30 states, Bank of America (BofA) is now the largest bank in the United States.[1] Bank of America has been growing rapidly, largely through acquisitions, and now controls nearly 10% of all deposits[2] and 20% of all credit card business nationally.[3] In fact, Bank of America is now so large that it is butting up against a federal deposit cap designed to protect consumers from overly powerful banks. But Bank of America is not just big; it's also reaping massive profits on par with the world's largest oil companies.[4] Last year its CEO, Ken Lewis, was the most highly compensated bank CEO, bringing home almost $100 million dollars.[5] In a recent profile, the *Wall Street Journal* described Lewis' strategy of using the bank's large scale to "bludgeon competitors."[6] This begs the question: Are workers, communities, and customers getting "bludgeoned" too?

Bank of America's acquisition of Chicago-based LaSalle Bank will make the company a towering presence in the city's financial landscape. Until now, BofA has been a minor player among retail banks in Chicago. The purchase of LaSalle will make it the city's largest,[7] doing business with 15% of customer households,[8] and almost quadrupling BofA's local branches from 56[9] to 197.[10] The merger is likely to have considerable social and economic costs to our city—including the loss of thousands of local jobs and millions in lost tax revenues. The acquisition also threatens LaSalle's local charitable giving. BofA also has a troubling track record on consumer issues, including high overdraft and ATM fees, unexpected interest rate hikes on credit cards, and behind-the-scenes support for predatory lending—all of which help make BofA one of the most profitable corporations in the world.

The Federal Reserve granted regulatory approval to Bank of America for its purchase of LaSalle Bank on September 14, 2007. The Fed approved the acquisition without holding a public hearing, despite numerous requests from elected officials, faith leaders, community organizations, and citizens who raised serious concerns about the merger. The decision by the Federal Reserve Board to not hold a public hearing flies in the face of significant recent precedent. In the past, the Federal Reserve has held hearings on the mergers of JP Morgan Chase and Bank One, Bank of America and Fleet Boston, Fleet Financial and BankBoston, First Chicago and Banc One, and Bank of America and NationsBank. In every one of those mergers, the pairing had a significant impact because the new combined entity represented the largest financial institution in at least one of the combined entity's local markets. It is disturbing that the Federal Reserve Board refused to hold a similar hearing in this case, given that the combined entity of Bank of America and LaSalle Bank would represent the largest financial institution in the Chicago region.[11] The lack of a public hearing means that the Fed's decision to approve the acquisition was reached without sufficient opportunity for public comment.

Though Bank of America won approval from the Federal Reserve without having to publicly address the concerns of elected officials, community leaders, and citizens who will be most affected by the merger, these individuals and groups will not remain complacent as Bank of America moves forward with its acquisition. Chicago can learn from other cities where Bank of America has bought or merged with a locally-owned financial institution. For example, during Bank of America's 2004 acquisition of FleetBoston, BofA first announced massive layoffs and made vague promises about community investment. But elected officials and community groups worked together to

The proposed merger of Charlotte's Bank of America with Chicago-based LaSalle Bank is likely to have considerable social and economic costs to our city—including the loss of thousands of local jobs and millions in lost tax revenues. The acquisition also threatens LaSalle's local charitable giving.

secure written commitments on job preservation and community investments from the Bank.[12] When the Bank later reneged on some of its promises, these same individuals and groups held them accountable.

The Save Chicago Jobs and Community Investment Coalition is a group of faith leaders, community organizations and labor unions who are calling on Bank of America to preserve area jobs and community investment and to change policies that harm financially strapped customers. Inspired by Boston's example, we have united around a common goal. We know Bank of America can do better by Chicago—and America. For example, we want BofA to make specific and enforceable commitments to job preservation and community investments and grants. We also expect Bank of America to provide a plan for how it will help people displaced by layoffs. Bank of America must be responsible not only to its profit-seeking shareholders, but to the communities in which it does its business and makes its profits.

Is Bank of America Getting "Too Big to Fail"?

When Bank of America acquires LaSalle Bank, it will control nearly 10% of the nation's bank deposits—the maximum amount permitted by the Federal Reserve in order to protect consumers and maintain healthy competition in the banking industry. According to federal statute, no bank can control more than 10% of national deposits at the time of an acquisition.

BofA CEO Ken Lewis is known for what the *Wall Street Journal* has called "ruthless streamlining"[1]of the work force in the quest for higher profits—including the elimination of 10,000 Bank of America jobs in his first two years as CEO. In the five years before BofA's high-profile acquisitions of FleetBoston and MBNA, Bank of America cut 35,000 American jobs.

The cap was adopted, among other reasons, to prevent banks from becoming "too big to fail." Lawmakers feared that the collapse of a mega-bank could harm the rest of the economy and require a taxpayer bailout. Lawmakers were also concerned that unlimited consolidation in the banking industry could lead to a few big banks dominating markets and hurting consumers with monopolistic prices.[13] The Bank of America acquisition may bring us perilously close to these scenarios.

What may be more troubling is that Bank of America has made it clear it would like to see the 10% cap eliminated, and ran a quiet lobbying effort to that end until it found itself "embarrassed" by media accounts.[14] Ken Lewis has also said that Bank of America would like to grow in the Midwest, but that the deposit cap has been a constraint.[15] Will Bank of America use its even greater size and power to agitate again for the elimination of the cap?

The 10% is in place, for now. But BofA may have ways around the cap. Some analysts have said that Lewis' strategy has been to get under the cap to win regulatory approval for acquisitions by managing away less profitable accounts.[16] For example, the bank could lower interest rates on certificates of deposit to uncompetitive levels, thereby encouraging customers to take their savings elsewhere.[17] The cap is only relevant during an acquisition; there's nothing preventing the bank, once the merger is completed, to "naturally" grow to whatever size it wants. In fact, at its September 17, 2007, investor conference, Bank of America announced that it is "taking actions to grow deposits faster and we are starting to see the volume needle move as a result."[18]

Human Capital: The BofA—LaSalle Merger Could Cost Chicago 10,500 Jobs

Ken Lewis is known for what the *Wall Street Journal* has called "ruthless streamlining"[19] of the work force in the quest for higher profits—including the elimination of 10,000 Bank of America jobs in his first two years as CEO through outsourcing back-office jobs to India, closing call centers, and shutting down a number of BofA's commercial lending operations.[20] In the five years before BofA's high-profile acquisitions of FleetBoston and MBNA, Bank of America cut 35,000 American jobs.[21] Richard Bove, an analyst with Punk Ziegel & Company, says, "When Bank of America talks to analysts on Wall Street, one of the things they brag about is how much they reduce head count after a merger."[22]

An August 2007 study conducted by the Anderson Economic Group (AEG) found that Bank of America's plan to severely cut costs after the LaSalle acquisition is likely to result in massive job losses for Chicago. In AEG's conservative estimation, Bank of America will eliminate over 4,000 Chicago LaSalle jobs, but 6,500 more Chicago jobs may disappear as the effects of LaSalle job cuts reverberate through the economy. AEG's conservative estimate of the job cost to Chicago is 10,500. Yearly salaries at LaSalle headquarters average $91,000, which means that these cuts will eliminate the types of well-paying jobs Chicago needs most. The study estimates that at least $780 million in earnings will disappear from Chicago's regional economy, while state tax and local government revenues will decrease by $47 million. Though this study did not include Michigan, we can assume that there will also be losses in that state, where LaSalle is the largest bank.[23]

When confronted with the AEG analysis, BofA claimed that a discussion of job cuts is "premature,"[24] despite the fact that Ken Lewis had earlier acknowledged that LaSalle's Chicago headquarters would take the brunt of expected cuts.[25] Can we believe that Bank of America does not know how it will achieve the cuts to LaSalle operating costs that it has been promising analysts and investors since it announced the deal? BofA's track record provides reason to doubt. During the FleetBoston acquisition, BofA claimed not to know where its announced 12,900 job cuts would come from. But the Connecticut Attorney General told the press that BofA officials had offered to tell him details about layoffs in his state if he kept it secret..[26] Bank of America owes it to Chicago to be honest about its plans for layoffs and to cooperate with elected officials and community leaders to create a better outcome for Chicago.

Contracted Workers Lose, Too

BofA's acquisition may also hurt security officers who keep LaSalle's headquarters and branches safe. LaSalle uses a responsible security contractor that provides affordable health insurance, guaranteed wage increases, pensions, paid sick days, vacation, holidays off, and vital grievance and arbitration procedures to hundreds of LaSalle security officers.[27] After the acquisition, BofA will have about 200 Chicago-area branch

Illinois is facing massive budget shortfalls in 2007. The $47 million dollars in tax revenue that Illinois may lose in Bank of America's acquisition of LaSalle Bank could pay for:

- 812 teachers' salaries, at $57,819 per teacher*
- Nearly 4,000 individuals' health insurance, at $11,770 per person**
- 7,338 students' public education, at $6,405 per student***
- 5,317 University of Illinois students' tuition for a year, at $8,840 per college student†

* http://www.nea.org/student-program/about/state.html#illinois
** http://www.meps.ahrq.gov/mepsweb/ (2005 figures)
*** http://www.aplusillinois.org/issues/facts.asp
† http://www.oar.uiuc.edu/current/financial/ugrad_base.html

locations[28] and will likely replace LaSalle's current security contractor as part of its national contracting policies. There is no guarantee that the new security provider will abide by the market-wide wage and benefit standards of LaSalle's current security company.

Bank of America's Threat to Community Organizations in Chicago

Banks have long been major contributors to local organizations, making grants to support everything from cultural events to organizations that serve our neediest neighbors. For generations, many banks were locally focused—often serving a single city or region, and sometimes even focusing on customers in a specific neighborhood. Their interests were more directly aligned to those of the community in which they operated; if that community was financially healthy, then the bank would get more deposits, gain more customers, see loans repaid with more regularity, and enjoy more profitable investments. The financial health of the city or community depended on a number of factors, including having cultural and charitable institutions that attracted talented entrepreneurs and worked to solve social and economic problems that could impede the development of world-class cities. While no one disputes that banks' first priority has always been profit, earning profits was more closely tied to local circumstances. Now, as banks have merged and consolidated, with headquarters hundreds or even thousands of miles away from the communities they serve, those links are often difficult to discern, and maintaining support for local civic and charitable programs requires ever more vigilance from local organizations.

To a large extent, the Community Reinvestment Act (CRA) has worked to ensure that those local commitments continue. Since 1996, the regulations governing the implementation of the CRA have provided that large federally regulated banks be examined for CRA purposes in separate lending, investments, and banking services tests. The investment test, which counts for 25% of the final CRA grade, includes investments and grants that have a community development purpose. The CRA requires federally regulated banks to try to meet the credit needs of its customers throughout the bank's service area, including lower-income geographies. In practice, the three tests examine banks performance in low- and moderate-income communities.

A bank's investments are judged according to their dollar amount, their innovativeness and complexity, the responsiveness of the investments to the credit and community development needs, and to the degree to which these investments are not routinely provided by private investors.[29] The most innovative banks combine investments, grants and loans to help finance such developments as neighborhood shopping centers that act as community-wide catalysts for economic activity Smaller grants help sustain small community organizations such as financial literacy programs, community development corporations, or organizations providing technical assistance to neighborhood small businesses.[30]

LaSalle Bank has a strong record of investments and grants in lower-income communities. In 2006, LaSalle Bank gave 230 CRA eligible grants in the Chicago area for a total of $1.5 million. Such grants are an important contribution to the financial stability of local organizations. LaSalle funds the arts, cultural institutions, and education, and provides grants to community groups and charities that perform a wide range of services. All of these organizations make valuable contributions to the Chicago

In 2006, LaSalle Bank gave 230 grants to organizations in the Chicago area. Groups funded by LaSalle that BofA has yet to commit to include: Chicago Coalition for the Homeless, AIDS Foundation of Chicago, and the Greater Chicago Food Depository.

region, and many provide services that are vital to impoverished and low-income people.

Bank of America has declined to comment on whether it would match current philanthropic giving levels [of the combined banks][31] and refers instead to a 2005 ten-year national pledge (a revision of a 1999 national pledge) which announced a $750 billion commitment in all types of CRA related activity.[32] The national pledge is not broken down by city or state or by specific product, and there is no independent verification of whether BofA is achieving its goals. Interestingly, when BofA acquired Fleet Boston in 2004, it promised that $100 billion of the national figure would be devoted to the New England states. In similar mergers, the acquiring bank often promises to match the local philanthropic giving of the combined banks. BofA refuses to give such a pledge. In contrast, when BofA acquired FleetBoston in 2004, it made a number of specific pledges, including commitments to several community and economic development organizations.[33]

The Community Cost of Unfair Consumer Practices

Managing finances isn't a priority only for the wealthy. In fact, the less a family earns, the more important it becomes to make smart financial decisions. For families living paycheck-to-paycheck, high fees, unexpected overdraft charges, low interest rates on savings accounts, and exorbitant credit card rates not only take a big chunk out of income that is already stretched thin, but sometimes can plunge families into a disastrous cycle of debt from which it is nearly impossible to escape. Even among the middle class—families balancing mortgage payments, college tuition, and retirement savings—practices such as "risk based pricing" for credit cards can mean that a single unexpected medical bill triggers a series of events that can lead to personal bankruptcy.

In short, access to affordable financial services is an issue that affects not only individuals and families, but our communities as a whole. "As many as 20 million American households—disproportionately poor, minority, lower income, and young—are unbanked," writes the Center for Financial Services Innovation, a project of Shorebank, a well-respected Chicago community lending institution. "Additional households, estimated in the millions, conduct most of their financial transactions outside of banks, even though they may have a savings or checking account."[34] A Federal Reserve publication estimates that African Americans make up 33% of unbanked individuals in the U.S., while Latinos comprise 20%.[35]

In 2006, Bank of America collected more than $22.4 billion from penalty and service fees and other forms of non-interest income, more than half of the bank's annual revenues.

Still, it is true that "having a relationship with the financial services system can minimize the cost of financial transactions and help turn income into savings, assets, and wealth."[36] But the fact that some institutions—including Bank of America—have actually come to rely on high fees as a primary strategy to grow profits may be changing the equation for consumers. In 2006, for example, Bank of America collected more than $22.4 billion from penalty and service fees and other forms of non-interest income, more than half of the bank's annual revenues.[37] Such a reliance on fee income to meet investor expectations means that banks are tempted to impose high fees or institute misleading practices that trap customers into paying high interest rates or a series of unexpected charges. Too often banks give in to this temptation, and for many customers these policies actually force them back *out* of the financial mainstream. Constant battles with overdraft fees, for example, might make it seem just too expensive to do business with a traditional bank, and a bad experience with rapidly escalating credit card debt could destroy a customer's ability to access lower-costing lending.

Bank of America Sets the Pace

One concrete example of Bank of America's impact on the banking market as a whole came this summer, when the company announced it would raise its fees for non-customers at many of its ATMs to $3.00 per transaction—the highest among major banks in the country—a move that many fear will force other banks to raise their fees even higher. "I'm sure a lot of other institutions will come right behind them, and say, 'If they can get $3, so can we,'" an executive at First Horizon National Corp. told *American Banker* magazine.[38]

At $3.00 per transaction (plus the additional service charge tacked on by your own bank, which averages $1.25[39]), withdrawing cash just twice a week at a Bank of America machine would cost you $442 a year—your weekly income if you work 40 hours a week at $11.00 an hour, or enough to buy 160 gallons of gas.[40] Meanwhile, the real cost to the bank of your ATM transaction is only between 20 and 60 cents.[41] And what does $442 mean to Bank of America CEO Ken Lewis, who last year took in $99.8 million last year?[42] It's a little over what half he earns . . . in one minute of work.[43]

If you could only afford to save $250 in your first year with a regular Bank of America savings account, you would earn just 50 cents in interest and you pay $36 in fees. By opening a Bank of America savings account, your savings would actually *decline* by $35.50.

Buyer Beware

In October 2005, Bank of America launched a major ad campaign called "Keep the Change" that was portrayed as an effort to help consumers save money. But the program may instead highlight just how carefully consumers should read the fine print when dealing with the nation's largest bank.

According to campaign advertisements, each purchase made by customers using their Bank of America VISA debit card would be rounded to the nearest dollar—and the "extra change" would be deposited to the customer's savings account. Bank of America would also match customers' payments for the first 3 months and then up to 5%, capped at $250 per year, thereafter. By April 2007, 5 million customers had enrolled in the program,[44] opening more than a million new checking and savings accounts.[45] Despite the apparent "success" of the program, there is $2.3 billion less in Bank of America savings accounts over the last year.[46]

The more customers use their debit card, the more money Bank of America makes on fees charged to businesses, which are often passed on to consumers in the form of higher prices. One retailer called the program "an underhanded scheme…[which would] lead to higher charges and more costs that will be on the backs of consumers and merchants."[47] Banks earn between 25 cents and $2 on each transaction paid by the retailer—known as "point of sale" or interchange fees—and such fees are the fasting growing source of profit in the credit card industry.

The program also draws attention to just how little interest customers earn when they invest in one of Bank of America's standard savings accounts—the only products available to most low-income customers because they cannot afford high opening balances. According to the Bank of America website, the annual percentage yield on a regular savings account is just 0.20%, and requires a $300 minimum balance of $300 a day to avoid a $3.00 per month management fee.[48] That means that if you could only afford to save $250 in your first year with a Bank of America account, you would earn just 50 cents in interest and you pay $36 in fees. *By opening a Bank of America savings account, your savings would actually decline by $35.50.*

Overdraft Fees: The New Payday Loans?

High overdraft fees—charges imposed when you take too much money out of your checking account—enrage millions of Americans every year.[49] In the past, most banks simply denied purchases or cash withdrawals if they would result in customers overdrawing their accounts. Now, many banks, including Bank of America, allow those transactions to go through, then stick customers with expensive fees.[50] Often, customers (who are automatically enrolled in the bank's overdraft programs upon opening a checking account[51]) do not even realize they have overdrawn their accounts until they receive a letter disclosing the fee. Bank of America uses software that automatically pays overdrafts without alerting the customer or conducting an assessment of a customer's ability to repay the overdraft loan.[52] Strunk and Associates, the leading vendor of overdraft lending software,[53] promises that banks using its software will "achieve a fee income increase of up to 400% within four months."[54]

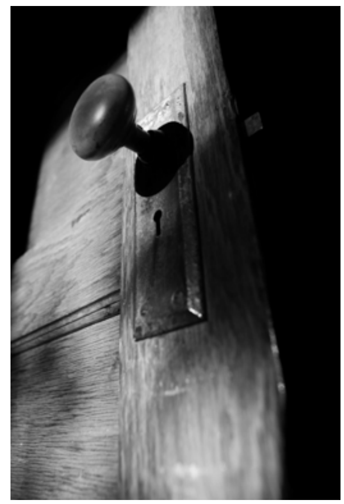
In March 2007, Bank of America raised its overdraft fees for the third time in just 20 months. Under the new policy, the fee for overdrafts on the first day increased from $19 to $20, and the fee for overdrafts on each subsequent day rose from $33 to $35. Customers can be charged the fees up to five times per day.[55] This can translate to *triple-digit interest rates*.[56] In fact, since it acquired FleetBoston Bank in 2004, the *Boston Globe* reports Bank of America has steadily increased its overdraft fees.[57]

While overdraft fees affect many Americans, "low- and moderate income customers pay a disproportionate share of the overdraft loan fees," according to a survey by the Center for Responsible Lending. "Once plunged into the overdraft debt trap, these customers have the greatest difficulty climbing out: 16% of overdrafters pay 71% of the fees."[58]

In effect, these overdraft fees function as short-term, high-interest payday loans—and expensive substitute for a line of credit—and often have interest rates even higher than rates charged by the payday lenders that have grabbed the headlines. Unlike typical lines of credit, overdraft plans charge flat fees for every processed overdraft, translating into astronomical annual interest rates. Payday loans, which charge only a regulated flat fee for providing direct cash, do not have automatic access to checks and debit cards like overdraft programs do.

"A $100 bank overdraft repaid in two weeks for a $35 penalty fee amounts to an annual percentage rate (APR) of 910%, while a two-week payday loan costs from 390% to 780% APR," the Consumer Federation of America reports. "Both types of credit easily trap consumers in repeat borrowing."[59]

Overdraft fees are beginning to capture the attention of elected officials and regulators, much as the payday loan boom grabbed headlines. "The purpose of [overdraft fees are] not, in my opinion, to help the consumer," said J. Philip Goddard, deputy director of the Indiana Department of Financial Institutions. "These programs are only to increase fee income."[60] In fact, says University of North Carolina Management Professor Michael Stegman, "As banks have become fee-based businesses, their bottom lines are better served by levying bounced-check and overdraft fees on the payday loan customer base than they would be by undercutting payday lenders with lower cost, short-term unsecured loan products."[61]



"A $100 bank overdraft repaid in two weeks for a $35 penalty fee amounts to an annual percentage rate (APR) of 910%, while a two-week payday loan costs from 390% to 780% APR Both types of credit easily trap consumers in repeat borrowing."

—Consumer Federation of America

Bank of America Shrouds the True Cost of Its Credit Cards

For over two decades, banks have extended credit in the form of credit cards effectively to anyone with an address, regardless of their income and credit score. Students, households with little or no income, senior citizens on fixed incomes, and persons who have recently had their debts discharged in bankruptcy all regularly receive offers for bank lines of credit.[62] In 2005, companies mailed over 6 billion credit card solicitations,[63] offering low introductory rates and "pre-approved" lines of credit. Between 1993 and 2000, the industry more than tripled the amount of credit it offered to consumers, from $777 billion to almost $3 trillion. As a result, the average U.S. family has $21,000 in available credit.[64] Banks have also increased credit lines and decreased minimum monthly payments; the consequence has been that more principal and interest is revolved and charged during each billing cycle. Banks now have so much data on their consumers' behavior that they can calculate how much additional income they will receive by lowering minimum monthly payments or increasing the amounts of fees.[65]

Bank of America has the second largest credit card portfolio in the United States, making it a leader in both the number of customer relationships and responsibility to adopt and promote industry best practices. But BofA continues to enshrine one of the most unfair financial practices in the industry into all its credit card contracts–the right to change credit card terms and conditions to anything, at any time, for any reason.

Bank of America has the second largest credit card portfolio in the United States, making it a leader in both the number of customer relationships and responsibility to adopt and promote industry best practices. However, despite its size and credit card market penetration, Bank of America continues to enshrine one of the most unfair financial practices in the industry into all its credit card contracts–the right to change credit card terms and conditions to anything, at any time, for any reason.

This right to make changes involving fees, interest rates, and repayment requirements for any reason, at any point during the term of the contract, makes comparing the total cost of borrowing difficult or impossible to determine. At the same time, when credit card issuers make these unilateral changes to the terms and conditions of credit cards, the changes themselves are disclosed in complex legal language not designed to help the borrower understand the new costs associated with their credit account.

This practice is typically referred to as "shrouding," whereby "optimizing firms" exploit "myopic" consumers through marketing schemes that "shroud" the true price of the product.[66] Another way to express the same idea is that credit card companies thwart the workings of the market by concealing the price of their products. This complexity can also be seen as part of a larger and deliberate trend by banks and other consumer service providers such as cable providers and cellular phone companies to hide the true costs of their products or services.

In recent years, the magnitude of U.S. households' debt has been well-documented. The average national credit card balance is $8,650.[67] However, the reasons *why* U.S. families are so deeply in debt are less clear. The data suggest that rising debt is likely due to a combination of factors, among them: a long-term stagnation in real wages, a large increase in debt related to the rising costs of medical expenses, and a powerful culture of consumption. In fact, much of the credit card balance carried by low- and middle-income households is "safety-net" debt. Seven of ten households say they rely on their cards for necessities like car or house repairs, basic living expenses, and medical expenses.[68]

However, the manner in which many large credit card issuers shroud the total cost of borrowing suggests that credit card issuers themselves may be, to a certain extent, driving consumer debt levels as well.

Trapping Customers with High Fees

In fact, credit card companies such as Bank of America aggressively raise interest rates and charge penalty fees when customers start to run into trouble, triggering a cycle that makes it increasingly hard to pay their credit card bills.

Perhaps that is why, in the years leading up to the 2005 bankruptcy "reform" bill passed by Congress, the banking industry so aggressively lobbied to pass legislation that would impose high hurdles on individuals filing for personal bankruptcy. In fact, MBNA—a major credit card issuer which soon after the bill passed would be acquired by Bank of America—was credited with "leading the lobbying campaign" for the legislation.[69] Assisting MBNA's lobbying efforts was its "Olympic-caliber" political fundraising. In fact, in the last presidential race, BofA's credit card arm replaced Enron as President Bush's largest contributor.[70]

But recently, Bank of America's credit card practices have been under more scrutiny—perhaps in part because of the company's sheer size. Bank of America's acquisition of MBNA made it the nation's largest credit card company, accounting for one out of every five credit cards in the country.[71] With such control of the market, it's reasonable to expect that other credit card issuers are likely to feel pressure to follow suit when Bank of America makes changes that boost its profits. In April 2007, Consumer Action released a report detailing harmful credit card practices, including several behaviors in which Bank of America engages.[72] And just a month before that, Bank of America was called before a Senate committee to answer to charges that it engages in what U.S. Senator Carl Levin calls "unfair and abusive practices."[73] Such practices fall into several categories:

- ✓ **Misleading Credit Card Bills:** On the heels of a report by the United States Governmental Accountability Office (GAO)—which found that current fee disclosures are difficult to understand, important information is often buried in confusing account statement wordage, and issuers often fail to tell consumers the specific reasons and timing for charging late fees and higher penalty interest rates[74]—Sen. Levin singled out Bank of America's billing statement, calling it "impossible to understand."[75]

- ✓ **Unexpected (And Expensive) Interest Rate Hikes:** Even though your credit card agreement legally binds *you* to the terms of the card, Bank of America reserves its right to change the terms on you "at any time, for any reason."[76] Even if you make your credit card payments on time, Bank

Changing Interest Rates Can Result In Disaster

❶ You accept a Bank of America credit card at the 11.24% interest rate, then make a few expensive purchases or run into some health problems and end up with **a balance of $8,650** (the average credit card balance carried by low and moderate income American households.

❷ You are one day late on your payment, and **BofA nearly triples your interest rate**, to 29.99%. The new rate applies to the old balance (plus the penalty fees they're also charging you) which means you're suddenly on the hook for a $8,689 "loan" at a much higher interest rate than you initially agreed to.

❸ Imagine you had been planning to pay off your balance in 5 years, paying about $190 a month. At the 11.24% rate, the total cost of that $8,650 loan with five years of interest would be $11,345. That's $2,695 in interest, and that's bad enough. But to pay off the new balance with the new interest rate in the same amount of time, you'd need to pay about $280 a month. At the end of 5 years you'd have spent $16,865. **That higher rate over a five year period will cost an extra $8,200—almost double the original debt.**

❹ And what if you can't afford that monthly payment of $280? At $218 per month, **it will take you 20 years to pay off that card**—and you'll have spent a whopping $52,000 to do it. That's right—an $8,650 medical bill could end up costing you over $40,000 in interest and take 20 years to pay off.

of America can decide to raise your interest rate if you're late on payments elsewhere—such as on another credit card or a loan payment—or simply because the bank feels you have taken on too much debt. Bank of America calls that "risk re-pricing," and in the fine print of the card agreement reserves the right to impose these interest rate hikes whenever they want.[77]

If you're late on a payment, the consequences can be even more severe. For starters, Bank of America might charge you an exorbitant $39 fee, among the highest late and overlimit fees in the credit card industry.[78] Much more egregious is the practice of imposing penalty interest rates, known in the industry as "default rates." In other words, if you are late on a payment, you could end up with a default interest rate much higher than the interest rate you accepted when you first received your card. For example, the Bank of America Visa Platinum Plus has an APR as low as 11.24 %, but a default rate of close to 30 %.[79]

These types of sudden jumps in interest rates can lead to higher minimum payments, which in turn may lead to late or missed payments and trigger a cycle of late fees, even higher interest rates, and more missed payments that can leave customers mired deep in debt. Other credit card companies have agreed to stop these practices. At a March 7, 2007, hearing of the U.S. Senate Permanent Subcommittee on Investigations, credit card issuer Citigroup committed to end the practice of changing interest rates in mid-stream, waiting instead until the customer's card expires to adjust terms and conditions. But the head of BofA's credit card division refused to commit to such changes, and the company has not implemented any such changes since the hearing.[80]

- ✓ **Residual Interest: Paying Interest Even after You've Paid Your Bill:** The practice known as "trailing" or "residual" interest happens when you send in a payment for the full amount of your balance as of the due date, but end up with a bill the next month because interest on your balance was calculated until the moment your payment was processed. Consumer Action calls this an "unfair and deceptive" practice, pointing out that cardholders who access their account online to make sure their full payment has been received by the due date would see a zero balance, because the trailing interest isn't added until the close of the subsequent billing cycle.[81] A significant problem with residual interest is that many customers aren't aware of it, and so they may mistakenly think they're paid up. This puts customers at risk of missing their next month's payment, which could trigger late fees and interest rate hikes.

Towards a Solution: An End to Unilateral Changes

Supporters of the industry might claim that out-of-control household debt levels can be mitigated through increased financial literacy, and may then target a portion of their philanthropic contributions to financial literacy programs. However, when major issuers such as Bank of America reserve the right to make unilateral changes in the terms and conditions of the credit card contracts it enters into with its customers, no amount of financial literacy can ensure that borrowers will be able to predict future increases in the cost of borrowing resulting from unilateral changes in their credit card contract.

At least one large provider, Citigroup, has replaced that practice with two year contracts that specify a limited number of reasons for raising interest rates or charging additional fees for its Citicards consumer customers. Bank of America should, at minimum, adopt a similar contract model to ensure that borrowers can easily determine the total cost of borrowing for all of Bank of America's credit cards.

Bad Example:
Contract language from Bank of America's 2007 Credit Card Disclosure Statement

"As required by law, rates, fees and other costs of this credit card offer are disclosed here. All account terms are governed by the Credit Card Agreement sent with the card. Account and Agreement terms are not guaranteed for any period of time; all terms, including the APRs and fees, may change in accordance with the Agreement and applicable law. We may change them based on information in your credit report, market conditions, business strategies, or for any reason."

Better Example:
Citigroup's Contract Language Setting a More Transparent and Fair Standard for Credit Card Lending

"We will not voluntarily increase your rates and fees or change other terms of this Agreement until your card expires, typically in two years. At that time, we will review your credit history and general market conditions. If we decide to make changes after our review, you will receive advance notice and a right to opt out. If you opt out, we will close your account. You can then pay the remaining balance under the old rates, fees, and terms. Of course, this paragraph does not apply to the automatic default APR and Prime Rate changes. It also does not apply to changes required by law, our regulators, or our network providers."

BofA: Bankrolling Predatory Lending

While BofA has largely steered clear of the subprime mortgage market that has garnered so much attention as foreclosure rates soar, the company has quietly bankrolled other predatory lenders. In July 2004, Bank of America (along with Wachovia Corp.) arranged a $265 million credit line for Advance America. Soon afterwards, the company announced an initial public offering that raised $195 million. The payday loan firm told the U.S. Securities and Exchange Commission in a 2004 filing that "we depend on loans from banks to operate our business."[82] Advance America reports that it currently operates 2,900 payday loan centers in 37 states.[83] In February, the company announced "record annual revenue of $672 million."[84]

But all is not going well for Advance America. For example, shortly after Illinois' Payday Loan Reform Act went into effect in December 2005, Advance America was fined over $75,000 for multiple violations of the act, according to a press release from Governor Rod Blagojevich.[85] Around the same time that the Illinois reforms became law, Advance America was ordered to stop selling cash advances in North Carolina by the state's banking commissioner.[86]

Bank of America has ties to other predatory lending operations as well. The bank finances a chain of used-car dealers owned by J.D. Byrider Systems, Inc., which operates 130 dealerships in 30 states (including Illinois). The company has come under fire for charging interest rates on used-car loans as high as 24.9 %. *Business Week* describes its unorthodox sales method: "Unlike traditional dealers, Byrider doesn't post prices—which average $10,200 at company-owned showrooms—directly on its cares. Salesmen, after consulting ARE [a proprietary software product; the acronym stands for Automated Risk Evaluator], calculate the maximum that a person can afford to pay, and only then set the total price, down payment, and interest rate. Byrider calls the process fair and accurate; critics call it 'opportunity pricing.'"[87]

A Poor Record of Mortgage Lending to Chicago's Lower-Income and Minority Communities

An analysis performed by the Woodstock Institute indicates that Bank of America has a poor record in serving the mortgage lending needs of underserved markets in the Chicago region, particularly African American and Latino borrowers and communities.

Access to affordable and responsible mortgage loans is critical to the health of neighborhood housing markets and to the ability of individuals to built wealth through homeownership. As illustrated by the current crisis in the subprime mortgage market, irresponsible lending can have devastating effects on borrowers and communities where these loans are concentrated. Research has shown that higher-cost subprime mortgages tend to be disproportionately concentrated in lending to minority borrowers and neighborhoods.[88] These loans often have risky features or poor underwriting and are a much greater risk to enter into default or foreclosure than prime loans originated by banks.[89]

An analysis of the distribution of these mortgages to underserved markets indicates that Bank of America's record of reaching minority and low- and moderate-income markets in the Chicago area leaves much to be desired.

Many borrowers who received subprime loans could have qualified for mortgages with more favorable terms. Various statistics have estimated that between 10% and 50% of borrowers who received subprime loans could have qualified for prime mortgages,[90] but were unable to access prime credit. One reason for this is the absence of bank lending in minority markets.

Bank of America is one of the top mortgage lenders in the nation and in the Chicago region. According to government mortgage lending data, in the Chicago Six County area in 2005, Bank of America originated over 9,500 conventional mortgages on owner-occupied, single-family properties. These include roughly 4,500 home purchase loans, 4,400 refinance loans, and 600 home improvement loans.[91]

An analysis of the distribution of these mortgages to underserved markets indicates that Bank of America's record of reaching minority and low- and moderate-income markets in the Chicago area leaves much to be desired. The bank is one of the largest lenders in the region ranking twelfth overall in conventional, single-family mortgage lending in 2005. However, the bank did not serve all markets equally well. Comparing the bank's ranking in lending to different submarkets in the Chicago region in 2005, Bank of America was the ninth largest mortgage lender to white borrowers, but only the 23rd and 25th largest lender to African-American and Hispanic borrowers, respectively.

Another way to examine Bank of America's performance in lending to lower-income and minority markets is to compare the bank's presence, or market share, in these various submarkets. Generally speaking, if a lender is equally successful at reaching different, discrete lending markets, it would be expected to have roughly equal shares of those markets. If that were the case, taking the ratio of a lender's share of an underserved market (such as minority or lower-income borrowers) to its share of an adequately served market (such as white or higher-income markets) would yield a number close to 1.0. However, if a lender is unsuccessful, or avoiding, lending to an underserved market this market share ratio (MSR) would be well below 1.0. Conversely, if a lender was targeting a particular underserved market, the MSR would be expected to be well above 1.0.

In the Six County Chicago metropolitan region, Bank of America's market share ratios to underserved markets is quite low when compared to its presence in better served markets. For example, Table 1 shows that when looking at the bank's lending to minority markets:

- ✓ Bank of America made 2.7% of all Chicago area mortgage loans to white borrowers in 2005 compared to only 1.2% of all mortgage loans to African American borrowers. This gives them an African American to White market share ratio of 0.43. This shows that Bank of America's share of the African American market was just 43 % that of its share of white market in 2005.
- ✓ The bank's Latino to White market share ratio is 0.38 meaning its presence in the Latino market is just 38% that of its presence in the white market that same year.
- ✓ The bank's market share ratio comparing lending to minority and non-minority tracts is 0.58 indicating that its presence in minority communities is just 58% that of its presence in the non-minority communities that same year.

When comparing its presence in low- and moderate-income (LMI) and middle- and upper-income (MUI) markets, a similar result is seen.

- ✓ Bank of America's market share ratio comparing its lending to LMI to MUI borrowers is 0.72.
- ✓ The bank's market share ratio comparing lending to LMI to MUI census tracts is 0.58.

Table 1. **Bank of American Market Shares and Market Share Ratios (MSRs) for the Chicago Six County Area by Borrower and Census Tract Income Level and Race/Ethnicity, 2005**

Market Shares		MSRs
Borrower Characteristics		
African American	White	AA/White
1.2%	2.7%	0.43
Latino	White	Latino/White
1.0%	2.7%	0.38
LMI	MUI	LMI/MUI
1.7%	2.2%	0.77
Census Tract Characteristics		
Minority	Non-Minority	Minority/Non-Minority
1.4%	2.4%	0.58
LMI	MUI	LMI/MUI
1.4%	2.3%	0.61

Joining Together To Win a Better Outcome for Chicago

Bank of America's acquisition of LaSalle Bank has the potential to be devastating for Chicago. However, it is possible for Bank of America to cooperate with Chicago stakeholders—including workers, community organizations, and elected officials—to ensure a better outcome for our city.

In past acquisitions, community leaders and elected officials have actively engaged Bank of America to seek out similar protections. For example, when BofA sought to acquire Fleet, the bank, under intense pressure, agreed to maintain or increase employment levels in region and maintain a number of key corporate divisions in Boston. BofA also agreed to uphold all previous community agreements made by FleetBoston.

In past acquisitions, community leaders and elected officials have actively engaged Bank of America to seek out similar protections. The most dramatic example came when BofA prepared to acquire FleetBoston and announced that it would eliminate 12,900 jobs.[92] Under intense pressure from elected officials and community groups, Bank of America agreed to maintain or increase employment levels in region (after two years) and maintain a number of key corporate divisions in Boston.[93] BofA also agreed to uphold all previous community agreements made by Fleet[94], and dedicated $100 billion of its $750 billion community development goal over 10 years to the region.[95]

When BofA later tried to break some of its job retention promises, these same individuals and groups forced BofA to uphold them. For example, BofA made a pledge to base six bank divisions in Boston and maintain the levels of tellers and similar positions, but once its deal was approved it quickly moved two of these divisions out of state and laid off hundreds of branch office workers.[96] The bank also counted outsourced positions towards its employment commitment. Massachusetts officials were so angry with the bank for reneging on its promises that they threatened to pull state money out of the bank.[97]

Congressman Barney Frank was a particularly outspoken critic of the bank at the time, and arranged hearings regarding increasing oversight of bank mergers. He described Bank of America's actions as characterized by "arrogance, lack of honesty, [and] disregard for the economic needs of Massachusetts."[98] Lieutenant Governor Kerry Healey held a press conference where he raised the issue of Bank of America reneging on promises it made to state banking regulators.[99] As public outrage grew, Bank of America executives realized they needed to find a way to live up to their commitments to Boston. BofA ended up moving its wealth management division to Boston,[100] and since then has steadily added new jobs to replace those that it had cut, satisfying outspoken critics such as Congressman Frank.[101]

While we do not seek to replicate the Fleet agreement in every detail, the Boston experience does show that when our communities take a stand—even with some of the world's most powerful financial institutions—we can make a difference. *The Save Chicago Jobs and Community Investment Coalition* is seeking a real, enforceable agreement with Bank of America that takes the best of the Fleet agreement and makes it work for Chicago. We endorse the following steps that will help to ensure that the acquisition, if successful, will be in the best interest of our community.

We Will Work To Ensure Ongoing Vigilance From Elected Officials and Bank Regulators In Order To Protect Consumers From Potential Abuses.

Our elected officials and public agencies have substantial power to ensure that banks operate in the public interest, and that their policies do not harm consumers. Many of our elected leaders have already expressed concerns about the effect of Bank of America's acquisition of LaSalle Bank, and for that we applaud them. The coalition plans to actively work to ensure that our public officials and regulatory agencies remain vigilant in their duties to protect consumers and communities, not only as the merger works its way through the approval process, but also as Bank of America seeks to grow locally and nationally.

Bank of America CEO Ken Lewis Should Meet With Chicago Community Leaders

Bank of America has a responsibility to the communities it operates in and profits from. Chicago will not quietly accept devastating job, income, and tax revenue losses; nor will we accept vague promises about community investment and philanthropy. Bank of America must prove that it is going to be a good corporate citizen of Chicago. We ask that Bank of America CEO Ken Lewis meet with the Coalition and come prepared to engage in good faith discussions of how to make Bank of America's LaSalle acquisition benefit the people and communities of Chicago, not just Bank of America's shareholders and executives.

BofA Should Make Real, Enforceable Commitments to Protect Jobs, Consumers and Community Investment

Once the dialogue with top Bank of America officials has begun, it is critical that those discussions result in substantial, concrete, and enforceable commitments to preserve quality jobs (for both direct employees and contracted workers), maintain or expand levels of community investment, continue philanthropic contributions to worthy local organizations that long have depended on LaSalle Bank for support, and address the range of consumer protection and equity issues outlined in this report. We believe that the dedicated work of community leaders and elected officials in Boston serves as a valuable starting point for an agreement here, though it is by no means the final word. Working with top BofA officials, the Coalition hopes to forge a landmark agreement that becomes a model for a productive and mutually beneficial relationship between banks and the communities they serve.

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