



October 4, 2023

Ms. Nancy Sienko, Director  
Ms. Roberta Steele, Regional Attorney  
San Francisco District Office  
U.S. Equal Employment Opportunity Commission  
450 Golden Gate Avenue  
San Francisco, CA 94102-3361

**Re: Request for Investigation of Salesforce, Inc.**

Dear Ms. Sienko and Ms. Steele:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans.

We write according to 29 C.F.R. § 1601.6(a), which provides that, “Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination.” AFL hereby requests the Equal Employment Opportunity Commission (“EEOC”) open an investigation into Salesforce, Inc. (“Salesforce”) for engaging in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2.1.1 Salesforce is a company under your jurisdiction, having its headquarters at 415 Mission Street, San Francisco, California 94105.2 As you know, an unlawful employment practice exists when the evidence demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice. 42 U.S.C. § 2000e-2(m).

**I. Evidence of Unlawful Employment Practices**

Salesforce openly admits—even touts—its racial, sexual, and gender discrimination in its recruitment and hiring programs. Since at least 2019, Salesforce has engaged in discriminatory hiring and promotion processes using a “Racial Equity and Justice Taskforce.”3 Moreover, in the spring of 2023, Salesforce announced the launch of a new gender-discriminatory hiring program designed to favor candidates identifying

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<sup>1</sup> Copies of this letter are also addressed to each Member of the Commission and AFL makes the same request of them according to 29 C.F.R. § 1601.6(a).

<sup>2</sup> Salesforce, Inc. 2022, Annual Report, (Form 10-K) (Mar. 8, 2023), available at <https://bit.ly/46GZn50>.

<sup>3</sup> Lori Castillo Martinez, *Our 2023 Annual Equality Update: Where We Are and Where We’re Going*, SALESFORCE, (Feb. 28, 2023), <https://sforce.co/3Xc6Ep7>; See also *Racial Equity and Justice Taskforce*, SALESFORCE, <https://sforce.co/44sIKZu>.

as “non-binary” or “female.” Salesforce lists its desired hiring outcomes or quotas as the following:

- 40% of employees globally to be women-identifying and non-binary by the end of 2026.
- 50% increase in our U.S. representation of Black, Indigenous, Latinx, and Multiracial employees by the end of 2023.
- An aim to increase Black, Indigenous, Latinx, and Multiracial leadership by 50% by the end of 2023.<sup>4</sup>

To enforce these hiring quotas, Salesforce publicly states that it includes “representation goals as part of our executive compensation programs.”<sup>5</sup> Such financial encouragement has seen swift success in Salesforce meeting such discriminatory quotas through its discriminatory process. Salesforce is “more than a year ahead of schedule” and has seen a doubling of its U.S. representation of black leaders at the VP level or above. Salesforce has attained more than “50% of U.S. employee[s] ... [being made up] of underrepresented groups” in record time.<sup>6</sup> Specifically, Salesforce published data showing successful discrimination in its recruitment process with year-over-year increases from 2021 to 2022 in the hiring of “Latinx, Women, and Black” new workers of roughly 21%, 13%, and 5% respectively.<sup>7</sup>

Further, to help Salesforce achieve its desired sex and race “balance,” the company has created “equality groups.”<sup>8</sup> For example, the “BOLDforce” is designed to “expand and empower the Salesforce black community,”<sup>9</sup> while the “Women’s Network,” is designed to “amplif[y] the progress of women in every step of their journey ... through professional and personal development.”<sup>10</sup> Tellingly, there are no comparable programs for white or male employees. There is a profound and depressing irony in creating groups that divide and segregate by race, leaving some out in the cold, and naming them “equality groups.” That name, however, does not transform them into instruments of equality. Indeed, “Separate ... [is] inherently unequal.”<sup>11</sup>

Salesforce acknowledges its use of preferred hiring outcomes and quotas and highlights its supposed need to go further, stating that “True representation goes beyond hiring,” and promising to continue “building out the levers needed to achieve our goal, including dedicated resources and programs to reach more women and members of

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<sup>4</sup> *Let’s Build a More Inclusive World*, SALESFORCE, <https://sforce.co/44Ic1PE>.

<sup>5</sup> *Equality*, SALESFORCE, <https://sforce.co/47ZeOWS>.

<sup>6</sup> Lori Castillo Martinez, *Our 2023 Annual Equality Update: Where We Are and Where We’re Going*, SALESFORCE, (Feb. 28, 2023), <https://sforce.co/3Xc6Ep7>.

<sup>7</sup> Lori Castillo Martinez, *Our 2022 Annual Equality Update: Accelerating Representation and Racial Equality*, SALESFORCE, (Feb. 10, 2022), <https://sforce.co/3OxIm6q>.

<sup>8</sup> *Equality Groups*, SALESFORCE, <https://sforce.co/3Esrbxi>.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Brown v. Board of Education of Topeka, Shawnee Cnty., Kan.*, 347 U.S. 483, 495 (1954).

the non-binary community.”<sup>12</sup> Salesforce is intentionally providing work benefits to only certain employees based on their sex.

There can be no doubt that Salesforce is violating Title VII. It has created hiring quotas and then tied executive compensation to meeting those quotas. Using financial compensation to encourage executives to meet racial and sex-based hiring quotas is a violation of Title VII. Providing employee benefits to only certain employees based on their sex is discrimination in violation of Title VII. Because Salesforce’s discriminatory hiring and recruitment practices are longstanding, and because the success of these programs is now tied to executive compensation, there is strong reason to believe they will continue.

## II. The Commission Should Investigate Salesforce

Salesforce’s own public-facing statements demonstrate that its hiring and retention practices violate Title VII. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority” in its victims “that may affect their hearts and minds in a way unlikely to ever be done.”<sup>13</sup> More broadly, the discrimination here necessarily foments contention and resentment, it is “odious and destructive.”<sup>14</sup> It truly “is a sordid business, this divvying us up” by race, national origin, or sex.”<sup>15</sup> Always has been, and always will be. Accordingly, there is a compelling reason for the Commission to open a comprehensive investigation of Salesforce’s discriminatory recruitment and hiring practices.

Sincerely,

/s/ Nicholas R. Barry

Nicholas R. Barry

Senior Litigation Counsel

America First Legal Foundation

Cc: The Honorable Charlotte A. Burrows, Commission Chair  
The Honorable Jocelyn Samuels, Commission Vice Chair  
The Honorable Keith E. Sonderling, Commissioner  
The Honorable Andrea R. Lucas, Commissioner  
The Honorable Kalpana Kotagal, Commissioner

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<sup>12</sup> Lori Castillo Martinez, *Salesforce Commits to a Workforce with at Least 40% Women, Non-Binary Employees in Four Years*, Salesforce, (Aug. 11, 2022), <https://sforce.co/3pgxvDN>.

<sup>13</sup> *Brown v. Bd. of Education*, 347 U.S. 483, 494 (1954).

<sup>14</sup> *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

<sup>15</sup> *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

While we take all of our stakeholders into account, with respect to our stockholders in particular, we evaluate and seek to align our governance practices and principles to the Corporate Governance Principles for U.S. Listed Companies published by the Investor Stewardship Group ("ISG"), a collective of some of the largest U.S.-based institutional investors and global asset managers, and we believe that our governance policies and practices are consistent with the ISG principles. The following table shows how our key governance practices align with the ISG principles:

ISG Principle	Salesforce Governance Policy or Practice
<b>Principle 1:</b> Boards are accountable to stockholders.	<ul style="list-style-type: none"> <li>• Annual election of each director for a one-year term (no classified board)</li> <li>• Majority voting in uncontested director elections</li> <li>• Proxy access on market terms</li> <li>• No poison pill</li> <li>• Extensive disclosure of our corporate governance practices</li> </ul>
<b>Principle 2:</b> Stockholders should be entitled to voting rights in proportion to their economic interest.	<ul style="list-style-type: none"> <li>• Each stockholder entitled to one vote per share (no dual class structure)</li> </ul>
<b>Principle 3:</b> Boards should be responsive to stockholders and be proactive in order to understand their perspectives.	<ul style="list-style-type: none"> <li>• Extensive year-round stockholder engagement program, with director participation as appropriate and feedback reported directly to the Board</li> <li>• Board responsive to stockholder feedback, including on our Board structure and composition, ESG disclosures, executive compensation and governance matters pertaining to stockholder rights</li> <li>• All directors participated in our 2022 Annual Meeting and were available to respond to stockholder questions</li> </ul>
<b>Principle 4:</b> Boards should have a strong, independent leadership structure.	<ul style="list-style-type: none"> <li>• Strong, credible Lead Independent Director with expansive duties selected by the independent directors</li> <li>• Non-management directors meet regularly in executive session</li> <li>• Fully independent audit, compensation and governance committees (with independent chairs)</li> </ul>
<b>Principle 5:</b> Boards should adopt structures and practices that enhance their effectiveness.	<ul style="list-style-type: none"> <li>• Approximately 77% of our director nominees are independent, with diverse backgrounds, skills and experiences</li> <li>• No overboarded directors</li> <li>• Annual Board and committee self-evaluation program</li> <li>• Consistent track record of open dialogue between Board and various levels of management</li> </ul>
<b>Principle 6:</b> Boards should develop management incentive structures that are aligned with the long-term strategy of the company.	<ul style="list-style-type: none"> <li>• Compensation Committee annually reviews and approves incentive program design, goals and objectives for alignment with compensation and business strategies</li> <li>• Annual and long-term incentive programs are designed to reward financial and operational performance that furthers short- and long-term strategic objectives</li> <li>• Executive compensation program received over 89% support in 2022</li> <li>• A portion of senior executive compensation is tied to ESG measures</li> </ul>

## Board Meeting Attendance and Director Communications

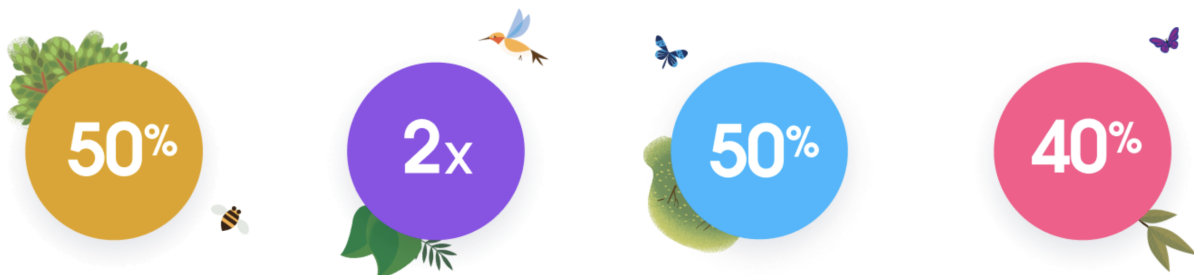
During the fiscal year ended January 31, 2023 ("fiscal 2023"), the Board held nine meetings. During fiscal 2023, all directors attended at least 75% of the aggregate of the total number of meetings of the Board and the total number of meetings held by any of the committees of the Board on which such director served during the period the director was on the Board or committee, as applicable. On average, our directors attended 99% of meetings in fiscal 2023. The non-management members of the Board also meet regularly in executive sessions without management present, and the independent directors separately meet in executive session at least once per year. At these sessions, the Lead Independent Director acts as Presiding Director.

Directors are also expected to participate in our annual meeting of stockholders absent an unavoidable and irreconcilable conflict. All directors participated in the 2022 Annual Meeting of Stockholders. Stockholders and other interested parties may communicate with the Lead Independent Director, or with any and all other members of the Board, by mail addressed to the intended recipient in care of our Corporate Secretary at our principal executive offices or by email to [corporatesecretary@salesforce.com](mailto:corporatesecretary@salesforce.com). The Corporate Secretary will periodically forward such communications or a summary thereof to the Board or the applicable director or directors, to the extent appropriate. The purpose of this screening is to allow the Board to avoid having to consider irrelevant or inappropriate communications (such as advertisements, solicitations and hostile communications).

“ We continue to advance representation and inclusion at our company, building meaningful employee experiences and expanding programs that foster greater belonging and help grow careers.

And we help our customers, partners, and [Trailblazers](#) drive greater equality and boost business value in the process, exponentially increasing our impact. Through our [Racial Equality and Justice Task Force](#) we are supporting societal change and building more resilient businesses and communities, through our philanthropic, purchasing, and policy efforts.

While we have more work to do on our journey to becoming **the most inclusive company**, we made considerable progress last year.



50% of our U.S. employees are made up of underrepresented groups - a goal we reached a year early.

We've doubled U.S. representation of Black leaders (VP and above), and aim to increase Black, Indigenous, Latinx, and Multiracial leadership by 50% by the end of 2023.

We are aiming for a 50% increase in our U.S. representation of Black, Indigenous, Latinx, and Multiracial employees by the end of 2023.

We are aiming for 40% of employees globally to be women-identifying and non-binary by the end of 2026.

## Advancing Representation

Our ultimate goal is to create a company that reflects the world around us. We've set ambitious multi-year representation goals to continue to recruit talent from underrepresented groups, including: women; people who identify as Black, Latinx, Indigenous, Multiracial, or LGBTQ+; people with disabilities; and veterans. Our Office of Equality works directly with our diversity recruiting team to ensure our strategies for bringing in diverse talent continuously move us forward. We have recruitment teams dedicated to sourcing talent from Underrepresented Minority (URM) communities, inclusive training for all hiring managers and recruiters, and a URM referral process. Additionally, we have created the Salesforce Insiders program, which connects candidates to employees from their community. And, to build greater accountability and accelerate our equality initiatives, we have included representation goals as part of our executive compensation programs.



## BOLDforce

### BLACK COMMUNITY

"BOLDforce stands for Black Organization for Leadership and Development. Our goal is to expand and empower the Salesforce black community. We provide a platform for employees of color to elevate their voices and develop their careers through a supportive network of allies across the company. We work to make Salesforce an inclusive place for all by facilitating conversations and managing programs addressing race, diversity, and Equality. Giving back is also a top priority – we partner with organizations to support workforce development and education opportunities for underrepresented youth."



## Women's Network

### COMMUNITY FOR GENDER EQUALITY

"Salesforce Women's Network amplifies the progress of women in every step of their journey. We achieve this through professional and personal development, allyship, supportive connections, and taking action on gender equality. We are the largest Equality group and our programs include content and activities to support our values of empathy, trust, well-being, and advancement of women. This includes supporting the #IamRemarkable initiative, Gender Equality focused VTO, and conducting Safe Space Discussions."

# Increasing gender diversity with a new representation goal

Today, we [published](#) our latest representation goal: to reach 40% women identifying and non-binary employees globally by the end of 2026. This multi-year commitment builds on our [ESG representation goals](#), and allows us to think not only about how we'll continue to drive current gender diversity among our 77,000 employees worldwide, but also into the future as we continue to grow at scale. In the past year alone, we've hired more than 20,000 people. This is made more complex by our macro environment and looming recession, but no matter what is happening in the world, our commitment to equality doesn't waiver.

In order to move the needle at a high-growth company of our size, we are reimagining how, when, and where we hire – with equality at the center of our processes. We are building out the levers needed to achieve our goal, including dedicated resources and programs to reach more women and members of the non-binary community, and key investments in our global team and strategies to ensure our approach is localized in each region where we operate.

This year, we also began tying [executive compensation to representation goals](#), so everyone is accountable for driving this work.

# Progress on representation

Our ambitious representation goals continue to drive accountability in our efforts to become a workplace that looks more like society. In 2020, we set ambitious [multi-year goals](#) to advance representation in critical areas by the end of 2023. We've made great progress and have already hit two goals ahead of plan and last year, added a new gender representation goal:

- More than **50% of our U.S. employees are now made up of underrepresented groups** (Women, Black, Latinx, Indigenous, Multiracial, LGBTQ+ employees, People with Disabilities, and Veterans), a goal we reached in early 2022.
- We've doubled **U.S. representation of Black leaders** at the VP level or above, more than a year ahead of schedule.
- We continue to work toward a 50% increase in the **U.S. representation of underrepresented minority, or URM, leaders** (Black, Indigenous, Latinx, and Multiracial identities) at the VP level or above and a 50% increase in the U.S. representation of URM employees overall.
- We've introduced a new multi-year **global gender goal** to reach [40% women-identifying and non-binary employees](#) globally by the end of 2026.

Each year we also set representation **goals tied to our environmental, social, and governance (ESG)** priorities. Last year, we began tying a portion of executive compensation to reaching these goals, which focus on driving greater women's and URM representation.