



December 7, 2020

The Honorable Philip Ting  
California State Capitol  
Sacramento, CA 95814

Dear Assembly Members and Senators:

I am responding to your letter to CEO Brian Moynihan dated November 24, 2020 regarding prepaid cards issued and managed by Bank of America under its contract with the California Employment Development Department (“EDD”). I appreciate the opportunity to update you on measures Bank of America is taking, in partnership with the EDD, to ensure valid claimants have timely access to their benefits against a backdrop of the unprecedented levels of unemployment benefits fraud occurring in California.

First, if you or any other member of the Legislature have a direct constituent query regarding the constituent’s specific inability to access his or her prepaid card, or any other issues involving service and support, please provide me with the details and I will ensure it gets reviewed and that we provide a response to the requesting member for the constituent.

While there has been ample press coverage and public testimony regarding fraud in the California unemployment insurance program, it is important you have information that we also have shared with EDD, the governor’s office, and other state officials with whom we are working about the type and scope of fraud that is hampering EDD’s ability to ensure legitimate claimants receive their benefits. We welcome the interest of elected officials in helping resolve these challenging issues. We have done our best to respond to the issues you raised, and to place it in the context of the work we are doing with EDD to manage through the fraud challenges, which unfortunately are impacting the best efforts of EDD to ensure legitimate claimants get the benefits they deserve. For some of the issues you raised in your letter, it is difficult to provide a general response when individual circumstances differ for each claimant. If there are specific claimant/constituent issues about which you need further information, please provide that specific detail and we’ll do our best to explain the individual circumstances.

Criminal fraud in pandemic unemployment insurance programs is not unique to California, although the scale of program fraud in California is unique. We know that other states are experiencing similar challenges. Third party cyber-security specialists have concluded that “organized crime rings are using unemployment funds to support other criminal enterprises, such as illegal arms purchases, human trafficking and terrorist activities.”

Through these challenges, between March 1 and November 21 Bank of America has issued more than 8.2 million cards at the direction of the EDD in the cumulative amount of \$105.1 billion. While benefit payments have been received and used by the vast majority of intended recipients without incident, some benefits recipients have experienced issues. Most of the complications appear to result from stolen cards, identity theft, or other types of fraud described in this letter. Given the unprecedented volume of fraud in the program, identifying legitimate claimants from among the high number of fraudulent claimants is time consuming and challenging.

We have provided significant detail to EDD, California law enforcement, and other state offices and agencies as to how criminals are using stolen identities to apply for unemployment benefits, intercepting cards in the mail, requesting replacement cards posing as legitimate benefit recipients, and engaging in “card cracking” by filing false claims of unauthorized use. We also have detailed instances in which criminals not only withdrew initial funds provided by the State, but sought and received additional “temporary” credit from Bank of America – consistent with federal consumer protection regulations -- in the hundreds of millions of dollars after filing false claims of loss themselves, essentially attempting to double-dip the fraudulent removal of funds.

Much of the fraud that is being committed in California occurs during the enrollment process, by criminals using stolen or fictitious identities. This occurs before Bank of America becomes involved. We are engaged at the end of the enrollment process, once EDD has validated and approved someone to receive unemployment benefits through its own processes and systems and has directed us to issue a prepaid card for benefits to a specified recipient.

Over the past several months, consistent with our obligations under federal law, we have collaborated with EDD to help establish additional fraud prevention measures, including implementing a series of filters and flags that indicate suspected fraudulent activity. As a result of these efforts, we have identified more than 640,000 accounts for EDD to evaluate as to whether they are fraudulent and the associated card should be frozen or account closed. These efforts enabled us to identify for EDD:

- 76,000 benefits cards sent to recipients in states that do not border California;
- numerous cases of multiple cards (hundreds in some instances) sent to a single mailing address;
- multiple cards using a common contact phone number;
- benefit claims using common email addresses; and
- benefits issued to infants or children as well as centenarians or other elderly, and to persons unlikely to be recently unemployed.

Although in our experience red flags such as these and others are highly correlated with the risk of fraudulent activity, the application of these filters will inevitably impact some legitimate claimants. EDD and Bank of America therefore must work to investigate and resolve matters for recipients who are inadvertently impacted by the measures necessary to weed out fraudulent activity. We have committed significant additional

personnel to address the challenges. Since this program began in March, we have increased call center and claim staffing to more than 6,150 dedicated personnel.

To further improve the program, we have proposed to EDD additional measures outside the scope of our existing contract for service, including:

- establishing a dedicated call center to help CA EDD authenticate blocked and frozen accounts, and
- facilitating information flow with law enforcement agencies.

EDD is reviewing our proposal for these additional program elements. We anticipate that impacts on legitimate recipients would be significantly reduced through the implementation of these and other front-end, anti-fraud measures.

We have taken other actions with EDD that have helped stop billions of additional dollars ending up in the hands of criminals. In September, EDD directed us to freeze approximately 345,000 accounts due to fraud concerns. You asked about this in your letter. Based in part on the relatively low volume of complaints to our call centers, as shared with EDD, we assess that a very small percentage of those total accounts may be legitimate. Our assessment is that there is activity consistent with fraud in those accounts on the order of approximately \$2 billion. Pursuant to federal Anti-Money Laundering and Bank Secrecy Act obligations as a national bank and its contracts with individual cardholders, Bank of America also froze approximately 62,000 accounts because those accounts triggered various fraud alert indicators.

We work with EDD to ensure cardholders know that an account has been frozen. We now provide written notice to the cardholder of a freeze, explaining that the account has been frozen because there may be fraudulent, unauthorized or unlawful activity on the card. The notice invites the cardholder to contact the Bank. We understand that EDD also contacts claimants whose accounts have been frozen and provides instructions on how to validate their identities so that their accounts can be reactivated. As noted above, EDD—as the agency ultimately responsible for eligibility determinations—also is responsible for validating the identities of those whose accounts have been frozen in order to initiate the reactivation process.

Bank of America also is working with EDD to streamline the process for EDD to validate legitimate cardholders through verification of identity so that Bank of America can reactivate their accounts when directed by EDD to do so. We developed a template for EDD to send us the list of accounts that it has validated as legitimate. Once Bank of America receives the requisite information from EDD, we initiate the process to unfreeze the accounts, subject only to a brief review to determine whether Bank of America has any additional information regarding potentially fraudulent activity that should be considered before unfreezing the card. If there is none—which is almost always the case—we reactivate the cards in our systems. It typically takes two to three business days to reactivate accounts after Bank of America receives the EDD file. Since September 1, we have unfrozen approximately 54,000 accounts at EDD's

direction based on its assessment and verification of legitimate claims. Given the scale and brazenness of the fraud with which we are dealing, this is a process that we are working with EDD to expedite but which we all recognize can take more time than anyone likes.

You asked about the steps your constituents can take to reactivate a frozen account. Your constituents can obtain further information by reviewing their UI Online account or SDI Online account or send EDD a message through Ask EDD: <https://askedd.edd.ca.gov/>. EDD's website, [www.edd.ca.gov](http://www.edd.ca.gov), also gives information about the agency's anti-fraud initiatives and other methods to contact EDD with any questions or concerns they may have.

Finally, you inquired about fraudulent transactions on EDD prepaid cards. This is not something that happens for most cards and is a separate issue from the account freezes about which you also inquired. When a legitimate cardholder reports that he or she has had fraud on his or her account (such as an unauthorized use) and Bank of America's investigation of the claim confirms the report, Bank of America covers the losses to the cardholder consistent with federal law and pursuant to our "Zero Liability" policy for unauthorized transactions. Where the claim is not substantiated or we have concerns about the claim or the account, then this policy does not apply. In this latter situation, Bank of America closes the claim and, if it has granted any temporary credits pending its investigation of the claim, reverses those credits and debits the account.

We appreciate the opportunity to keep you updated as we work with EDD to ensure legitimate claimants are served while mitigating the impact of the unprecedented levels of criminal activity in the program. I want to reiterate that any constituent inquiries you receive about the constituent's account or service with Bank of America may be directed to me and I will ensure they receive the appropriate review.

In the meantime, please let us know if you have any further questions. We share with you and with EDD the objective of ensuring that legitimate claimants get the benefits they deserve while mitigating the impact of the unprecedented fraud being experienced.

Sincerely,



Brian Putler  
Director California Government Relations

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