A LEADER NO MORE:
AN ANALYSIS OF THE CLIMATE-RELATED PROVISIONS IN BANK OF AMERICA'S APRIL 2019 ENVIRONMENTAL AND SOCIAL RISK POLICY FRAMEWORK

April 2019

In May of 2015, after years of pressure from environmentalists, Bank of America became the first major global private bank to issue a policy restricting its support for coal.[1] The policy committed the bank to reduce its credit exposure to coal mining companies globally. Since then, dozens of private banks have followed Bank of America's lead and adopted coal restriction policies.[2]

Over time, as global concern over climate change has escalated, and the coal industry has gotten weaker, financial institutions' coal restrictions have strengthened. Many banks — and numerous other major financial players like insurance companies and pension funds — have now gone further than Bank of America in limiting their support for coal. Many of these companies also restrict funding for oil and gas, notably tar sands, Arctic oil and gas, and fracking.

As Bank of America's fossil fuel policies fall further and further behind its peers, the April 2019 update to its November 2016 Environmental and Social Risk Policy Framework (ESRPF) was an opportunity to regain its leadership role and issue a policy that reflects the urgency of cutting emissions. Sadly, Bank of America has failed to seize this chance. The updated ESRPF has basically the same criteria on coal mining as four years ago, and while there are new restrictions on coal power finance, these are very limited in scope and ambition.[3] Furthermore, there are no restrictions on oil and gas finance. The forests provisions in the policy are also considerably weaker than those of many other banks.

This is a squandered opportunity that puts Bank of America firmly in the rearguard of the financial sector when it comes to tackling climate change.

Bank of America's Responsibility

New language in the ESRPF explicitly supports the Paris Agreement's commitment to limit global temperature rise to well below 2º Celsius and to pursue efforts to stay below 1.5ºC. While this rhetorical support is welcome, the actions to which Bank of America commits will not come remotely close to aligning its finance flows with the emissions trajectory needed to meet those goals. As the Intergovernmental Panel on Climate Change (IPCC) made clear in its landmark 2018 special report, staying under 1.5°C will require "an unprecedented shift in energy systems," with emissions slashed by 45% from 2010 to 2030 and effectively reduced to zero by 2050.[4] In the updated framework, Bank of America acknowledges its "responsibility" to "accelerate the transition from a high-carbon to a low-carbon society." Yet, Bank of America is the fourth largest global banker of fossil fuels since the Paris Agreement was adopted, financing coal, oil, and gas to the tune of $106.7 billion from 2016-2018.[5] The bank's modest new restrictions on coal power financing will do little to change its role as a leading funder of climate change.

If Bank of America is in any way serious about its responsibility for the transition to a low-carbon society, it must adopt and implement meaningful policies to restrict fossil fuel financing worldwide:

Stop financing fossil fuel expansion.

- Potential emissions from the coal, oil, and gas reserves already in production would take the world well beyond 2°C of warming, let alone 1.5°C.[6] This means that financing any new coal mines or power plants, or any new oil and gas infrastructure, is incompatible with the goals of the Paris Agreement. Bank of America must stop financing expansion of fossil fuel extraction or infrastructure, whether via direct financing for new fossil fuel assets (project finance) or through general corporate finance to companies that are expanding fossil fuel production and use.

Commit to phasing out fossil fuel financing on a timeline aligned with 1.5ºC.

- In addition to stopping fossil fuel expansion, banks should commit to aligning their overall fossil fuel policies and practices with the most prudent emissions pathway detailed in the IPCC special report, which calls for emissions to be almost halved by 2030 and effectively reduced to zero by 2050. To achieve this pathway, Bank of America must phase out its financing of existing coal, oil, and gas extraction and infrastructure in the next few decades.

Coal Power

The energy industry is planning an unconscionable expansion of coal power. Almost 1,400 new coal plants or units are planned or under development in 59 countries around the world — a potential 672 gigawatts of new coal power, for an increase of 33%.[7]

At the same time, new research is clarifying the timeline needed for the phaseout of coal. Multiple studies have named 2030 as the target date for ending coal in Organisation for Economic Co-operation and Development and European Union countries.[8] A group of high-profile investors — collectively managing $11.5 trillion in assets — drew on this research in a letter to the *Financial Times* in December 2018, calling on EU utilities to get out of coal by 2030.[9] An increasing number of financial institutions are pledging to reduce coal financing, investing, and insurance to near zero by the same year, in addition to immediately stopping project and corporate finance for companies expanding coal.[10]

In contrast to these encouraging moves, Bank of America's new policy sets no restrictions on lending or underwriting issuances of stocks and bonds to companies developing or operating coal plants anywhere in the world.

The policy only prohibits direct finance for new coal plants in *developed* countries (unless they employ carbon capture and storage technology). While policies like this one send a signal that financiers are increasingly reluctant to support the coal industry, they make little actual short-term difference to the amount of capital available to coal. This is not only due to the massive corporate finance loophole, but also because almost all of the world's proposed coal plants are in *developing* countries.

Bank of America will continue to allow project finance for the "construction of new coal-fired power generation in emerging markets." The policy states, however, that any such deals "will be rare." Given that most coal plants are financed through corporate lending and not project finance, this is probably true, albeit unhelpful in terms of actually mitigating climate change.

Case in point: from 2016 to 2018, Bank of America provided $2.8 billion in financing to the top 30 coal power companies worldwide.[11] In fact, each year the bank increased financing: $882 million in 2016, $886 million in 2017, and $1.03 billion in 2018. Of that support, less than 4% was in the form of project-related finance.[12]

The policy lists a number of factors that will be considered in decisions on financing coal projects in developing countries. One criterion is energy access and affordability in the region, which is consistent with the argument used across the big six U.S. banks that new coal plants are necessary to provide affordable electricity in areas that lack access to energy (known as energy poverty).

Coal is often heralded as a requisite for cost-effective electrification, but, in reality, new coal plants are more expensive than the majority of clean power sources. Furthermore, coal plants will do nothing to increase electrification in the absence of major investments in grid extension. Where grids are being expanded, coal has no advantage over other power sources. In fact, low-cost, decentralized forms of energy such as household-scaled solar and renewables-powered microgrids are typically the most efficient and cheapest way to electrify the remote communities that are currently beyond the reach of the grid.[13]

Coal Mining

The updated framework states that Bank of America has significantly reduced its credit exposure to coal extraction companies since 2011. However, new language in the policy adds that the bank does not intend to continue reducing such financing: "Going forward, we will maintain our significantly reduced credit exposure to these companies." Furthermore, as previous RAN research has shown, credit exposure-focused policies — which measure stock rather than flow, and exclude some types of loans and the underwriting of issuances of stocks and bonds — allow for overall financing to go up, even as credit exposure decreases. For example, Bank of America's financing for 50 top global and U.S. coal mining companies went from $44 million in 2016 to $284 million in 2017, even as its coal mining exposure apparently dropped.[14]

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Oil and Gas

The science shows that, as is the case with coal, most of the world's oil and gas resources must stay in the ground. While giving rhetorical support to the Paris Agreement, Bank of America's new policy framework fails to restrict oil and gas financing and set a trajectory to phase out this financing significantly over the next decade.

Like the 2016 ESRPF, the updated version identifies only Arctic and tar sands oil as "particularly sensitive" oil and gas subsectors worthy of special attention. And like in the previous version, the update contains no prohibitions on involvement in these sectors. On Arctic drilling, the 2019 ESRPF language is unchanged, requiring only "enhanced due diligence."

On tar sands, the new framework is little changed, with only a requirement for "enhanced due diligence" with tar sands companies. The bank has added language stating: "Site visits to client operations are conducted periodically. These due diligence trips may include meetings with impacted Indigenous Peoples and First Nations communities." No reference is made to restricting finance to tar sands expansion or to assisting the tar sands sector with its inevitable transition away from this particularly dirty, expensive, and carbon-intensive fossil fuel — even in cases where Indigenous rights are clearly violated.

The updated ESRPF responds to the Indigenous-led resistance to oil and gas pipelines in recent years with a new paragraph on "energy transport." However, this paragraph sets no restrictions on financing controversial pipelines or pipelines companies, only promising that they are "engaging more deeply to understand our clients' challenges in the energy transport space and to support our clients' efforts to increase safety, reduce impacts and improve community and stakeholder engagement."

That paragraph also states that natural gas is "helping society transition away from more carbon-intensive forms of energy." Whatever the role of natural gas has been until now, it is clear that the world cannot afford to expand natural gas infrastructure. Further development would drive expanded extraction of gas, further lock our energy system into the long-term use of fossil fuels, and continue to delay the scale-up of truly low-carbon energy.[15]

Forests

In addition to deficiencies in its energy policy, Bank of America's commitment to protect forests significantly lags behind its global peers and in no way aligns with Sustainable Development Goal 15 of halting deforestation by 2020. For example, Bank of America's forestry policy has a loophole that exempts general corporate loans and fails to fully protect high carbon stock forests and peatlands, which are critical carbon sinks. While the bank's palm oil policy uses the Roundtable on Sustainable Palm Oil (RSPO) "or equivalent certification" standards as "a minimum requirement of clients," given repeated instances of failure by the RSPO to assure sustainability or legality or even suspend non-compliant members, simply relying on certification is insufficient.

The bank needs to do more by requiring all companies involved in the plantation sector to commit to international human rights norms and No Deforestation, No Peatland, and No Exploitation (NDPE) production requirements that use the High Carbon Stock Approach methodology.[16] It should also require companies to independently verify compliance with these standards across all operations worldwide, including in operations of its subsidiaries.

Indigenous Rights

The updated framework restates the language on Indigenous rights from the 2016 version: "for transactions in which the majority use of proceeds is attributed to identified activities that may negatively impact an area used by or traditionally claimed by an indigenous community … we expect our clients to demonstrate alignment with the objectives and requirements of the International Finance Corporation (IFC) Performance Standard 7, which addresses impacts to Indigenous Peoples including free, prior and informed consent [FPIC]." It is important that in Bank of America's policy, the Indigenous right to FPIC is not geographically restricted, or limited only to project finance. However the requirement that a "majority" of proceeds must be attributed to non-FPIC-aligned activities is insufficient. For example, a corporate loan to a major pipeline company whose activities violate FPIC, such as TransCanada, would not be subject to this policy if the company could show that 51% of the proceeds apply to activities that do not impact Indigenous People. There is an urgent need for Bank of America to simply stop financing any and all projects and companies that abuse human rights, especially Indigenous rights, and this policy falls far short of that standard.

Conclusion

Since 2016, when Bank of America last updated this framework, it has become increasingly clear that bold action on climate change is necessary. In October 2018, the IPCC report made headlines with its call to dramatically cut emissions in the next 12 years in order to limit global warming to 1.5° Celsius.[17] In the meantime, the impacts of climate change are here — and intensifying — as the U.S. government detailed in the fourth National Climate Assessment.[18]

Bank of America seems to acknowledge the scale of the climate crisis, adding language to its framework on what it will take to stay within 1.5°C: "changes in all sectors of the economy … in particular the transformation of critical areas like energy." But the substance of the bank's policies are nowhere near transformative.

This briefing has outlined the policies that Bank of America must adopt in order to align with the Paris Agreement. To live up to its word and bring about the energy transition it purports to support, Bank of America must stop funding the expansion of fossil fuels and phase out finance for carbon-intensive energy — including oil and gas — in line with 1.5°C.

ENDNOTES

1. Volcovici, Valerie, "Bank of America's new policy to limit credit exposure to coal," *Reuters*, 29 March 2019.
2. "List of banks' policies on coal," BankTrack, accessed 30 March 2019.
3. "Environmental and Social Risk Policy Framework," Bank of America, April 2019.
4. "Special Report: Global Warming of 1.5°C," Intergovernmental Panel on Climate Change, October 2018.
5. "Banking on Climate Change 2019," Rainforest Action Network, BankTrack, Honor the Earth, Indigenous Environmental Network, Oil Change International, and Sierra Club, March 2019.
6. Greg Muttitt, "The Sky's Limit: Why the Paris Climate Goals Require a Managed Decline of Fossil Fuel Production," Oil Change International, September 2016.
7. "Over 670,000 MW of New Coal Threaten 1.5°C Climate Target," urgewald, 4 October 2018.
8. See, for example, CoalSwarm and Greenpeace's "A Coal Phase-Out Pathway for 1.5°C" and Climate Analytics' "Coal phase-out briefing."
9. "Power companies must accelerate decarbonisation and support ambitious climate policy," *Financial Times*, 19 December 2018.
10. Tim Buckley "Over 100 Global Financial Institutions Are Exiting Coal, With More to Come," Institute for Energy Economics and Financial Analysis, 27 February 2019.
11. Bank of America will directly finance coal plants in developed countries if they employ technology that is "focused on complete or near elimination of atmospheric carbon emissions." Such carbon capture and storage technology has yet to be proven at scale and is extremely expensive — meaning it is far more expensive than solar or wind power (see e.g. "Fuel to the Fire: How Geoengineering Threatens to Entrench Fossil Fuels and Accelerate the Climate Crisis," Center for International Environmental Law, February 2019). Furthermore, it does not address the serious public health and environmental concerns associated with mining and burning coal.
12. The top 30 coal power companies are ranked by their installed plus planned coal power capacity. For more details on this methodology and these companies, see "Banking on Climate Change 2019."
13. Data analyzed from Bloomberg Finance L.P.
14. Jaideep Mukherji, "24x7 Power is About 'Access', Not 'Electrification'," Smart Power India, October 2017; "Banking Beyond Coal: Sustainable Development Without Coal Finance," ShareAction Investor Briefing, June 2018.
15. Alison Kirsch, Jason Opeña Disterhoft, and Grant Marr, "Banking on Coal Mining," Rainforest Action Network, August 2018.
16. Alison Kirsch, Grant Marr, and Jason Opeña Disterhoft, "A Bridge to Nowhere: The Climate, Human Rights, & Financial Risks of Liquefied Natural Gas Export," Rainforest Action Network, October 2016.
17. "The High Carbon Stock Approach," 24 January 2019.
18. "Special Report: Global Warming of 1.5°C," Intergovernmental Panel on Climate Change, October 2018.
19. "The Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation on the United States," U.S. Global Change Research Program, December 2018.

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