Brian Moynihan
Chief Executive Officer
Bank of America

April 24, 2024

Dear Brian Moynihan,

The Toxic Bonds[1] Network urges Bank of America (BofA) to stop facilitating any new bond issuance for state-owned power company Korea Electric Power Corporation (KEPCO) and its power generation subsidiaries, until significant changes are made to its Sustainable Bond Framework. These revisions should prevent unallocated funds from being used to refinance fossil fuel-related debts and establish transparent reporting mechanisms for both allocated and unallocated proceeds. Furthermore, we urge you to publicly pledge to cease bond underwriting services to all companies, both new and existing, that are involved in expanding fossil fuel output and related infrastructure.

KEPCO relies heavily on coal-fired generation, with coal-fired power plants accounting for 33.7% of imported power and approximately 40.2% of domestic generation[2]. According to the Toxic Bond Network, KEPCO rightfully earns its position among the Dirty 30 fossil fuel[3] companies - 30 of the worst fossil fuel companies funding their expansion on the bond market. As recent as in 2020, the investment choices of KEPCO, involving new overseas coal-fired generation, have drawn criticism from multiple stakeholders, directly conflicting with the government's pledge to cease financing for overseas coal-power projects. Despite these concerns, KEPCO has yet to withdraw its investments.

In the light of these actions, Bank of America's participation in bond issuance clearly demonstrates its support for KEPCO's coal expansion initiatives by providing debt facilitation to any KEPCO subsidiary.

Greenwashing by KEPCO

KEPCO is currently facing a severe business crisis. It accumulated a net loss of approximately KRW 50 trillion[4] (USD 37.6 billion) over the past three years. This crisis is primarily due to a) its heavy reliance on imported fossil fuels for power generation, and b) the high and volatile fuel prices that have not fully transferred to customers within the South Korean electricity system. With total debt reaching KRW 202.4 trillion[5] (USD 144.6 billion), KEPCO presents risks to both the domestic financial system and the sovereign financial stability, particularly in the event of the company requiring a government bailout.

Facing difficulties to fund the deficit through domestic bond issuance, KEPCO turned to the global market and started issuing green bonds from 2019. The volume of its green bonds has more than doubled from USD 500 million in 2019 to USD 1.2 billion in the first quarter of 2024, reaching the total amount of issuance of approximately USD 5.1 billion[6]. In its Sustainable Bond Framework 2021[7], KEPCO declared that the proceeds from these bonds would fund various green projects. However, the lack of transparency

[1] *Toxic Bonds* is a global network of organizations and social movements that call on financial institutions to deny debt to companies expanding fossil fuels and align their business practices with a clean energy transition.
[2] KEPCO & KEPCO Group Companies, Sustainability Report, 2023
[3] Toxic Bond Network, Dirty 30, 2024
[4] Energy Economy, KEPCO's accumulated deficit of 50 trillion won, 2023
[5] Maeil Business News Korea, KEPCO, KOGAS rack up staggering debt interest, 2023
[6] Bloomberg Terminal, accessed on April 4, 2024
[7] KEPCO, Sustainable Bond Network 2021

and accountability regarding the utilization of the unallocated bond amount makes it difficult to assess the sincerity of this declaration.

According to the Green Bond Report 2023, out of USD 1.6 billion worth of green bonds issued in 2022, only USD 816.6 million has been documented for allocation, leaving USD 783.4 million unreported. The pricing supplement and the KEPCO Framework are silent on specific plans for the allocation of proceeds from the Bonds. This means that KEPCO has the discretion to decide the allocation and extent of unallocated proceeds, without the obligation to earmark them for specific eligible projects.

In addition to this, KEPCO's Framework states that "*Pending allocation, all or a portion of the net proceeds may be used for the payment of all or a portion of outstanding indebtedness, and/or temporarily invested in cash, cash equivalents, investment grade securities or other marketable securities and short-term instruments.*" **This allows KEPCO to utilize unallocated funds to settle outstanding debts or make short-term investments**, potentially offsetting deficits from diverting green bond proceeds for other purposes. Such actions are contrary to the key element of the Green Bond Principles regarding the use of proceeds, which mandates clear specification of the allocation of funds raised through green bonds.

"Actions speak louder than words", and despite KEPCO and its six generation subsidiaries declaring a vision for carbon neutrality by 2050 'Zero for Green' and strongly committing to fulfilling their responsibility for carbon neutrality, recent actions suggest otherwise. KEPCO shared its plans to sell its entire 38 percent share[8] in the Philippines' Calatagan solar energy project, valued at KRW 50 billion (USD 35.8 million), while continuing its unabated coal expansion in Indonesia and Vietnam. **KEPCO's failure to adhere to its own words not only characterizes it as a climate laggard but also reveals it as an eco-hypocrite.** This undermines its credibility and exposes BofA to potential legal, financial and reputational risks.

Major asset managers turning their backs on KEPCO

Coal is still the largest contributor to the climate crisis, accounting for over 40 percent[9] of the growth in global carbon emissions last year. To avert a climate catastrophe, the Intergovernmental Panel on Climate Change (IPCC)[10] warned that all new coal power projects must be canceled, and the retirement of existing coal plants must be accelerated. South Korea currently ranks second globally in terms of coal power emissions per capita, with KEPCO accounting for 32 percent[11] of the total greenhouse emissions in the country.

Many of KEPCO's major shareholders are already criticizing its lack of climate action. BlackRock, one of the world's largest asset managers, has called on KEPCO[12] to provide a clear strategic rationale for its coal energy investments, stating that "investing in coal is counterproductive to climate change" and warning against divestment. BNP Paribas responded[13] that it does not hold any positions in KEPCO in their open-ended funds, nor do they have plans to purchase any, as KEPCO does not meet the requirements of their coal policy. Moreover, in 2021, APG[14] sold their holdings in KEPCO in 2020 because of KEPCO's

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[8] Yonhap News Agency, KEPCO to raise power prices.., 2023
[9] Our World in Data, CO_2 emissions by fuel, 2024
[10] IPCC, Sixth Assessment Report, 2023
[11] The Korea Times, KEPCO, POSCO most liable Korean companies for global warming, 2023
[12] Blackrock, Voting Bulletin: Korea Electric Power Corp, 2020
[13] Bank Track, BNP Parinbas commits to no longer finance companies with no strategy to exit coal.., 2020
[14] APG, APG sells Korea energy giant due to coal expansion, 2021

expansion plans. Similarly, in 2023 Swedish Pension Fund AP7[15] made a similar decision due to the utility company's large scale coal operations.

In contrast, Bank of America, by acting as a joint lead manager for issuing US-denominated bonds for KEPCO in 2022, 2023 and 2024, totalling to USD 3.8 billion, has seemingly endorsed the company and lent a sense of legitimacy to its operations, while directly violating the spirit of your Environmental & Social Risk Policy Framework.

Loophole in Bank of America's Environmental and Social Risk Policy Framework

According to BofA's Environmental and Social Risk Policy Framework[16], issues involving direct financing of the construction of new coal-fired plants or expansion of existing ones must be escalated to the Senior-level Risk Committee for further review. Meanwhile, KEPCO's Framework suggests that outstanding debts could be paid with unallocated proceeds, which are likely to include liabilities associated with coal-fired generation. While there may not be a direct breach of your internal policy, which adopts a rather lenient stance towards coal practices, we believe that continuing to represent KEPCO is a clear violation of the underlying philosophy and principles subtly integrated into your green commitment.

Given these concerns, **we call on Bank of America:**

- **To immediately stop facilitating any new bond issuance for KEPCO and its power generation subsidiaries,**
- **To strengthen your commitment to stopping the construction of coal-fired power plants or its expansion**

We intend to publish responses, including any lack thereof, to this letter and kindly request your engagement by May 8, 2024 in relation to your decision on this matter.

Please feel free to reach out if you need further clarification or wish to discuss the matter further.

Sincerely,

The Toxic Bonds Network

[15] AP7, Blacklist, 2023

[16] Bank of America, Environmental and Social Risk Policy Framework, 2023