

**NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT**

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

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

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

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

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

## **BASIC INFORMATION**

### **1. What is this lawsuit about?**

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

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

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

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

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

### **3. Why did the Parties settle?**

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

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

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

## **WHO IS IN THE SETTLEMENT**

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

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

## **YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

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

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

### **6. What are the critical deadlines?**

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

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

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

### **7. Under what circumstances should I opt-out?**

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

### **8. What happens if I file an objection?**

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

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

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

## **THE SETTLEMENT PAYMENT**

### **10. How much is the Settlement?**

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

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

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

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

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

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

## 13. How much will my payment be?

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

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

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

## 15. When will I receive my payment?

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

## OPTING-OUT OF THE SETTLEMENT

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

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

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

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

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

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

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

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

# **OBJECTING TO THE SETTLEMENT**

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

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

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

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

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

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

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

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

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

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

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

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

**21. What happens if I object to the Settlement?**

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

## **THE COURT’S FAIRNESS HEARING**

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

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

### **23. Do I have to come to the hearing?**

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

### **24. May I speak at the hearing?**

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

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

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

## **IF YOU DO NOTHING**

### **25. What happens if I do nothing at all?**

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

## **THE LAWYERS REPRESENTING YOU**

### **26. Do I have a lawyer in this case?**

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

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

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

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

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

## **GETTING MORE INFORMATION**

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

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

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

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