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# Navigating the Rollbacks in Protection of Reproductive and LGBTQI+ Rights in the US

A Guide for Financial Institutions

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# AGENDA

## 1. Overview of BSR Guide for Financial Institutions

## 2. Panel Discussion

- Alejandra Caraballo, Clinical Instructor, Harvard Law School
- Shelley Alpern, Associate Vice President of Corporate Engagement, Rhia Ventures
- Colleen Foster, General Partner, Amboy Street Ventures & Board Chair, Planned Parenthood Action Fund

## 3. Q&A

## 4. Closing Remarks

# 01

## Guidance for Financial Institutions

# Financial Institutions in Scope

While all financial institutions (FIs) and financial products and services may be connected to adverse impacts on reproductive and LGBTQI+ rights, the guide focuses on consumer-facing FIs.



- Retail and commercial banks that offer financial products or services, including deposit or small business accounts, personal or commercial loans, and credit cards to individuals and nonprofits, such as healthcare providers and abortion funds



- Financial technology ('fintech') platforms that facilitate financial transactions such as account transfers, bill payments, or credit applications



- Payment processing companies that initiate payment transfers from verified customer accounts to merchant or vendor accounts



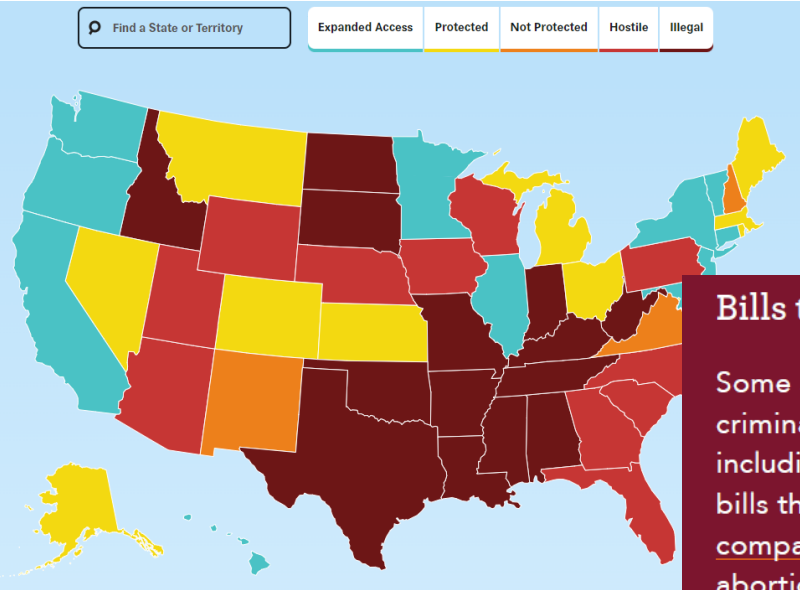
- Insurance companies that guarantee payment for a future occurrence to policyholders, including property and life insurance

Cost of Care and Financial Trail		
GAS	8.5 hr drive	\$129
MOTEL		\$75
FOOD		\$72
CHILD CARE		\$540
MEDICAL CARE		\$550
<hr/>		
Total :		\$1429
Cash :	+ \$304 lost wages	
Change :		
Bank :		
<hr/>		
****	****	**** 1234
TOTAL = \$1733		

# US Legal Landscape on Reproductive and LGBTQI+ Rights

As of March 2024, 14 states enforce full bans on abortion, in most cases without exceptions for rape or incest, while other states significantly restrict access. 23 states currently limit or ban access to gender-affirming care while hundreds of public policy proposals seek to rollback access to LGBTQI+ inclusive care.

## Abortion restrictions

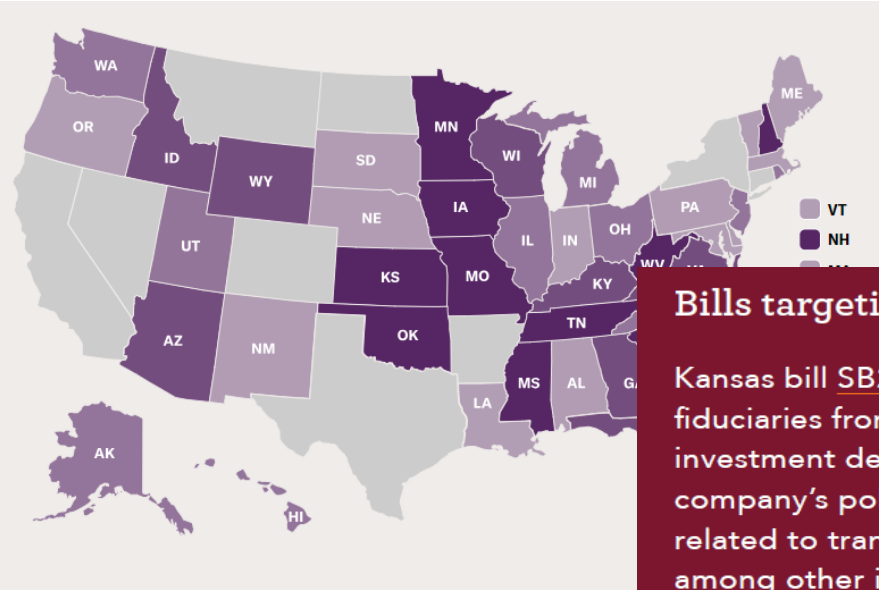


### Bills targeting business

Some states have proposed criminal sanctions for companies, including Texas, which introduced bills that would ban credit card companies from processing abortion-related transactions.

Five states introduced bills to restrict cross-border abortion care by seeking to prohibit contracts with companies that assist employees with out-of-state care.

## LGBTQI+ restrictions



### Bills targeting FIs

Kansas bill SB224 discourages fiduciaries from making investment decisions based on a company's policies or practices related to transgender rights, among other issues. It calls for Kansas' pension funds to divest from entities engaged in so-called ideological boycotts and requires the state treasurer to publish a list of FIs considered to be involved in such boycotts.

# How are financial institutions connected to impacts on people?

Data collection practices	<ul style="list-style-type: none"><li>Collection and storage of personal or sensitive data such as location data, computer information, transaction history, or other data beyond what is necessary for providing services</li></ul>
Handling law enforcement requests	<ul style="list-style-type: none"><li>Sharing of customer data without requiring legal basis, conducting human rights due diligence, or notifying customers where possible</li></ul>
Unequal access to financial services	<ul style="list-style-type: none"><li>Policies and procedures aimed at customer de-risking that result in disruption of services for organizations serving impacted communities</li><li>Discrimination against retail customers, including those seeking insurance, loans, deposit accounts, or digital accounts</li></ul>
Inequitable provision of healthcare	<ul style="list-style-type: none"><li>Failure to provide access to reproductive or gender-affirming healthcare, alternative programs, or appropriate facilities in the workplace</li></ul>
Political influence activities	<ul style="list-style-type: none"><li>Political donations or lobbying activities that knowingly or inadvertently undermine reproductive rights, access to safe abortions, and LGBTQI+ rights</li></ul>

▶ **Right to equality and nondiscrimination**, which includes the prohibition of discrimination on the grounds of sex, gender identity, and sexual orientation,<sup>15</sup> and at times requires affirmative action to diminish or eliminate conditions that cause or help to perpetuate discrimination.



▶ **Right to the enjoyment of the highest attainable standard of physical and mental health**,<sup>16</sup> which requires access to health services without discrimination. It includes women's right to reproductive health<sup>17</sup> and access to gender-affirming healthcare.<sup>18</sup>



▶ **Right to privacy**, which enables the full development of individuals while protecting against harms that stunt human development and includes the freedom of individuals to make autonomous decisions about their bodies.<sup>19</sup>



## Material Risks of Failing to Respect Abortion and LGBTQI+ Rights

Companies need to balance restrictive policy proposals against the risks of failing to respect reproductive and LGBTQI+ rights. This includes risks to global compliance and license to operate, employee attraction and retention, investor concerns, and reputation.



In November 2023, 40 businesses and business people joined an amicus brief arguing that the ambiguity in Texas's abortion laws:

- Has negative consequences for talent recruitments and retention
- Discourages pregnant women from other states to travel to Texas for business meetings; and
- Prompts conference organizers to move events to other states.

– **Amicus brief in *Zurawski v. Texas***

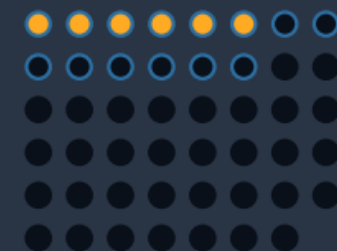
“Texas’s confusing medical exceptions increase business costs, drive away talent, and threaten workforce diversity and well-being.”

- Whitney Wolfe Herd, founder and former CEO of Bumble Inc.

“We are deeply concerned by the bills being introduced in state houses across the country that single out LGBTQI+ individuals—many specifically targeting transgender youth—for exclusion or differential treatment. ... These bills would harm our team members and their families, stripping them of opportunities and making them feel unwelcome and at risk in their own communities. As such, it can be exceedingly difficult for us to recruit the most qualified candidates for jobs in states that pursue such laws, and these measures can place substantial burdens on the families of our employees who already reside in these states. Legislation promoting discrimination directly affects our businesses, whether or not it occurs in the workplace.”

- 335 company signatories of the Business Statement Opposing Anti-LGBTQI+ State Legislation

63 tech and finance companies surveyed



14/63 responded

6/63 acknowledged the changed landscape for reproductive rights and described actions taken

0/63 described their human rights due diligence risk assessment methodologies



# A Principles-Based Approach to Navigating the US Context



Commit to **respecting human rights everywhere**, even where the law conflicts with human rights, and **escalate decisions** related to conflicting legal requirements to higher decision-making bodies in the company.



Undertake **human rights assessments** to identify and assess high-risk jurisdictions, operations, and financial services for reproductive and LGBTQI+ rights.



**Address conflicts with the law** through responsible data management and handling of law enforcement requests, equitable provision of healthcare to workers and provision of financial services to customers, collaborating with peers and stakeholders, and supporting human rights-aligned public policy.



**Monitor the effectiveness of measures** taken, including by adopting a theory of change approach to KPIs. As a last resort, if all other measures fail, consider exiting the jurisdiction.



To the extent that it is safe, **publicly communicate** how the company manages severe risks to reproductive and LGBTQI+ rights. Disclose a state-by-state breakdown of data requests for customer or user data and relevant information.

## Case study

In 2022, Amalgamated Bank committed to scrutinize subpoenas for information related to the prosecution of women for exercising their reproductive rights, to “object to the fullest extent possible,” and to notify customers of subpoenas, unless investigators successfully force the bank not to disclose their existence.

## Case study

To address the negative impacts of de-risking activities on nonprofits, ABN Amro serves larger NGOs through the Institutions & Charities Department, providing them with dedicated relationship managers and ensuring all files are reviewed by specialist compliance staff. The bank recognizes that for nonprofits, being able to make fast and efficient payments can be vital for human rights.

Human Rights Report 2018, ABN Amro

## Case studies

- As of January 2024, 335 companies had signed the Business Statement Opposing Anti-LGBTQI+ State Legislation stating their clear opposition to harmful legislation aimed at restricting the access of LGBTQI+ people in society. More than 100 large employers have pledged direct support to the transgender and nonbinary community in HRC’s Count Us In Pledge.



# 02

## Panel Discussion

# 03

## Q&A

# 04

## Closing Remarks

# Thank You

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