

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

Form S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Bank of America Corporation
BAC Capital Trust XVI
BAC Capital Trust XVII
BAC Capital Trust XVIII
BAC Capital Trust XIX
BAC Capital Trust XX
*(Exact Name of Registrant as Specified in
Charter)*

Delaware
Delaware
Delaware
Delaware
Delaware
Delaware
*(State or Other Jurisdiction of
Incorporation or Organization)*

56-0906609
26-6844426
26-6844429
26-6844432
26-6844434
26-6844436
(I.R.S. Employer Identification Number)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina 28255
(704) 386-5681
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

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Approximate date of commencement of the proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer

(Do not check if a smaller reporting company)

Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered/ Proposed maximum offering price per unit/ Proposed maximum aggregate offering price/ Amount of registration fee
Debt Securities	(1)(2)(6)
Warrants	
Purchase Contracts	
Units(3)	
Preferred Stock	
Depository Shares(4)	
Common Stock, par value \$0.01 per share	
Junior Subordinated Notes	
Trust Securities of BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX, and BAC Capital Trust XX(5)	
Bank of America Corporation Guarantees with respect to Trust Securities(6)	
<p>(1) An unspecified aggregate initial offering price or number of the securities of each identified class is being registered as may from time to time be offered at unspecified prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion, or exchange of other securities or that are issued in units or represented by depository shares. In accordance with Rules 456(b) and 457(r), Bank of America Corporation is deferring payment of the entire registration fee.</p> <p>(2) This Registration Statement also covers an indeterminate amount of the registered securities that may be reoffered and resold on an ongoing basis after their initial sale in market-making transactions by affiliates of the registrants. Pursuant to Rule 457(q) under the Securities Act, no filing fee is required for the registration of an indeterminate amount of securities to be offered in such market-making transactions.</p> <p>(3) Each unit will be issued under a unit agreement, indenture, or other agreement and will represent an interest in one or more debt securities, warrants, purchase contracts, shares of preferred stock, depository shares, common stock, and trust securities, as well as debt or equity securities of third parties, in any combination, which may or may not be separable from one another.</p> <p>(4) Each depository share will be issued under a deposit agreement, will represent a fractional interest in a share or multiple shares of preferred stock and will be evidenced by a depository receipt.</p> <p>(5) This Registration Statement covers the securities that may be issued by any of BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX, and BAC Capital Trust XX (collectively, the "BAC Trusts") from time to time, including but not limited to capital securities, preferred income trust securities, treasury income trust securities, and corporate income trust securities.</p> <p>(6) Bank of America Corporation also is registering the guarantees and other obligations that it may have with respect to trust securities to be issued by any of the BAC Trusts, or with respect to similar securities that may be issued by similar entities formed in the future. No separate consideration will be received for any of the guarantees or other obligations. Pursuant to Rule 457(n) under the Securities Act, no separate registration fee will be paid in respect of any such guarantees or any other obligations.</p>	

EXPLANATORY NOTE

This Registration Statement contains:

- A base prospectus to be used by Bank of America Corporation in connection with offerings of its debt securities, warrants, units, purchase contracts, preferred stock, depositary shares, and common stock;
- A base prospectus to be used in connection with offerings of the capital securities by the BAC Trusts, or with respect to similar securities that may be issued by similar entities formed in the future, and the related junior subordinated notes and guarantees of Bank of America Corporation; and
- A base prospectus that may be used by Bank of America Corporation and/or any of the BAC Trusts or similar entities formed in the future, in connection with offerings of any of the securities registered pursuant to this Registration Statement.

Each such prospectus also may be used by affiliates of Bank of America Corporation, including Banc of America Securities LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, in market-making transactions in the securities described above after they are initially offered and sold.

PROSPECTUS



**Debt Securities, Warrants, Units, Purchase Contracts,
Preferred Stock, Depositary Shares, and Common Stock**

We from time to time may offer to sell debt securities, warrants, purchase contracts, preferred stock, depositary shares representing fractional interests in preferred stock, and common stock, as well as units comprised of two or more of these securities or securities of third parties. The debt securities, warrants, purchase contracts, and preferred stock may be convertible into or exercisable or exchangeable for our common or preferred stock or for debt or equity securities of one or more other entities. Our common stock is listed on the New York Stock Exchange under the symbol "BAC." In addition, our common stock is listed on the London Stock Exchange, and certain shares are listed on the Tokyo Stock Exchange.

This prospectus describes the general terms of these securities and the general manner in which we will offer the securities. When we sell a particular series of securities, we will prepare one or more supplements to this prospectus describing the offering and the specific terms of that series of securities. You should read this prospectus and any applicable supplement carefully before you invest.

We may use this prospectus in the initial sale of these securities. In addition, Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates, may use this prospectus in a market-making transaction in any of these securities after their initial sale. Unless you are informed otherwise in the confirmation of sale, this prospectus is being used in a market-making transaction.

Potential purchasers of our securities should consider the information set forth in the "Risk Factors" section beginning on page 8.

Our securities are unsecured and are not savings accounts, deposits, or other obligations of a bank, are not guaranteed by Bank of America, N.A. or any other bank, are not insured by the Federal Deposit Insurance Corporation or any other governmental agency, and may involve investment risks, including possible loss of principal.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

Prospectus dated April 20, 2009

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the “SEC,” utilizing a “shelf” registration process. Under this shelf process, we may, from time to time, sell any combination of the securities described in this prospectus or the registration statement in one or more offerings.

This prospectus provides you with a general description of securities we may offer. Each time we sell securities, we will provide one or more prospectus supplements, product supplements, pricing supplements (each of which we may refer to as a “term sheet”), and/or index supplements that describe the particular securities offering and the specific terms of the securities being offered. These documents also may add, update, or change information contained in this prospectus. In this prospectus, when we refer to the “applicable supplement” or the “accompanying supplement,” we mean the prospectus supplement or supplements, as well as any applicable pricing, product, or index supplements, that describe the particular securities being offered to you. If there is any inconsistency between the information in this prospectus and the applicable supplement, you should rely on the information in the applicable supplement.

The information in this prospectus is not complete and may be changed. You should rely only on the information provided in or incorporated by reference in this prospectus, the accompanying supplement, or documents to which we otherwise refer you. We are not making an offer of these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus and the accompanying supplement, as well as information we have filed or will file with the SEC and incorporated by reference in this prospectus, is accurate as of the date of the applicable document or other date referred to in that document. Our business, financial condition, and results of operations may have changed since that date.

Unless we indicate otherwise or unless the context requires otherwise, all references in this prospectus to “Bank of America,” “we,” “us,” “our,” or similar references are to Bank of America Corporation excluding its consolidated subsidiaries.

References in this prospectus to “\$” and “dollars” are to the currency of the United States of America; and references in this prospectus to “€” and “euro” are to the currency introduced at the start of the third stage of the European Economic and Monetary Union pursuant to Article 109g of the Treaty establishing the European Community, as amended by the Treaty on European Union, as amended by the Treaty of Amsterdam.

PROSPECTUS SUMMARY

This summary section highlights selected information from this prospectus. This summary does not contain all the information that you should consider before investing in the securities we may offer using this prospectus. To fully understand the securities we may offer, you should read carefully:

- this prospectus, which explains the general terms of the securities we may offer;
- the applicable supplement, which explains the specific terms of the particular securities we are offering, and which may update or change the information in this prospectus; and
- the documents we refer to in “Where You Can Find More Information” below for information about us, including our financial statements.

Bank of America Corporation

Bank of America Corporation is a Delaware corporation, a bank holding company, and a financial holding company. We provide a diversified range of banking and nonbanking financial services and products both domestically and internationally. Our headquarters is located at Bank of America Corporate Center, 100 North Tryon Street, Charlotte, North Carolina 28255 and our telephone number is (704)-386-5681.

The Securities We May Offer

We may use this prospectus to offer any of the following securities from time to time:

- debt securities;
- warrants;
- purchase contracts;
- preferred stock;
- depositary shares representing fractional interests in preferred stock;
- common stock; and
- units, comprised of two or more of any of the securities referred to above, in any combination.

When we use the term “securities” in this prospectus, we mean any of the securities we may offer with this prospectus, unless we specifically state otherwise. This prospectus, including this summary, describes the general terms of the securities we may offer. Each time we sell securities, we will provide you with the applicable supplement or supplements that will describe the offering and the specific terms of the securities being offered. A supplement may include a discussion of additional U.S. federal income tax consequences and any additional risk factors or other special considerations applicable to those particular securities.

Debt Securities

Our debt securities may be either senior or subordinated obligations in right of payment. Our senior and subordinated debt securities will be issued under separate indentures, or contracts, that we have with The Bank of New York Mellon Trust Company, N.A., as successor trustee. The particular terms of each series of debt securities will be described in the applicable supplement.

Warrants

We may offer two types of warrants:

- warrants to purchase our debt securities; and
- warrants to purchase or sell, or whose cash value is determined by reference to the performance, level, or value of, one or more of the following:
 - securities of one or more issuers, including our common or preferred stock, other securities described in this prospectus, or the debt or equity securities of third parties;
 - one or more currencies, currency units, or composite currencies;
 - one or more commodities;
 - any other financial, economic, or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
 - one or more indices or baskets of the items described above.

For any warrants we may offer, we will describe in the applicable supplement the underlying property, the expiration date, the exercise price or the manner of determining the exercise price, the amount and kind, or the manner of determining the amount and kind, of property to be delivered by you or us upon exercise, and any other specific terms of the warrants. We will issue warrants under warrant agreements that we will enter into with one or more warrant agents.

Purchase Contracts

We may offer purchase contracts requiring holders to purchase or sell, or whose cash value is determined by reference to the performance, level, or value of, one or more of the following:

- securities of one or more issuers, including our common or preferred stock, other securities described in this prospectus, or the debt or equity securities of third parties;
- one or more currencies, currency units, or composite currencies;
- one or more commodities;
- any other financial, economic, or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
- one or more indices or baskets of the items described above.

For any purchase contracts we may offer, we will describe in the applicable supplement the underlying property, the settlement date, the purchase price, or manner of determining the purchase price and whether it must be paid when the purchase contract is issued or at a later date, the amount and kind, or manner of determining the amount and kind, of property to be delivered at settlement, whether the holder will pledge property to secure the performance of any obligations the holder may have under the purchase contract, and any other specific terms of the purchase contracts.

Units

We may offer units consisting of any combination of two or more debt securities, warrants, purchase contracts, shares of preferred stock, depositary shares, and common stock described in this prospectus as well as securities of third parties. For any units we may offer, we will describe in the applicable supplement the particular securities that comprise each unit, whether or not the particular securities will be separable and, if they will be separable, the terms on which they will be separable, a description of the provisions for the payment, settlement, transfer, or

exchange of the units, and any other specific terms of the units. We will issue units under unit agreements that we will enter into with one or more unit agents.

Preferred Stock and Depositary Shares

We may offer our preferred stock in one or more series. For any particular series we may offer, we will describe in the applicable supplement:

- the specific designation;
- the aggregate number of shares offered;
- the dividend rate and periods, or manner of calculating the dividend rate and periods, if any;
- the stated value and liquidation preference amount, if any;
- the voting rights, if any;
- the terms on which the series of preferred stock is convertible into shares of our common stock, preferred stock of another series, or other securities, if any;
- the redemption terms, if any; and
- any other specific terms of the series.

We also may offer depositary shares, each of which will represent a fractional interest in a share or multiple shares of our preferred stock. We will describe in the applicable supplement any specific terms of the depositary shares. We will issue the depositary shares under deposit agreements that we will enter into with one or more depositories.

Form of Securities

Unless we specify otherwise in the applicable supplement, we will issue the securities, other than shares of our common stock, in book-entry only form through one or more depositories, such as The Depository Trust Company, Euroclear Bank SA/NV, or Clearstream Banking, société anonyme, Luxembourg, as identified in the applicable supplement. We will issue the securities only in registered form, without coupons, although we may issue the securities in bearer form if we so specify in the applicable supplement. The securities issued in book-entry only form will be represented by a global security registered in the name of the specified depository, rather than notes or certificates registered in the name of each individual investor. Unless we specify otherwise in the applicable supplement, each sale of securities in book-entry form will settle in immediately available funds through the specified depository.

A global security may be exchanged for actual notes or certificates registered in the names of the beneficial owners only under the limited circumstances described in this prospectus.

Payment Currencies

All amounts payable in respect of the securities, including the purchase price, will be payable in U.S. dollars, unless we specify otherwise in the applicable supplement.

Listing

We will state in the applicable supplement whether the particular securities that we are offering will be listed or quoted on a securities exchange or quotation system.

Distribution

We may offer the securities under this prospectus:

- through underwriters;

- through dealers;
- through agents; or
- directly to purchasers.

The applicable supplement will include any required information about the firms we use and the discounts or commissions we may pay them for their services.

Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates, may be an underwriter, dealer, or agent for us.

Market-Making by Our Affiliates

Following the initial distribution of an offering of securities, Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, and other affiliates of ours may offer and sell those securities in the course of their businesses as broker-dealers. Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, and any such other affiliates may act as a principal or agent in these transactions. This prospectus and the applicable supplement or supplements also will be used in connection with these market-making transactions. Sales in any of these market-making transactions will be made at varying prices related to prevailing market prices and other circumstances at the time of sale.

If you purchase securities in a market-making transaction, you will receive information about the purchase price and your trade and settlement dates in a separate confirmation of sale.

RISK FACTORS

This section summarizes some specific risks and investment considerations with respect to an investment in our securities. This summary does not describe all of the risks and investment considerations with respect to an investment in our securities, including risks and considerations relating to a prospective investor's particular circumstances. For information regarding risks and uncertainties that may materially affect our business and results, please refer to the information under the captions "Item 1A. Risk Factors" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in our annual report on Form 10-K for the year ended December 31, 2008, which is incorporated by reference in this prospectus. You should also review the risk factors that will be set forth in other documents that we will file after the date of this prospectus, together with the risk factors set forth in any applicable supplement. Prospective investors should consult their own financial, legal, tax, and other professional advisors as to the risks associated with an investment in our securities and the suitability of the investment for the investor.

Currency Risks

We may issue securities denominated in or whose principal and interest is payable in a currency other than U.S. dollars. We refer to these securities as "Non-U.S. Dollar-Denominated Securities." If you intend to invest in any Non-U.S. Dollar-Denominated Securities, you should consult your own financial and legal advisors as to the currency risks related to your investment. The Non-U.S. Dollar-Denominated Securities are not an appropriate investment for you if you are not knowledgeable about the significant terms and conditions of the Non-U.S. Dollar-Denominated Securities or financial matters in general. The information in this prospectus is directed primarily to investors who are U.S. residents. Investors who are not U.S. residents should consult their own financial and legal advisors about currency-related risks arising from their investment.

Non-U.S. Dollar-Denominated Securities have significant risks that are not associated with a similar investment in conventional debt securities that are payable solely in U.S. dollars. These risks include possible significant changes in rates of exchange between the U.S. dollar and the specified currency and the imposition or modification of foreign exchange controls or other conditions by either the United States or non-U.S. governments. These risks generally are influenced by factors over which we have no control, such as economic and political events and the supply of and demand for the relevant currencies in the global markets.

Currency Exchange Rates. Exchange rates between the U.S. dollar and other currencies have been highly volatile. This volatility may continue and could spread to other currencies in the future. Fluctuations in currency exchange rates could affect adversely an investment in the Non-U.S. Dollar-Denominated Securities. Depreciation of the specified currency against the U.S. dollar could result in a decrease in the U.S. dollar-equivalent value of payments on the Non-U.S. Dollar-Denominated Securities. That in turn could cause the market value of the Non-U.S. Dollar-Denominated Securities to fall.

Changes in Foreign Currency Exchange Rates. Except as described below or in a supplement, we will not make any adjustment in or change to the terms of the Non-U.S. Dollar-Denominated Securities for changes in the foreign currency exchange rate for the specified currency, including any devaluation, revaluation, or imposition of exchange or other regulatory controls or taxes, or for other developments affecting the specified currency, the U.S. dollar, or any other currency. Consequently, you will bear the risk that your investment may be affected adversely by these types of events.

Government Policy. Foreign currency exchange rates either can float or be fixed by sovereign governments. Governments or governmental bodies, including the European Central Bank, may intervene in their economies to alter the exchange rate or exchange characteristics of their currencies. For example, a central bank may intervene to devalue or revalue a currency or

to replace an existing currency. In addition, a government may impose regulatory controls or taxes to affect the exchange rate of its currency. As a result, the yield or payout of a Non-U.S. Dollar-Denominated Security could be affected significantly and unpredictably by governmental actions. Changes in exchange rates could affect the value of the Non-U.S. Dollar-Denominated Securities as participants in the global currency markets move to buy or sell the specified currency or U.S. dollars in reaction to these developments.

If a governmental authority imposes exchange controls or other conditions, such as taxes on the transfer of the specified currency, there may be limited availability of the specified currency for payment on the Non-U.S. Dollar-Denominated Securities at their maturity or on any other payment date. In addition, the ability of a holder to move currency freely out of the country in which payment in the currency is received or to convert the currency at a freely determined market rate could be limited by governmental actions.

Payments in U.S. Dollars. The terms of any Non-U.S. Dollar-Denominated Securities may provide that we may have the right to make a payment in U.S. dollars instead of the specified currency, if at or about the time when the payment on the Non-U.S. Dollar-Denominated Securities comes due, the specified currency is subject to convertibility, transferability, market disruption, or other conditions affecting its availability because of circumstances beyond our control. These circumstances could include the imposition of exchange controls or our inability to obtain the specified currency because of a disruption in the currency markets for the specified currency. The exchange rate used to make payment in U.S. dollars may be based on limited information and would involve significant discretion on the part of our exchange rate agent. As a result, the value of the payment in U.S. dollars may be less than the value of the payment you would have received in the specified currency if the specified currency had been available. The exchange rate agent will generally not have any liability for its determinations.

Court Judgments. Any Non-U.S. Dollar-Denominated Securities typically will be governed by New York law. Under Section 27 of the New York Judiciary Law, a state court in the State of New York rendering a judgment on the Non-U.S. Dollar-Denominated Debt Securities would be required to render the judgment in the specified currency. In turn, the judgment would be converted into U.S. dollars at the exchange rate prevailing on the date of entry of the judgment. Consequently, in a lawsuit for payment on the Non-U.S. Dollar-Denominated Securities, you would bear currency exchange risk until judgment is entered, which could be a long time.

In courts outside of New York, you may not be able to obtain judgment in a specified currency other than U.S. dollars. For example, a judgment for money in an action based on Non-U.S. Dollar-Denominated Securities in many other U.S. federal or state courts ordinarily would be enforced in the United States only in U.S. dollars. The date used to determine the rate of conversion of the specified currency into U.S. dollars will depend on various factors, including which court renders the judgment.

Information About Foreign Currency Exchange Rates. If we issue a Non-U.S. Dollar-Denominated Security, we may include in the applicable supplement information about historical exchange rates for the relevant non-U.S. dollar currency or currencies. Any information about exchange rates that we may provide will be furnished as a matter of information only, and you should not regard the information as indicative of the range of, or trends in, fluctuations in currency exchange rates that may occur in the future.

Other Risks

Possible Illiquidity of the Secondary Market. We may not list our securities on any securities exchange. We cannot predict how these securities will trade in the secondary market or whether that market will be liquid or illiquid. The number of potential buyers of our securities in any secondary market may be limited. Although any underwriters or agents may purchase and sell our securities in the secondary market from time to time, these underwriters or agents

will not be obligated to do so and may discontinue making a market for the securities at any time without giving us notice. We cannot assure you that a secondary market for any of our securities will develop, or that if one develops, it will be maintained.

Redemption. The terms of our securities may permit or require redemption of the securities prior to maturity. That redemption may occur at a time when prevailing interest rates are relatively low. As a result, in the case of debt or similar securities, a holder of the redeemed securities may not be able to invest the redemption proceeds in a new investment that yields a similar return.

Credit Ratings. Our credit ratings are an assessment of our ability to pay our obligations. Consequently, real or anticipated changes in our credit ratings may affect the trading value of our securities. However, because the return on our securities generally depends upon factors in addition to our ability to pay our obligations, an improvement in these credit ratings will not reduce the other investment risks, if any, related to our securities.

BANK OF AMERICA CORPORATION

General

Bank of America Corporation is a Delaware corporation, a bank holding company, and a financial holding company under the Gramm-Leach-Bliley Act. Our principal executive offices are located in the Bank of America Corporate Center, 100 North Tryon Street, Charlotte, North Carolina 28255 and our telephone number is (704) 386-5681.

Acquisitions and Sales

As part of our operations, we regularly evaluate the potential acquisition of, and hold discussions with, various financial institutions and other businesses of a type eligible for financial holding company ownership or control. In addition, we regularly analyze the values of, and submit bids for, the acquisition of customer-based funds and other liabilities and assets of such financial institutions and other businesses. We also regularly consider the potential disposition of certain of our assets, branches, subsidiaries, or lines of businesses. As a general rule, we publicly announce any material acquisitions or dispositions when a definitive agreement has been reached.

On January 1, 2009, we completed the acquisition of Merrill Lynch & Co., Inc. through its merger with one of our subsidiaries. On July 1, 2008, we completed the acquisition of Countrywide Financial Corporation through its merger with one of our subsidiaries.

USE OF PROCEEDS

Unless we describe a different use in the applicable supplement, we will use the net proceeds from the sale of the securities for general corporate purposes. General corporate purposes include:

- our working capital needs;
- investments in, or extensions of credit to, our banking and nonbanking subsidiaries;
- the possible reduction of our outstanding indebtedness;
- the possible acquisitions of other financial institutions or their assets;
- the possible acquisitions of, or investments in, other businesses of a type we are permitted to acquire under applicable law; and
- the possible repurchase of our outstanding equity securities.

Until we designate the use of these net proceeds, we will invest them temporarily. From time to time, we may engage in additional financings as we determine appropriate based on our needs and prevailing market conditions. These additional financings may include the sale of other securities.

DESCRIPTION OF DEBT SECURITIES

General

We may issue senior or subordinated debt securities. Neither the senior debt securities nor the subordinated debt securities will be secured by any of our property or assets. As a result, by owning a debt security, you are one of our unsecured creditors.

The senior debt securities will constitute part of our senior debt, will be issued under our senior debt indenture described below, and will rank equally with all of our other unsecured and unsubordinated debt.

The subordinated debt securities will constitute part of our subordinated debt, will be issued under our subordinated debt indenture described below, and will be subordinated in right of payment to all of our "senior indebtedness," as defined in the subordinated debt indenture. Neither the senior debt indenture nor the subordinated debt indenture limits our ability to incur additional "senior indebtedness."

The Indentures

The senior debt securities and the subordinated debt securities each are governed by a document called an indenture, which is a contract between us and the applicable trustee. Senior debt securities will be issued under the Indenture dated as of January 1, 1995 (as supplemented, the "Senior Indenture") between us and The Bank of New York Mellon Trust Company, N.A., as successor trustee, and subordinated debt securities will be issued under the Indenture dated as of January 1, 1995 (as supplemented, the "Subordinated Indenture") between us and The Bank of New York Mellon Trust Company, N.A., as successor trustee. The indentures are substantially identical, except for:

- the covenant described below under "—Sale or Issuance of Capital Stock of Banks," which is included only in the Senior Indenture;
- the provisions relating to subordination described below under "—Subordination," which are included only in the Subordinated Indenture; and
- the events of default described below under "—Events of Default and Rights of Acceleration," many of which are not included in the Subordinated Indenture.

In this prospectus, when we refer to "debt securities," we mean both our senior debt securities and our subordinated debt securities, and when we refer to the "indenture" or the "trustee" with respect to any debt securities, we mean the indenture under which those debt securities are issued and the trustee under that indenture.

The trustee under each indenture has two principal functions:

- First, the trustee can enforce your rights against us if we default. However, there are limitations on the extent to which the trustee may act on your behalf, which we describe below under "—Collection of Indebtedness."
- Second, the trustee performs administrative duties for us, including the delivery of interest payments and notices.

Neither indenture limits the aggregate amount of debt securities that we may issue or the number of series or the aggregate amount of any particular series. The indentures and the debt securities also do not limit our ability to incur other indebtedness or to issue other securities. This means that we may issue additional debt securities and other securities at any time without your consent and without notifying you. In addition, neither indenture contains provisions protecting holders against a decline in our credit quality resulting from takeovers, recapitalizations, the incurrence of additional indebtedness, or restructuring. If our credit quality

declines as a result of an event of this type, or otherwise, any ratings of our debt securities then outstanding may be withdrawn or downgraded.

This section is a summary of the indentures and is subject to and qualified in its entirety by reference to all the provisions of the indentures. We have filed the indentures with the SEC as exhibits to our registration statement, and they are incorporated in this prospectus by reference. See “Where You Can Find More Information” below for information on how to obtain copies of the indentures. Whenever we refer to the defined terms of the indentures in this prospectus or in a supplement without defining them, the terms have the meanings given to them in the indentures. You must look to the indentures for the most complete description of the information summarized in this prospectus.

Form and Denomination of Debt Securities

Unless we specify otherwise in the applicable supplement, we will issue each debt security in global, or book-entry, form. Debt securities in book-entry form will be represented by a global security registered in the name of a depository. Accordingly, the depository will be the holder of all the debt securities represented by the global security. Those who own beneficial interests in a global security will do so through participants in the depository’s securities clearing system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depository and its participants. We describe the procedures applicable to book-entry securities below under the heading “Registration and Settlement.”

Unless we specify otherwise in the applicable supplement, we will issue our debt securities in fully registered form, without coupons. If we issue a debt security in bearer form, we will describe the special considerations applicable to bearer securities in the applicable supplement. Some of the features that we describe in this prospectus may not apply to the bearer securities.

Our debt securities may be denominated, and cash payments with respect to the debt securities may be made, in U.S. dollars or in another currency, or in a composite currency, a basket of currencies, or a currency unit or units. Unless we specify otherwise in the applicable supplement, the debt securities will be denominated, and cash payments with respect to the debt securities will be made, in U.S. dollars, and the debt securities ordinarily will be issued in denominations of \$1,000 and multiples of \$1,000 in excess of \$1,000. We may also issue debt securities that are denominated in units of \$10. If any of the debt securities are denominated, or if principal, any premium, interest, and any other amounts payable on any of the debt securities is payable, in a foreign currency, or in a composite currency, a basket of currencies, or a currency unit or units, the specified currency, as well as any additional investment considerations, risk factors, restrictions, tax consequences, specific terms and other information relating to that issue of debt securities and the specified currency, composite currency, basket of currencies, or currency unit or units, may be described in the applicable supplement. We describe some of those investment considerations relating to securities denominated or payable in a currency other than U.S. dollars above under the heading “Risk Factors.”

Different Series of Debt Securities

We may issue our debt securities from time to time in one or more series with the same or different maturities. We also may “reopen” a series of our debt securities. This means that we can increase the principal amount of a series of our debt securities by selling additional debt securities with the same terms. We may do so without notice to the existing holders of securities of that series. However, any new securities of this kind may begin to bear interest at a different date.

This section of the prospectus summarizes the material terms of the debt securities that are common to all series. We will describe the financial and other specific terms of the series of debt securities being offered in the applicable supplement. The supplement also may describe any

differences from the material terms described in this prospectus. If there are any differences between the applicable supplement and this prospectus, the applicable supplement will control.

The terms of your series of debt securities as described in the applicable supplement may include the following:

- the title and type of the debt securities;
- the principal amount of the debt securities;
- the minimum denominations, if other than \$1,000 and multiples of \$1,000 in excess of \$1,000;
- the percentage of the stated principal amount at which the debt securities will be sold and, if applicable, the method of determining the price;
- the person to whom interest is payable, if other than the owner of the debt securities;
- the maturity date or dates;
- the interest rate or rates, which may be fixed or variable, and the method used to calculate that interest;
- any index or other reference asset or assets that will be used to determine the amounts of any payments on the debt securities and the manner in which those amounts will be determined;
- the interest payment dates, the regular record dates for the interest payment dates, and the date interest will begin to accrue;
- the place or places where payments on the debt securities may be made and the place or places where the debt securities may be presented for registration of transfer or exchange;
- any date or dates after which the debt securities may be redeemed, repurchased, or repaid in whole or in part at our option or the option of the holder, and the periods, prices, terms, and conditions of that redemption, repurchase, or repayment;
- if other than the full principal amount, the portion of the principal amount of the debt securities that will be payable if their maturity is accelerated;
- the currency of principal, any premium, interest and any other amounts payable on the debt securities, if other than U.S. dollars;
- if the debt securities will be issued in other than book-entry form;
- the identification of or method of selecting any calculation agents, exchange rate agents, or any other agents for the debt securities;
- any provisions for the discharge of our obligations relating to the debt securities by the deposit of funds or U.S. government obligations;
- any provisions relating to the extension or renewal of the maturity date of the debt securities;
- whether the debt securities will be listed on any securities exchange; or
- any other terms of the debt securities that are permitted under the applicable indenture.

Fixed-Rate Notes

General. We may issue debt securities that bear interest at one or more fixed rates of interest, as specified in the applicable supplement. We refer to these as “fixed-rate notes.” Unless

we specify otherwise in the applicable supplement, each fixed-rate note will bear interest from its original issue date or from the most recent date to which interest on the note has been paid or made available for payment. Interest will accrue on the principal of a fixed-rate note at the fixed annual rate stated in the applicable supplement, until the principal is paid or made available for payment or the note is converted or exchanged.

Unless we specify otherwise in the applicable supplement, we will pay interest on any fixed-rate note quarterly, semi-annually, or annually, as applicable, in arrears, on the days set forth in the applicable supplement (each such day being an “interest payment date”) and at maturity. Each interest payment due on an interest payment date or the maturity date will include interest accrued from and including the most recent interest payment date to which interest has been paid, or, if no interest has been paid, from the original issue date, to but excluding the next interest payment date or the maturity date, as the case may be. Unless we specify otherwise in the applicable supplement, interest on fixed-rate notes will be computed and paid on the basis of a 360-day year consisting of twelve 30-day months. We will make payments on fixed-rate notes as described below under the heading “—Payment of Principal, Interest and Other Amounts Due.”

Amortizing Notes. We also may issue amortizing notes, which are fixed-rate notes for which combined principal and interest payments are made in installments over the life of the debt security. Payments on amortizing notes are applied first to interest due and then to the reduction of the unpaid principal amount. The supplement for an amortizing note will include a table setting forth repayment information.

Floating-Rate Notes

General. We may issue debt securities that will bear interest at a floating rate of interest determined by reference to one or more interest rate bases, or by reference to one or more interest rate formulae, referred to as the “base rate.” We refer to these debt securities as “floating-rate notes.” The base rate may be one or more of the following:

- the federal funds rate, in which case the debt security will be a “federal funds rate note”;
- the London interbank offered rate, in which case the debt security will be a “LIBOR note”;
- the euro interbank offered rate, in which case the debt security will be a “EURIBOR note”;
- the prime rate, in which case the debt security will be a “prime rate note”;
- the treasury rate, in which case the debt security will be a “treasury rate note”; or
- any other interest rate formula as may be specified in the applicable supplement.

The interest rate for a floating-rate note will be determined by reference to:

- the specified base rate based on the index maturity;
- plus or minus the spread, if any; and/or
- multiplied by the spread multiplier, if any.

For any floating-rate note, the “index maturity” is the period to maturity of the instrument for which the interest rate basis is calculated and will be specified in the applicable supplement. The “spread” is the number of basis points we specify on the floating-rate note to be added to or subtracted from the base rate. The “spread multiplier” is the percentage we may specify on the floating-rate note by which the base rate is multiplied in order to calculate the applicable interest rate.

A floating-rate note also may be subject to:

- a maximum interest rate limit, or ceiling, on the interest that may accrue during any interest period;
- a minimum interest rate limit, or floor, on the interest that may accrue during any interest period; or
- both.

Unless we specify otherwise in the applicable supplement, each floating-rate note will bear interest from its original issue date or from the most recent date to which interest on the note has been paid or made available for payment. Interest will accrue on the principal of a floating-rate note at the annual rate determined according to the interest rate formula stated in the applicable supplement, until the principal is paid or made available for payment. Unless we specify otherwise in the applicable supplement, we will pay interest on any floating-rate note monthly, quarterly, semi-annually, or annually, as applicable, in arrears, on the days set forth in the applicable supplement. Unless we specify otherwise in the applicable supplement, each interest payment due on an interest payment date or the maturity date will include interest accrued from and including the most recent interest payment date to which interest has been paid, or, if no interest has been paid, from the original issue date, to but excluding the next interest payment date or the maturity date, as the case may be. We will make payments on floating-rate notes as described below under the heading “—Payment of Principal, Interest and Other Amounts Due.”

How Interest Is Reset. The interest rate in effect from the date of issue to the first interest reset date for a floating-rate note will be the initial interest rate determined as described in the applicable supplement. The interest rate of each floating-rate note may be reset daily, weekly, monthly, quarterly, semi-annually, or annually, as we specify in the applicable supplement. We refer to the period during which an interest rate is effective as an “interest period,” and the first day of each interest period as the “interest reset date.”

The “interest determination date” for any interest reset date is the day the calculation agent will refer to when determining the new interest rate at which a floating rate will reset. Unless we specify otherwise in the applicable supplement, the interest determination date for an interest reset date will be:

- for a federal funds rate note or a prime rate note, the business day immediately preceding the interest reset date;
- for a LIBOR note, the second London Banking Day (as defined below) preceding the interest reset date unless the index currency is pounds sterling, in which case the interest determination date will be the interest reset date;
- for a EURIBOR note, the second TARGET Settlement Date (as defined below) preceding the interest reset date;
- for a treasury rate note, the day of the week in which the interest reset date falls on which Treasury bills (as described below) of the applicable index maturity would normally be auctioned; and
- for a floating-rate note with two or more base rates, the interest determination date will be the most recent business day that is at least two business days prior to the applicable interest reset date on which each applicable base rate is determinable.

Treasury bills usually are sold at auction on Monday of each week, unless that day is a legal holiday, in which case the auction usually is held on the following Tuesday, except that the auction may be held on the preceding Friday. If, as a result of a legal holiday, an auction is held on the preceding Friday, that preceding Friday will be the interest determination date pertaining

to the interest reset date occurring in the next succeeding week. The treasury rate will be determined as of that date, and the applicable interest rate will take effect on the applicable interest reset date.

We will specify the interest reset dates in the applicable supplement. If any interest reset date for any floating-rate note falls on a day that is not a business day for the floating-rate note, the interest reset date for the floating-rate note will be postponed to the next day that is a business day for the floating-rate note. If Treasury bills are sold at an auction that falls on a day that is an interest reset date, that interest reset date will be the next following business day. However, unless we specify otherwise in the applicable supplement, in the case of a LIBOR note or a EURIBOR note, if the next business day is in the next succeeding calendar month, the interest reset date will be the immediately preceding business day.

Calculation of Interest. Calculations relating to floating-rate notes will be made by the calculation agent, which will be an institution that we appoint as our agent for this purpose. The calculation agent may be one of our affiliates, including Banc of America Securities LLC, Bank of America, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Merrill Lynch Commodities, Inc., or Merrill Lynch Capital Services, Inc. and may also be The Bank of New York Mellon Trust Company, N.A. We will identify in the applicable supplement the calculation agent we have appointed for a particular series of debt securities as of its original issue date. We may appoint different calculation agents from time to time after the original issue date of a floating-rate note without your consent and without notifying you of the change. Absent manifest error, all determinations of the calculation agent will be final and binding on you, the trustee and us.

For each floating-rate note, the calculation agent will determine, on the corresponding calculation or interest determination date, the interest rate for the applicable interest period. In addition, the calculation agent will calculate the amount of interest that has accrued during each interest period. Unless we specify otherwise in the applicable supplement, the calculation date for any interest determination date will be the date by which the calculation agent computes the amount of interest owed on a floating-rate note for the related interest period. Unless we specify otherwise in the applicable supplement, the calculation date pertaining to an interest determination date will be the earlier of:

- the tenth calendar day after that interest determination date or, if that day is not a business day, the next succeeding business day; or
- the business day immediately preceding the applicable interest payment date, the maturity date, or the date of redemption or prepayment, as the case may be.

Accrued interest on a floating-rate note is calculated by multiplying the principal amount of a note by an accrued interest factor. This accrued interest factor is the sum of the interest factors calculated for each day in the period for which accrued interest is being calculated. Unless we specify otherwise in the applicable supplement, the accrued interest factor will be computed and interest will be paid (including payments for partial periods) as follows:

- for federal funds rate notes, LIBOR notes, EURIBOR notes, prime rate notes, or any other floating-rate notes other than treasury rate notes, the daily interest factor will be computed by dividing the interest rate in effect on that day by 360; and
- for treasury rate notes, the daily interest factor will be computed by dividing the interest rate in effect on that day by 365 or 366, as applicable.

All amounts used in or resulting from any calculation on floating-rate notes will be rounded to the nearest cent, in the case of U.S. dollars, or to the nearest corresponding hundredth of a unit, in the case of a currency other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward. Unless we specify otherwise in the applicable supplement, all percentages resulting from any calculation with respect to a floating-rate note will be rounded, if necessary, to the nearest one hundred-thousandth of a

percent, with five one-millionths of a percentage point rounded upwards, e.g., 9.876545% (or .09876545) being rounded to 9.87655% (or .0987655).

In determining the base rate that applies to a floating-rate note during a particular interest period, the calculation agent may obtain rate quotes from various banks or dealers active in the relevant market, as described in the descriptions of the base rates below and/or in the applicable supplement. Those reference banks and dealers may include the calculation agent itself and its affiliates, as well as any underwriter, dealer, or agent participating in the distribution of the relevant floating-rate notes and its affiliates, and they may include our affiliates.

At the request of the holder of any floating-rate note, the calculation agent will provide the interest rate then in effect for that floating-rate note and, if already determined, the interest rate that is to take effect on the next interest reset date.

LIBOR Notes. Each LIBOR note will bear interest at the LIBOR base rate, adjusted by any spread or spread multiplier, as specified in the applicable supplement. The LIBOR base rate will be the London interbank offered rate for deposits in U.S. dollars or any index currency, as specified in the applicable supplement.

LIBOR for any interest determination date will be the arithmetic mean of the offered rates for deposits in the relevant index currency having the index maturity described in the applicable supplement, commencing on the related interest reset date, as the rates appear on the Reuters LIBOR screen page designated in the applicable supplement as of 11:00 A.M., London time, on that interest determination date, if at least two offered rates appear on the designated LIBOR page, except that, if the designated Reuters LIBOR screen page only provides for a single rate, that single rate will be used.

If fewer than two of the rates described above appear on that page or no rate appears on any page on which only one rate normally appears, then the calculation agent will determine LIBOR as follows:

- The calculation agent will select four major banks in the London interbank market, after consultation with us. On the interest determination date, those four banks will be requested to provide their offered quotations for deposits in the relevant index currency having an index maturity specified in the applicable supplement commencing on the interest reset date to prime banks in the London interbank market at approximately 11:00 A.M., London time.
- If at least two quotations are provided, the calculation agent will determine LIBOR as the arithmetic mean of those quotations.
- If fewer than two quotations are provided, the calculation agent will select, after consultation with us, three major banks in New York City. On the interest determination date, those three banks will be requested to provide their offered quotations for loans in the relevant index currency having an index maturity specified in the applicable supplement commencing on the interest reset date to leading European banks at approximately 11:00 A.M., New York time. The calculation agent will determine LIBOR as the average of those quotations.
- If fewer than three New York City banks selected by the calculation agent are quoting rates, LIBOR for that interest period will remain LIBOR then in effect on the interest determination date.

EURIBOR Notes. Each EURIBOR note will bear interest at the EURIBOR base rate, adjusted by any spread or spread multiplier, as specified in the applicable supplement.

EURIBOR, for any interest determination date, will mean the rate for deposits in euro as sponsored, calculated, and published jointly by the European Banking Federation and ACI—The

Financial Market Association, or any company established by the joint sponsors for purposes of compiling and publishing those rates, having the index maturity specified in the applicable supplement, as that rate appears on the display on Reuters, or any successor service, on page EURIBOR01 or any other page as may replace such page, referred to as "Reuters Page EURIBOR01," as of 11:00 A.M., Brussels time.

The following procedures will be followed if EURIBOR cannot be determined as described above:

- If no offered rate appears on Reuters Page EURIBOR01 on an interest determination date at approximately 11:00 A.M., Brussels time, then the calculation agent, after consultation with us, will select four major banks in the Eurozone interbank market to provide a quotation of the rate at which deposits in euro having the index maturity specified in the applicable supplement are offered to prime banks in the Eurozone interbank market, and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least two quotations are provided, EURIBOR will be the average of those quotations.
- If fewer than two quotations are provided, then the calculation agent, after consultation with us, will select four major banks in the Eurozone interbank market to provide a quotation of the rate offered by them, at approximately 11:00 A.M., Brussels time, on the interest determination date, for loans in euro to prime banks in the Eurozone interbank market for a period of time equivalent to the index maturity specified in the applicable supplement commencing on that interest reset date and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least three quotations are provided, EURIBOR will be the average of those quotations.
- If three quotations are not provided, EURIBOR for that interest determination date will be equal to EURIBOR for the immediately preceding interest period.

"Eurozone" means the region comprised of member states of the European Union that adopted the single currency in accordance with the Treaty establishing the European Community (signed in Rome on March 25, 1957), as amended by the Treaty on European Union (signed in Maastricht on February 7, 1992) and the Treaty of Amsterdam (signed in Amsterdam on October 2, 1997).

Treasury Rate Notes. Each treasury rate note will bear interest at the treasury rate, adjusted by any spread or spread multiplier, as specified in the applicable supplement.

The "treasury rate" for any interest determination date will be the rate set at the auction of direct obligations of the United States, referred to as "Treasury bills," having the index maturity described in the applicable supplement, as specified under the caption "Investment Rate" on Reuters screen page USAUCTION 10 or page USAUCTION 11, or any successor service or page.

The following procedures will be followed if the treasury rate cannot be determined as described above:

- If the rate is not displayed on the Reuters pages described above by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate of Treasury bills as published in H.15 Daily Update, or another recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Auction High."
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the bond equivalent yield, as defined below, of the auction rate of the applicable Treasury bills as announced by the U.S. Department of the Treasury.

- If the alternative rate described in the paragraph immediately above is not announced by the U.S. Department of the Treasury, or if the auction is not held, the treasury rate will be the bond equivalent yield of the rate on the particular interest determination date of the applicable Treasury bills as published in H.15(519) under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular interest determination date of the applicable Treasury bills as published in H.15 Daily Update, or another recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular interest determination date calculated by the calculation agent as the bond equivalent yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 P.M., New York City time, on that interest determination date, of three primary U.S. government securities dealers, selected by the calculation agent, after consultation with us, for the issue of Treasury bills with a remaining maturity closest to the particular index maturity.
- If the dealers selected by the calculation agent are not quoting as described in the paragraph immediately above, the treasury rate will be the treasury rate in effect on the particular interest determination date.

The bond equivalent yield will be calculated using the following formula:

$$\text{Bond equivalent yield} = \frac{D \times N}{360 - (D \times M)} \times 100$$

where "D" refers to the applicable annual rate for Treasury bills quoted on a bank discount basis and expressed as a decimal, "N" refers to 365 or 366, as the case may be, and "M" refers to the actual number of days in the applicable interest period.

"H.15(519)" means the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Board.

"H.15 Daily Update" means the daily update of H.15(519), available through the website of the Federal Reserve Board at www.federalreserve.gov/releases/h15/update, or any successor site or publication.

Federal Funds Rate Notes. Each federal funds rate note will bear interest at the federal funds rate, adjusted by any spread or spread multiplier, as specified in the applicable supplement.

If "Federal Funds (Effective) Rate" is specified in the applicable supplement, the federal funds rate for any interest determination date will be the rate on that date for U.S. dollar federal funds, as published in H.15(519) under the heading "Federal Funds (Effective)" and displayed on Reuters, or any successor service, on page FEDFUNDS1 or any other page as may replace the specified page on that service, referred to as "Reuters Page FedFunds 1." If this rate is not published in H.15 Daily Update by 3:00 P.M., New York City time, on the related calculation date, or does not appear on Reuters Page FedFunds 1, the federal funds rate will be the rate on that interest determination date as published in H.15 Daily Update, or any other recognized electronic source for the purposes of displaying the applicable rate, under the caption "Federal Funds (Effective) Rate." If this alternate rate is not published in H.15 Daily Update, or other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the calculation agent will determine

the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds quoted prior to 9:00 A.M., New York City time, on the business day following that interest determination date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the calculation agent, after consultation with us. If fewer than three brokers selected by the calculation agent are so quoting, the federal funds rate will be the federal funds rate in effect on that interest determination date.

If “Federal Funds Open Rate” is specified in the applicable supplement, the federal funds rate will be the rate on that interest determination date set forth under the heading “Federal Funds” opposite the caption “Open” and displayed on Reuters, or any successor service, on page 5 or any other page as may replace the specified page on that service, referred to as “Reuters Page 5,” or if that rate does not appear on Reuters Page 5 by 3:00 P.M., New York City time, on the related calculation date, the federal funds rate will be the rate on that date displayed on FFPREBON Index page on Bloomberg L.P. (“Bloomberg”), which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg. If the alternate rate described in the preceding sentence is not displayed on FFPREBON Index page on Bloomberg, or any other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the calculation agent will determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that interest determination date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the calculation agent, after consultation with us. If fewer than three brokers selected by the calculation agent are quoting as described above, the federal funds rate will be the federal funds rate in effect on that interest determination date.

If “Federal Funds Target Rate” is specified in the applicable supplement, the federal funds rate will be the rate on that interest determination date for U.S. dollar federal funds displayed on the FDTR Index page on Bloomberg. If that rate does not appear on the FDTR Index page on Bloomberg by 3:00 P.M., New York City time, on the calculation date, the federal funds rate for the applicable interest determination date will be the rate for that day appearing on Reuters, or any successor service, on page USFFTARGET= or any other page as may replace the specified page on that service, referred to as “Reuters Page USFFTARGET=.” If that rate does not appear on the FDTR Index page on Bloomberg or is not displayed on Reuters Page USFFTARGET= by 3:00 P.M., New York City time, on the applicable date, then the calculation agent will determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that interest determination date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the calculation agent, after consultation with us. If fewer than three brokers selected by the calculation agent are quoting as described above, the federal funds rate will be the federal funds rate in effect on that interest determination date.

Prime Rate Notes. Each prime rate note will bear interest at the prime rate, as adjusted by any spread or spread multiplier, as specified in the applicable supplement.

The “prime rate” for any interest determination date will be the prime rate or base lending rate on that date, as published in H.15(519) prior to 3:00 P.M., New York City time, on the related calculation date, under the heading “Bank Prime Loan.”

The following procedures will be followed if the prime rate cannot be determined as described above:

- If the rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date, then the prime rate will be the rate as published in H.15 Daily Update, or any other recognized electronic source used for the purpose of displaying the applicable rate, under the caption “Bank Prime Loan.”

- If the alternative rate described above is not published in H.15 Daily Update or another recognized electronic source by 3:00 P.M., New York City time, on the related calculation date, then the calculation agent will determine the prime rate to be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters screen US PRIME 1, as defined below, as that bank's prime rate or base lending rate as in effect as of 11:00 A.M., New York City time, on that interest determination date.
- If fewer than four rates appear on the Reuters screen US PRIME 1 for that interest determination date, by 3:00 P.M., New York City time, then the calculation agent will determine the prime rate to be the average of the prime rates or base lending rates furnished in New York City by three substitute banks or trust companies (all organized under the laws of the United States or any of its states and having total equity capital of at least \$500,000,000) selected by the calculation agent, after consultation with us.
- If the banks selected by the calculation agent are not quoting as described above, the prime rate will remain the prime rate then in effect on the interest determination date.

"Reuters screen US PRIME 1" means the display designated as page "US PRIME 1" on the Reuters Monitor Money Rates Service (or any other page as may replace the US PRIME 1 page on that service for the purpose of displaying prime rates or base lending rates of major U.S. banks).

Indexed Notes

We may issue debt securities that provide that the rate of return, including the principal, premium (if any), interest, or other amounts payable (if any), is determined by reference, either directly or indirectly, to the price or performance of one or more securities, currencies or composite currencies, commodities, interest rates, stock indices, commodity indices or other indices, formulae, or measure, in each case as specified in the applicable supplement. We refer to these as "indexed notes."

Holders of indexed notes may receive an amount at maturity that is greater than or less than the face amount of the notes, depending upon the formula used to determine the amount payable and the relative value at maturity of the reference asset or underlying obligation. The value of the applicable index will fluctuate over time.

An indexed note may provide either for cash settlement or for physical settlement by delivery of the indexed note or securities, or other securities of the types listed above. An indexed note also may provide that the form of settlement may be determined at our option or the holder's option. Some indexed notes may be convertible, exercisable, or exchangeable prior to maturity, at our option or the holder's option, for the related securities.

We will specify in the applicable supplement the method for determining the principal, premium (if any), interest, or other amounts payable (if any) in respect of particular indexed notes, as well as certain historical information with respect to the specified index or indexed items, specific risk factors relating to that particular type of indexed note, and tax considerations associated with an investment in the indexed notes.

The applicable supplement for any particular indexed notes also will identify the calculation agent that will calculate the amounts payable with respect to the indexed note. The calculation agent may be one of our affiliates, including Banc of America Securities LLC, Bank of America, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Merrill Lynch Commodities, Inc., or Merrill Lynch Capital Services, Inc. We may appoint different calculation agents from time to time after the original issue date of an indexed note without your consent and without notifying you of the change. Absent manifest error, all determinations of the calculation agent will be final and binding on you, the trustee and us. Upon request of the holder of an indexed note, the calculation agent will provide, if applicable, information relating to the current principal,

premium (if any), rate of interest, interest payable, or other amounts payable (if any) in connection with the indexed note.

We also may offer “indexed amortizing notes,” the rate of amortization and final maturity of which are subject to periodic adjustment based upon the degree to which an objective base or index rate such as LIBOR, called a “reference rate,” coincides with a specified “target rate.” Indexed amortizing notes may provide for adjustment of the amortization rate either on every interest payment date, or only on interest payment dates that occur after a specified “lockout date.” Each indexed amortizing note will include an amortization table, specifying the rate at which the principal of the note is to be amortized following any applicable interest payment date, based upon the difference between the reference rate and the target rate. The specific terms of, and any additional considerations relating to, indexed amortizing notes will be set forth in the applicable supplement.

Floating-Rate/Fixed-Rate/Indexed Notes

We may issue a debt security with elements of each of the fixed-rate, floating-rate and indexed notes described above. For example, a debt security may bear interest at a fixed rate for some periods and at a floating rate in others. Similarly, a debt security may provide for a payment of principal at maturity linked to an index and also may bear interest at a fixed or floating rate. We will describe the determination of interest for any of these debt securities in the applicable supplement.

Original Issue Discount Notes

A fixed-rate note, a floating-rate note, or an indexed note may be an original issue discount note. Original issue discount notes are debt securities that are issued at a price lower than their stated principal amount or lower than their minimum guaranteed repayment amount at maturity. Original issue discount notes may bear no interest (“zero coupon rate notes”) or may bear interest at a rate that is below market rates at the time of issuance. Upon an acceleration of the maturity of an original issue discount note, the amount of interest payable will be determined in accordance with the terms of the note, as described in the applicable supplement. That amount normally is less than the amount payable at the maturity date. A note issued at a discount to its principal may, for U.S. federal income tax purposes, be considered an original issue discount note, regardless of the amount payable upon redemption or acceleration of maturity. See “U.S. Federal Income Tax Considerations—Taxation of Debt Securities” below for a summary of the U.S. federal income tax consequences of owning an original issue discount note.

Payment of Principal, Interest, and Other Amounts Due

Paying Agents. We may appoint one or more financial institutions to act as our paying agents. Unless we specify otherwise in the applicable supplement, the trustee will act as our sole paying agent, security registrar and transfer agent with respect to the debt securities through the trustee’s office. That office is currently located at 101 Barclay Street, New York, New York 10286. In addition, in the case of some of our debt securities, such as debt securities denominated in euro, that office is expected to be 48th Floor, One Canada Square, London, E14 5AL. At any time, we may rescind the designation of a paying agent, appoint a successor paying agent, or approve a change in the office through which any successor paying agent acts in accordance with the applicable indenture. In addition, we may decide to act as our own paying agent with respect to some or all of the debt securities, and the paying agent may resign.

Payments to Holders and Record Dates for Interest. We refer to each date on which interest is payable on a debt security as an “interest payment date.” Unless we specify otherwise in the applicable supplement, the provisions described in this section will apply to payments on the debt securities.

Interest payments on the debt securities will be made on each interest payment date applicable to, and at the maturity date of, the debt securities. Interest payable at any interest payment date other than the maturity date will be paid to the registered holder of the debt security on the regular record date for that interest payment date, as described below. However, unless we specify otherwise in the applicable supplement, the initial interest payment on a debt security issued between a regular record date and the interest payment date immediately following the regular record date will be made on the second interest payment date following the original issue date to the holder of record on the regular record date preceding the second interest payment date. The principal and interest payable at maturity will be paid to the holder of the debt security at the close of business on the maturity date.

Unless we specify otherwise in the applicable supplement, the record date for any interest payment for a debt security in book-entry only form generally will be the business day prior to the payment date. If the debt security is in a form that is other than book-entry only, and unless we specify otherwise in the applicable supplement, the regular record date for an interest payment date will be the last day of the calendar month preceding the interest payment date or the fifteenth day of the calendar month in which the interest payment date occurs, as specified in the supplement, whether or not that date is a business day.

Unless we specify otherwise in the applicable supplement, if any interest payment date or the maturity date of a debt security falls on a day that is not a business day, we will make the required payment on the next business day, and no additional interest will accrue in respect of the payment made on the next business day. However, unless we specify otherwise in the applicable supplement, for LIBOR notes or EURIBOR notes, if an interest payment date falls on a date that is not a business day, and the next business day is in the next calendar month, the interest payment date will be the immediately preceding business day.

Unless we specify otherwise in the applicable supplement, the term “business day” means, for any debt security, a day that meets all the following applicable requirements:

- for all debt securities, is any weekday that is not a legal holiday in New York, New York, Charlotte, North Carolina, or any other place of payment of the debt security, and is not a date on which banking institutions in those cities are authorized or required by law or regulation to be closed;
- for any LIBOR note, also is a day on which commercial banks are open for business (including dealings in the index currency specified in the applicable supplement) in London, England (a “London Banking Day”);
- for any debt security denominated in euro or any EURIBOR note, also is a day on which the TransEuropean Automated Real-Time Gross Settlement Express Transfer, or “TARGET,” System or any successor is operating (a “TARGET Settlement Date”); and
- for any debt security that has a specified currency other than U.S. dollars or euro, also is not a day on which banking institutions generally are authorized or obligated by law, regulation, or executive order to close in the principal financial center of the country of the specified currency.

Unless we specify otherwise in the applicable supplement, for purposes of this determination, the “principal financial center” is:

- the capital city of the country issuing the specified currency, except for U.S. dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, for which the “principal financial center” is New York, Sydney and Melbourne, Toronto, Johannesburg and Zurich, respectively; or
- the capital city of the country to which the index currency relates, except for U.S. dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, for which the

"principal financial center" is New York, Sydney, Toronto, Johannesburg and Zurich, respectively.

Payments Due in U.S. Dollars. Unless we specify otherwise in the applicable supplement, we will follow the practices described in this subsection when we pay amounts that are due in U.S. dollars.

We will make payments on debt securities in book-entry form in accordance with arrangements then in place between the paying agent and the depository or its nominee, as holder. An indirect owner's right to receive those payments will be governed by the rules and practices of the depository and its participants, as described below under the heading "Registration and Settlement."

We will pay any interest on debt securities in certificated form on each interest payment date other than the maturity date by, in our discretion, wire transfer of immediately available funds or check mailed to holders of the debt securities on the applicable record date at the address appearing on our records. We will pay any principal, premium (if any), interest, and other amounts payable (if any) at the maturity date of a debt security in certificated form by wire transfer of immediately available funds upon surrender of the debt security at the corporate trust office of the applicable trustee or paying agent.

Book-entry and other indirect owners should contact their banks or brokers for information on how they will receive payments on their debt securities.

Payments Due in Other Currencies. Unless we specify otherwise in the applicable supplement, we will follow the practices described in this subsection when we pay amounts that are due in a currency other than U.S. dollars. Unless we specify otherwise in the applicable supplement, holders are not entitled to receive payments in U.S. dollars of an amount due in another currency, either on a global debt security or a debt security in certificated form.

We will make payments on Non-U.S. Dollar Denominated Debt Securities in book-entry form in the applicable specified currency in accordance with arrangements then in place between the paying agent and the depository or its nominee, as holder. An indirect owner's right to receive those payments will be governed by the rules and practices of the depository and its participants, as described below under the heading "Registration and Settlement."

We will pay any interest on Non-U.S. Dollar-Denominated Debt Securities in certificated form by check mailed to holders of the debt securities on the applicable record date at the address appearing on our records. We will pay any principal, premium (if any), interest and other amounts payable (if any) at the maturity date of a Non-U.S. Dollar-Denominated Debt Security in certificated form by wire transfer of immediately available funds upon surrender of the debt security at the corporate trust office of the applicable trustee or paying agent.

If we issue a debt security in a specified currency other than U.S. dollars, unless we specify otherwise in the applicable supplement, we will appoint a financial institution to act as the exchange rate agent. The exchange rate agent will determine the applicable rate of exchange that would apply to a payment made in U.S. dollars, if the currency in which we otherwise would be required to make the applicable payment is not available. The exchange rate agent may be one of our affiliates, including Banc of America Securities Limited. We will identify in the applicable supplement the exchange rate agent that we have appointed for a particular debt security as of its original issue date. We may appoint different exchange rate agents from time to time after the original issue date of the debt security without your consent and without notifying you of the change. All determinations made by the exchange rate agent will be in its sole discretion unless we state in the applicable supplement that any determination requires our approval. Absent manifest error, those determinations will be final and binding on you and us.

Book-entry and other indirect owners of a debt security with a specified currency other than U.S. dollars should contact their banks or brokers for information about how to receive payments in the specified currency or in U.S. dollars.

No Sinking Fund

Unless we specify otherwise in the applicable supplement, our debt securities will not be entitled to the benefit of any sinking fund. This means that we will not deposit money on a regular basis into any separate custodial account to repay the debt securities.

Redemption

The applicable supplement will indicate whether we may redeem the debt securities prior to their maturity date. If we may redeem the debt securities prior to maturity, the applicable supplement will indicate the redemption price, the method for redemption and the date or dates upon which we may redeem the debt securities. Unless we specify otherwise in the applicable supplement, we may redeem debt securities only on an interest payment date, and the redemption price will be 100% of the principal amount of the debt securities to be redeemed, plus any accrued and unpaid interest.

Unless we specify otherwise in the applicable supplement, we may exercise our right to redeem debt securities by giving notice to the trustee under the applicable indenture at least 10 business days but not more than 60 calendar days before the specified redemption date. The notice will take the form of a certificate signed by us specifying:

- the date fixed for redemption;
- the redemption price;
- the CUSIP number of the debt securities to be redeemed;
- the amount to be redeemed, if less than all of a series of debt securities is to be redeemed;
- the place of payment for the debt securities to be redeemed; and
- that on and after the date fixed for redemption, interest will cease to accrue on the debt securities to be redeemed.

So long as a depository is the record holder of the applicable debt securities to be redeemed, we will deliver any notice of our election to exercise our redemption right only to that depository.

Repayment

The applicable supplement will indicate whether the debt securities can be repaid at the holder's option prior to their maturity date. If the debt securities may be repaid prior to maturity, the applicable supplement will indicate the applicable repayment price or prices, the procedures for repayment and the date or dates on or after which the holder can request repayment.

Repurchase

We may purchase at any time and from time to time, through a subsidiary or affiliate of ours, outstanding debt securities by tender, in the open market, or by private agreement. We, or our affiliates, have the discretion to hold or resell any repurchased debt securities. We also have the discretion to cancel any repurchased debt securities.

Conversion

We may issue debt securities that are convertible into, or exercisable or exchangeable for, at either our option or the holder's option, our preferred stock, depositary shares, common stock, or other debt securities, or debt or equity securities of one or more third parties. The applicable supplement will describe the terms of any conversion, exercise, or exchange features, including:

- the periods during which conversion, exercise, or exchange, as applicable, may be elected;
- the conversion, exercise, or exchange price payable and the number of shares or amount of our preferred stock, depositary shares, common stock, or other debt securities, or debt or equity securities of a third party, that may be issued upon conversion, exercise, or exchange, and any adjustment provisions; and
- the procedures for electing conversion, exercise, or exchange, as applicable.

Exchange, Registration, and Transfer

Subject to the terms of the applicable indenture, debt securities of any series in certificated form may be exchanged at the option of the holder for other debt securities of the same series and of an equal aggregate principal amount and type in any authorized denominations.

Debt securities in certificated form may be presented for registration of transfer at the office of the security registrar or at the office of any transfer agent that we designate and maintain. The security registrar or the transfer agent will make the transfer or registration only if it is satisfied with the documents of title and identity of the person making the request. There will not be a service charge for any exchange or registration of transfer of debt securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the exchange. Unless we specify otherwise in the applicable supplement, The Bank of New York Mellon Trust Company, N.A. will be the authenticating agent, registrar, and transfer agent for the debt securities issued under the respective indentures. We may change the security registrar or the transfer agent or approve a change in the location through which any security registrar or transfer agent acts at any time, except that we will be required to maintain a security registrar and transfer agent in each place of payment for each series of debt securities. At any time, we may designate additional transfer agents for any series of debt securities.

We will not be required to (1) issue, exchange, or register the transfer of any debt security of any series to be redeemed for a period of 15 days before those debt securities were selected for redemption, or (2) exchange or register the transfer of any debt security that was selected, called, or is being called for redemption, except the unredeemed portion of any debt security being redeemed in part.

For a discussion of restrictions on the exchange, registration, and transfer of book-entry securities, see "Registration and Settlement" below.

Subordination

Our subordinated debt securities are subordinated in right of payment to all of our "senior indebtedness." The Subordinated Indenture defines "senior indebtedness" as any indebtedness for money borrowed, including all of our indebtedness for borrowed and purchased money, all of our obligations arising from off-balance sheet guarantees and direct credit substitutes, and our obligations associated with derivative products such as interest and foreign exchange rate contracts and commodity contracts, that was outstanding on the date we executed the Subordinated Indenture, or was created, incurred, or assumed after that date, for which we are responsible or liable as obligor, guarantor, or otherwise, and all deferrals, renewals, extensions, and refundings of that indebtedness or obligations, other than the debt securities issued under

the Subordinated Indenture or any other indebtedness that by its terms is subordinate in right of payment to any of our other indebtedness. Each supplement for a series of subordinated debt securities will indicate the aggregate amount of our senior indebtedness outstanding at that time and any limitation on the issuance of additional senior indebtedness.

If there is a default or event of default under any senior indebtedness that would allow acceleration of maturity of the senior indebtedness and that default or event of default is not remedied, and we and the trustee of the Subordinated Indenture receive notice of this default from the holders of at least 10% in principal amount of any kind or category of any senior indebtedness or if the trustee of the Subordinated Indenture receives notice from us, then we will not be able to make any principal, premium, interest, or other payments on the subordinated debt securities or repurchase our subordinated debt securities.

If any subordinated debt security is declared due and payable before the required date or upon a payment or distribution of our assets to creditors pursuant to a dissolution, winding up, liquidation, or reorganization, we are required to pay all principal, premium, interest, or other payments to holders of senior indebtedness before any holders of subordinated debt are paid. In addition, if any amounts previously were paid to the holders of subordinated debt or the trustee of the Subordinated Indenture, the holders of senior indebtedness will have first rights to the amounts previously paid.

Subject to the payment in full of all our senior indebtedness, the holders of our subordinated debt securities will be subrogated to the rights of the holders of our senior indebtedness to receive payments or distributions of our assets applicable to the senior indebtedness until our subordinated debt securities are paid in full. For purposes of this subrogation, the subordinated debt securities will be subrogated equally and ratably with all our other indebtedness that by its terms ranks equally with our subordinated debt securities and is entitled to like rights of subrogation.

Sale or Issuance of Capital Stock of Banks

The Senior Indenture prohibits the issuance, sale, or other disposition of capital stock, or securities convertible into or options, warrants, or rights to acquire capital stock, of any Principal Subsidiary Bank (as defined below) or of any subsidiary which owns shares of capital stock, or securities convertible into or options, warrants, or rights to acquire capital stock, of any Principal Subsidiary Bank, with the following exceptions:

- sales of directors' qualifying shares;
- sales or other dispositions for fair market value, if, after giving effect to the disposition and to conversion of any shares or securities convertible into capital stock of a Principal Subsidiary Bank, we would own at least 80% of each class of the capital stock of that Principal Subsidiary Bank;
- sales or other dispositions made in compliance with an order of a court or regulatory authority of competent jurisdiction;
- any sale by a Principal Subsidiary Bank of additional shares of its capital stock, securities convertible into shares of its capital stock, or options, warrants, or rights to subscribe for or purchase shares of its capital stock, to its stockholders at any price, so long as before that sale we owned, directly or indirectly, securities of the same class and immediately after the sale, we owned, directly or indirectly, at least as great a percentage of each class of securities of the Principal Subsidiary Bank as we owned before the sale of additional securities; and
- any issuance of shares of capital stock, or securities convertible into or options, warrants, or rights to subscribe for or purchase shares of capital stock, of a Principal Subsidiary

Bank or any subsidiary which owns shares of capital stock, or securities convertible into or options, warrants, or rights to acquire capital stock, of any Principal Subsidiary Bank, to us or our wholly owned subsidiary.

A "Principal Subsidiary Bank" is defined in the Senior Indenture as any bank with total assets equal to more than 10% of our total consolidated assets. As of the date of this prospectus, Bank of America, N.A. is our only Principal Subsidiary Bank.

Limitation on Mergers and Sales of Assets

Each indenture generally permits a consolidation or merger between us and another entity. It also permits the sale or transfer by us of all or substantially all of our assets. These transactions are permitted if:

- the resulting or acquiring entity, if other than us, is organized and existing under the laws of the United States or any state or the District of Columbia and expressly assumes all of our obligations under that indenture; and
- immediately after the transaction, we (or any successor company) are not in default in the performance of any covenant or condition under that indenture.

Upon any consolidation, merger, sale, or transfer of this kind, the resulting or acquiring entity will be substituted for us in the applicable indenture with the same effect as if it had been an original party to that indenture. As a result, the successor entity may exercise our rights and powers under the indenture.

Waiver of Covenants

The holders of a majority in principal amount of the debt securities of all affected series then outstanding under the indenture may waive compliance with some of the covenants or conditions of that indenture.

Modification of the Indentures

We and the trustee may modify the applicable indenture and the rights of the holders of the debt securities with the consent of the holders of at least 66²/₃% of the aggregate principal amount of all series of debt securities under that indenture affected by the modification. However, no modification may extend the fixed maturity of, reduce the principal amount or redemption premium of, or reduce the rate of, or extend the time of payment of, interest on, any debt security without the consent of each holder affected by the modification. No modification may reduce the percentage of debt securities that is required to consent to modification of an indenture without the consent of all holders of the debt securities outstanding under that indenture.

In addition, we and the trustee may execute supplemental indentures in some circumstances without the consent of any holders of outstanding debt securities.

For purposes of determining the aggregate principal amount of the debt securities outstanding at any time in connection with any request, demand, authorization, direction, notice, consent, or waiver under the applicable indenture, (1) the principal amount of any debt security issued with original issue discount is that amount that would be due and payable at that time upon an event of default, and (2) the principal amount of a debt security denominated in a foreign currency or currency unit is the U.S. dollar equivalent on the date of original issuance of the debt security.

Meetings and Action by Securityholders

The trustee may call a meeting in its discretion, or upon request by us or the holders of at least 10% in principal amount of a series of outstanding debt securities, by giving notice. If a meeting of holders is duly held, any resolution raised or decision taken in accordance with the indenture will be binding on all holders of debt securities of that series.

Events of Default and Rights of Acceleration

The Senior Indenture defines an event of default for a series of senior debt securities as any one of the following events:

- our failure to pay principal or any premium when due on any securities of that series;
- our failure to pay interest on any securities of that series, within 30 calendar days after the interest becomes due;
- our breach of any of our other covenants contained in the senior debt securities of that series or in the Senior Indenture, that is not cured within 90 calendar days after written notice to us by the trustee of the Senior Indenture, or to us and the trustee of the Senior Indenture by the holders of at least 25% in principal amount of all senior debt securities then outstanding under the Senior Indenture and affected by the breach; and
- specified events involving our bankruptcy, insolvency, or liquidation.

The Subordinated Indenture defines an event of default only as our bankruptcy under U.S. federal bankruptcy laws.

If an event of default occurs and is continuing, either the trustee or the holders of 25% in principal amount of the debt securities outstanding under the applicable indenture (or, in the case of an event of default under the Senior Indenture with respect to a series of senior debt securities, the holders of 25% in principal amount of the outstanding debt securities of all series affected) may declare the principal amount, or, if the debt securities are issued with original issue discount, a specified portion of the principal amount, of all debt securities (or the debt securities of all series affected, as the case may be) to be due and payable immediately. The holders of a majority in principal amount of the debt securities then outstanding (or of the series affected, as the case may be), in some circumstances, may annul the declaration of acceleration and waive past defaults.

Payment of principal of the subordinated debt securities may not be accelerated in the case of a default in the payment of principal, any premium, interest, or any other amounts or the performance of any of our other covenants.

Collection of Indebtedness

If we fail to pay the principal of (or, under the Senior Indenture, any premium on) any debt securities, or if we are over 30 calendar days late on an interest payment on the debt securities, the applicable trustee can demand that we pay to it, for the benefit of the holders of those debt securities, the amount which is due and payable on those debt securities, including any interest incurred because of our failure to make that payment. If we fail to pay the required amount on demand, the trustee may take appropriate action, including instituting judicial proceedings against us.

In addition, a holder of a debt security also may file suit to enforce our obligation to make payment of principal, any premium, interest, or other amounts due on that debt security regardless of the actions taken by the trustee.

The holders of a majority in principal amount of each series of the debt securities then outstanding under an indenture may direct the time, method, and place of conducting any

proceeding for any remedy available to the trustee under that indenture, but the trustee will be entitled to receive from the holders a reasonable indemnity against expenses and liabilities.

We are required periodically to file with the trustees a certificate stating that we are not in default under any of the terms of the indentures.

Payment of Additional Amounts

If we so specify in the applicable supplement, and subject to the exceptions and limitations set forth below, we will pay to the beneficial owner of any debt security that is a “non-U.S. person” additional amounts to ensure that every net payment on that debt security will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. For this purpose, a “net payment” on a debt security means a payment by us or any paying agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States (other than a territory or possession). These additional amounts will constitute additional interest on the debt security. For this purpose, U.S. withholding tax means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding our obligation, if so specified, to pay additional amounts, we will not be required to pay additional amounts in any of the circumstances described in items (1) through (13) below, unless we specify otherwise in the applicable supplement.

- (1) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of the debt security:
 - having a relationship with the United States as a citizen, resident, or otherwise;
 - having had such a relationship in the past; or
 - being considered as having had such a relationship.
- (2) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of the debt security:
 - being treated as present in or engaged in a trade or business in the United States;
 - being treated as having been present in or engaged in a trade or business in the United States in the past;
 - having or having had a permanent establishment in the United States; or
 - having or having had a qualified business unit which has the U.S. dollar as its functional currency.
- (3) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of the debt security being or having been a:
 - personal holding company;
 - foreign personal holding company;
 - private foundation or other tax-exempt organization;
 - passive foreign investment company;
 - controlled foreign corporation; or
 - corporation which has accumulated earnings to avoid U.S. federal income tax.

- (4) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of the debt security owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of our stock entitled to vote.
- (5) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of the debt security being a bank extending credit under a loan agreement entered into in the ordinary course of business.

For purposes of items (1) through (5) above, "beneficial owner" includes, without limitation, a holder and a fiduciary, settlor, partner, member, shareholder, or beneficiary of the holder if the holder is an estate, trust, partnership, limited liability company, corporation, or other entity, or a person holding a power over an estate or trust administered by a fiduciary holder.

- (6) Additional amounts will not be payable to any beneficial owner of a debt security that is:
 - A fiduciary;
 - A partnership;
 - A limited liability company;
 - Another fiscally transparent entity; or
 - Not the sole beneficial owner of the debt security, or any portion of the debt security.

However, this exception to the obligation to pay additional amounts will apply only to the extent that a beneficiary or settlor in relation to the fiduciary, or a beneficial owner, partner, or member of the partnership, limited liability company, or other fiscally transparent entity, would not have been entitled to the payment of an additional amount had the beneficiary, settlor, beneficial owner, partner, or member received directly its beneficial or distributive share of the payment.

- (7) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner of the debt security or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay additional amounts will apply only if compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.
- (8) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on a debt security by us or any paying agent.
- (9) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

- (10) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner of a debt security for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.
- (11) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any:
- estate tax;
 - inheritance tax;
 - gift tax;
 - sales tax;
 - excise tax;
 - transfer tax;
 - wealth tax;
 - personal property tax; or
 - any similar tax, assessment, or other governmental charge.
- (12) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any paying agent from a payment of principal or interest on the applicable security if such payment can be made without such withholding by any other paying agent.
- (13) Additional amounts will not be payable if a payment on a debt security is reduced as a result of any combination of items (1) through (12) above.

Except as specifically provided in this section, we will not be required to make any payment of any tax, assessment, or other governmental charge imposed by any government, political subdivision, or taxing authority of that government.

For purposes of determining whether the payment of additional amounts is required, the term “U.S. person” means any individual who is a citizen or resident of the United States; any corporation, partnership, or other entity created or organized in or under the laws of the United States; any estate if the income of such estate falls within the federal income tax jurisdiction of the United States regardless of the source of that income; and any trust if a U.S. court is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of the substantial decisions of the trust. Additionally, for this purpose, “non-U.S. person” means a person who is not a U.S. person, and “United States” means the United States of America, including each state of the United States and the District of Columbia, its territories, its possessions, and other areas within its jurisdiction.

Redemption for Tax Reasons

If we so specify in the applicable supplement, we may redeem the debt securities in whole, but not in part, at any time before maturity, after giving not less than 30 nor more than 60 calendar days’ notice to the trustee under the applicable indenture and to the holders of the debt securities, if we have or will become obligated to pay additional amounts, as described above under “—Payment of Additional Amounts,” as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United States having power to tax, or any change in the application or official interpretation of

such laws or regulations, which change or amendment becomes effective on or after the date of the applicable supplement for the issuance of those debt securities.

Before we publish any notice of redemption for tax reasons, we will deliver to the trustee under the indenture a certificate signed by our chief financial officer or a senior vice president stating that we are entitled to redeem the debt securities and that the conditions precedent to redemption have occurred.

Unless we specify otherwise in the applicable supplement, any debt securities redeemed for tax reasons will be redeemed at 100% of their principal amount together with interest accrued up to, but excluding, the redemption date.

Defeasance and Covenant Defeasance

If we so specify in the applicable supplement, the provisions for full defeasance and covenant defeasance described below will apply to the debt securities if certain conditions are satisfied.

Full Defeasance. If there is a change in the U.S. federal tax law, as described below, we can legally release ourselves from all payment and other obligations on any debt securities. This is called full defeasance. For us to do so, each of the following must occur:

- We must deposit in trust for the benefit of the holders of those debt securities a combination of money and U.S. government or U.S. government agency notes or bonds that will generate enough cash to make interest, principal, and any other payments on those debt securities at their due dates;
- There must be a change in current U.S. federal tax law or an Internal Revenue Service ruling that lets us make the above deposit without causing the holders to be taxed on the debt securities any differently than if we did not make the deposit and repaid the debt securities ourselves. Under current U.S. federal tax law, the deposit, and our legal release from your debt security would be treated as though we took back your debt security and gave you your share of the cash and notes or bonds deposited in trust. In that event, you could recognize gain or loss on your debt security; and
- We must deliver to the trustee under the indenture a legal opinion of our counsel confirming the tax law treatment described above.

If we ever fully defeased your debt security, you would have to rely solely on the trust deposit for payments on your debt security. You would not be able to look to us for payment in the event of any shortfall.

Covenant Defeasance. Under current U.S. federal tax law, we can make the same type of deposit described above and be released from any restrictive covenants relating to your debt security. This is called covenant defeasance. In that event, you would lose the protection of those restrictive covenants. In order to achieve covenant defeasance for the debt securities, we must do both of the following:

- We must deposit in trust for the benefit of the holders of those debt securities a combination of money and U.S. government or U.S. government agency notes or bonds that will generate enough cash to make interest, principal, and any other payments on those debt securities on their due dates; and
- We must deliver to the trustee under the indenture a legal opinion of our counsel confirming that under current U.S. federal income tax law we may make the above deposit without causing the holders to be taxed on the debt securities any differently than if we did not make the deposit and repaid the debt securities ourselves.

If we achieve covenant defeasance with respect to your debt security, you can still look to us for repayment of your debt security in the event of any shortfall in the trust deposit. You should

note, however, that if one of the remaining events of default occurred, such as our bankruptcy, and your debt security became immediately due and payable, there may be a shortfall. Depending on the event causing the default, you may not be able to obtain payment of the shortfall.

Notices

We will provide the holders with any required notices by first-class mail to the addresses of the holders as they appear in the security register. So long as a depository is the record holder of a series of debt securities with respect to which a notice is given, we will deliver the notice only to that depository.

Concerning the Trustees

We and certain of our affiliates have from time to time maintained deposit accounts and conducted other banking transactions with The Bank of New York Mellon Trust Company, N.A. and its affiliates in the ordinary course of business. We expect to continue these business transactions. The Bank of New York Mellon Trust Company, N.A. and its affiliates also serve as trustee for a number of series of outstanding indebtedness of us and our affiliates under other indentures.

Governing Law

The indentures and the debt securities will be governed by New York law.

DESCRIPTION OF WARRANTS

General

We may issue warrants, including debt warrants and universal warrants. We may offer warrants separately or as part of a unit, as described below under the heading "Description of Units."

We may issue warrants in any amounts or in as many distinct series as we determine. We will issue each series of debt warrants and universal warrants under a separate warrant agreement to be entered into between us and a warrant agent to be designated in the applicable supplement. When we refer to a series of warrants, we mean all warrants issued as part of the same series under the applicable warrant agreement.

This section describes some of the general terms and provisions of the warrants. We will describe the specific terms of a series of warrants and the applicable warrant agreement in the applicable supplement. The following description and any description of the warrants in the applicable supplement may not be complete and is subject to and qualified in its entirety by reference to the terms and provisions of the applicable warrant agreement. A form of the warrant agreement reflecting the particular terms and provisions of a series of offered warrants will be filed with the SEC in connection with the offering and incorporated by reference in the registration statement and this prospectus. See "Where You Can Find More Information" below for information on how to obtain copies of any warrant agreements.

Description of Debt Warrants

Debt warrants are rights to purchase our debt securities. If debt warrants are offered, the supplement will describe the terms of the debt warrants and the warrant agreement relating to the debt warrants, including the following:

- the offering price;

- the designation, aggregate stated principal amount, and terms of the debt securities purchasable upon exercise of the debt warrants;
- the currency, currency unit, or composite currency in which the price for the debt warrants is payable;
- if applicable, the designation and terms of the debt securities with which the debt warrants are issued, and the number of debt warrants issued with each security;
- if applicable, the date on and after which the debt warrants and the related debt securities will be separately transferable;
- the principal amount of debt securities purchasable upon exercise of a debt warrant and the price at which, and the currency, currency units, or composite currency based on or relating to currencies in which, the principal amount of debt securities may be purchased upon exercise;
- the dates the right to exercise the debt warrants will commence and expire and, if the debt warrants are not continuously exercisable, any dates on which the debt warrants are not exercisable;
- any circumstances that will cause the debt warrants to be deemed to be automatically exercised;
- if applicable, a discussion of the U.S. federal income tax consequences;
- whether the debt warrants or related securities will be listed on any securities exchange;
- whether the debt warrants will be issued in global or certificated form;
- the name of the warrant agent;
- a description of the terms of any warrant agreement to be entered into between us and a bank or trust company, as warrant agent, governing the debt warrants; and
- any other terms of the debt warrants which are permitted under the warrant agreement.

Description of Universal Warrants

Universal warrants are rights to purchase or sell, or our delivery obligations are determined by reference to the performance, level, or value of, one or more of the following:

- securities of one or more issuers, including our common or preferred stock or other securities described in this prospectus, or the debt or equity securities of third parties;
- one or more currencies, currency units, or composite currencies;
- one or more commodities;
- any other financial, economic, or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
- one or more indices or baskets of the items described above.

We refer to each type of property described above as “warrant property.”

We may satisfy our obligations, if any, and the holder of a universal warrant may satisfy its obligations, if any, with respect to any universal warrants by delivering the assets described in the applicable supplement, and in some cases, cash.

If universal warrants are offered, the applicable supplement will describe the terms of the universal warrants and the warrant agreement, including the following:

- the offering price;

- the title and aggregate number of the universal warrants;
- the nature and amount of the warrant property that the universal warrants represent the right to buy or sell;
- whether the universal warrants are put warrants or call warrants, including in either case, the method by which the warrants may be settled;
- the price at which the warrant property may be purchased or sold, the currency, and the procedures and conditions relating to exercise;
- the method of exercising the universal warrants, the method of paying the exercise price, and the method of settling the warrant;
- the dates on which the right to exercise the universal warrants will commence and expire;
- if applicable, a discussion of the U.S. federal income tax consequences;
- whether the universal warrants or underlying securities will be listed on any securities exchange;
- whether the universal warrants will be issued in global or certificated form;
- the name of the warrant agent;
- a description of the terms of any warrant agreement to be entered into between us and a bank or trust company, as warrant agent, governing the universal warrants; and
- any other terms of the universal warrants which are permitted under the warrant agreement.

Modification

We and the warrant agent may amend the terms of any warrant agreement and the warrants without the consent of the holders of the warrants to cure any ambiguity, to correct any inconsistent provision, or in any other manner we deem necessary or desirable and which will not affect adversely the interests of the holders. In addition, we may amend the warrant agreement and the terms of the warrants with the consent of the holders of a majority of the outstanding unexercised warrants affected. However, any modification to the warrants cannot change the exercise price, reduce the amounts receivable upon exercise, cancellation, or expiration, shorten the time period during which the warrants may be exercised, or otherwise materially and adversely affect the rights of the holders of the warrants or reduce the percentage of outstanding warrants required to modify or amend the warrant agreement or the terms of the warrants, without the consent of the affected holders.

Enforceability of Rights of Warrantholders; No Trust Indenture Act Protection

The warrant agent will act solely as our agent and will not assume any obligation or relationship of agency or trust with the holders of the warrants. Any record holder or beneficial owner of a warrant, without anyone else's consent, may enforce by appropriate legal action, on his or her own behalf, his or her right to exercise the warrant in accordance with its terms. A holder of a warrant will not be entitled to any of the rights of a holder of the debt securities or other securities or warrant property purchasable upon the exercise of the warrant, including any right to receive payments on those securities or warrant property or to enforce any covenants or rights in the relevant indenture or any other agreement, before exercising the warrant.

No warrant agreement will be qualified as an indenture, and no warrant agent under any warrant agreement will be required to qualify as a trustee, under the Trust Indenture Act of

1939. Therefore, holders of warrants issued under a warrant agreement will not have the protection of the Trust Indenture Act of 1939 with respect to their warrants.

Unsecured Obligations

Any warrants we issue will be our unsecured contractual obligations. Claims of holders of our warrants generally will have a junior position to claims of creditors of our subsidiaries including, in the case of our banking subsidiaries, their depositors.

DESCRIPTION OF PURCHASE CONTRACTS

General

We may issue purchase contracts in any amounts and in as many distinct series as we determine. We may offer purchase contracts separately or as part of a unit, as described below under the heading “Description of Units.” When we refer to a series of purchase contracts, we mean all purchase contracts issued as part of the same series under the applicable purchase contract.

This section describes some of the general terms and provisions applicable to all purchase contracts. We will describe the specific terms of a series of purchase contracts in the applicable supplement. The following description and any description of the purchase contracts in the applicable supplement may not be complete and is subject to and qualified in its entirety by reference to the terms and provisions of the applicable purchase contract. A form of the purchase contract reflecting the particular terms and provisions of a series of offered purchase contracts will be filed with the SEC in connection with the offering and incorporated by reference in the registration statement and this prospectus. See “Where You Can Find More Information” below for information on how to obtain copies of any purchase contracts.

Purchase Contract Property

We may issue purchase contracts for the purchase or sale of, or whose cash value is determined by reference or linked to the performance, level, or value of, one or more of the following:

- securities of one or more issuers, including our common or preferred stock, other securities described in this prospectus, or the debt or equity securities of third parties;
- one or more currencies, currency units, or composite currencies;
- one or more commodities;
- any other financial, economic, or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance; and
- one or more indices or baskets of the items described above.

We refer to each type of property described above as a “purchase contract property.”

Each purchase contract will obligate:

- the holder to purchase or sell, and us to sell or purchase, on specified dates, one or more purchase contract properties at a specified price or prices; or
- the holder or us to settle the purchase contract with a cash payment determined by reference to the value, performance, or level of one or more purchase contract properties, on specified dates and at a specified price or prices.

No holder of a purchase contract will, as such, have any rights of a holder of the purchase contract property purchasable under or referenced in the contract, including any rights to receive payments on that property.

Information in Supplement

If we offer purchase contracts, the applicable supplement will describe the terms of the purchase contracts, including the following:

- the purchase date or dates;
- if other than U.S. dollars, the currency or currency unit in which payment will be made;
- the specific designation and aggregate number of, and the price at which we will issue, the purchase contracts;
- whether the purchase contract obligates the holder to purchase or sell, or both purchase and sell, one or more purchase contract properties, and the nature and amount of each of those properties, or the method of determining those amounts;
- the purchase contract property or cash value, and the amount or method for determining the amount of purchase contract property or cash value, deliverable under each purchase contract;
- whether the purchase contract is to be prepaid or not and the governing document for the contract;
- the price at which the purchase contract is settled, and whether the purchase contract is to be settled by delivery of, or by reference or linkage to the value, performance, or level of, the purchase contract properties;
- any acceleration, cancellation, termination, or other provisions relating to the settlement of the purchase contract;
- if the purchase contract property is an index, the method of providing for a substitute index or indices or otherwise determining the amount payable;
- if the purchase contract property is an index or a basket of securities, a description of the index or basket of securities;
- whether, following the occurrence of a market disruption event or force majeure event (as defined in the applicable supplement), the settlement delivery obligation or cash settlement value of a purchase contract will be determined on a different basis than under normal circumstances;
- whether the purchase contract will be issued as part of a unit and, if so, the other securities comprising the unit and whether any unit securities will be subject to a security interest in our favor as described below;
- if applicable, a discussion of the U.S. federal income tax consequences;
- the identities of any depositories and any paying, transfer, calculation, or other agents for the purchase contracts;
- whether the purchase contract will be issued in global or certificated form;
- any securities exchange or quotation system on which the purchase contracts or any securities deliverable in settlement of the purchase contracts may be listed; and
- any other terms of the purchase contracts and any terms required by or advisable under applicable laws and regulations.

Prepaid Purchase Contracts; Applicability of Indenture

Purchase contracts may require holders to satisfy their obligations under the purchase contracts at the time they are issued. We refer to these contracts as “prepaid purchase contracts.”

In certain circumstances, our obligation to settle a prepaid purchase contract on the relevant settlement date may constitute our senior debt securities or our subordinated debt securities. Accordingly, prepaid purchase contracts may be issued under the Senior Indenture or the Subordinated Indenture, which are described above under the heading “Description of Debt Securities.”

Non-Prepaid Purchase Contracts; No Trust Indenture Act Protection

Some purchase contracts do not require holders to satisfy their obligations under the purchase contracts until settlement. We refer to these contracts as “non-prepaid purchase contracts.” The holder of a non-prepaid purchase contract may remain obligated to perform under the contract for a substantial period of time.

Non-prepaid purchase contracts will be issued under a unit agreement, if they are issued in units, or under some other document, if they are not. We describe unit agreements generally under the heading “Description of Units” below. We will describe the particular governing document that applies to your non-prepaid purchase contracts in the applicable supplement.

Non-prepaid purchase contracts will not be our senior debt securities or subordinated debt securities and will not be issued under one of our indentures, unless we specify otherwise in the applicable supplement. Consequently, no governing documents for non-prepaid purchase contracts will be qualified as indentures, and no third party will be required to qualify as a trustee with regard to those contracts, under the Trust Indenture Act of 1939. Therefore, holders of non-prepaid purchase contracts will not have the protection of the Trust Indenture Act of 1939.

Pledge by Holders to Secure Performance

If we so specify in the applicable supplement, the holder’s obligations under the purchase contract and governing document will be secured by collateral. In that case, the holder, acting through the unit agent as its attorney-in-fact, if applicable, will pledge the items described below to a collateral agent that we will identify in the applicable supplement, which will hold them, for our benefit, as collateral to secure the holder’s obligations. We refer to this as the “pledge” and all the items described below as the “pledged items.” Unless we specify otherwise in the applicable supplement, the pledge will create a security interest in the holder’s entire interest in and to:

- any other securities included in the unit, if the purchase contract is part of a unit, and/or any other property specified in the applicable supplement;
- all additions to and substitutions for the pledged items;
- all income, proceeds, and collections received in respect of the pledged items; and
- all powers and rights owned or acquired later with respect to the pledged items.

The collateral agent will forward all payments and proceeds from the pledged items to us, unless the payments and proceeds have been released from the pledge in accordance with the purchase contract and the governing document. We will use the payments and proceeds from the pledged items to satisfy the holder’s obligations under the purchase contract.

Settlement of Purchase Contracts that Are Part of Units

Unless we specify otherwise in the applicable supplement, where purchase contracts issued together with debt securities as part of a unit require the holders to buy purchase contract

property, the unit agent may apply principal payments from the debt securities in satisfaction of the holders' obligations under the related purchase contract as specified in the applicable supplement. The unit agent will not so apply the principal payments if the holder has delivered cash to meet its obligations under the purchase contract. If the holder is permitted to settle its obligations by cash payment, the holder may be permitted to do so by delivering the debt securities in the unit to the unit agent as provided in the governing document. If the holder settles its obligations in cash rather than by delivering the debt security that is part of the unit, that debt security will remain outstanding, if the maturity extends beyond the relevant settlement date and, as more fully described in the applicable supplement, the holder will receive that debt security or an interest in the relevant global debt security.

Book-entry and other indirect owners should consult their banks or brokers for information on how to settle their purchase contracts.

Failure of Holder to Perform Obligations

If the holder fails to settle its obligations under a non-prepaid purchase contract as required, the holder will not receive the purchase contract property or other consideration to be delivered at settlement. Holders that fail to make timely settlement also may be obligated to pay interest or other amounts.

Unsecured Obligations

The purchase contracts are our unsecured contractual obligations. Claims of holders of our purchase contracts generally will have a junior position to claims of creditors of our subsidiaries including, in the case of our banking subsidiaries, their depositors.

DESCRIPTION OF UNITS

General

We may issue units from time to time in such amounts and in as many distinct series as we determine.

We will issue each series of units under a unit agreement to be entered into between us and a unit agent to be designated in the applicable supplement. When we refer to a series of units, we mean all units issued as part of the same series under the applicable unit agreement.

This section describes some of the general terms and provisions applicable to all the units. We will describe the specific terms of a series of units and the applicable unit agreement in the applicable supplement. The following description and any description of the units in the applicable supplement may not be complete and is subject to and qualified in its entirety by reference to the terms and provisions of the applicable unit agreement. A form of the unit agreement reflecting the particular terms and provisions of a series of offered units will be filed with the SEC in connection with the offering and incorporated by reference in the registration statement and this prospectus. See "Where You Can Find More Information" below for information on how to obtain copies of any unit agreements.

We may issue units consisting of any combination of two or more securities described in this prospectus or securities of third parties, in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.

If units are offered, the applicable supplement will describe the terms of the units, including the following:

- the designation and aggregate number of, and the price at which we will issue, the units;
- the terms of the units and of the securities comprising the units, including whether and under what circumstances the securities comprising the units may or may not be held or transferred separately;
- the name of the unit agent;
- a description of the terms of any unit agreement to be entered into between us and a bank or trust company, as unit agent, governing the units;
- if applicable, a discussion of the U.S. federal income tax consequences;
- whether the units will be listed on any securities exchange; and
- a description of the provisions for the payment, settlement, transfer, or exchange of the units.

Unit Agreements: Prepaid, Non-Prepaid, and Other

If a unit includes one or more purchase contracts, and all those purchase contracts are prepaid purchase contracts, we will issue the unit under a “prepaid unit agreement.” Prepaid unit agreements will reflect the fact that the holders of the related units have no further obligations under the purchase contracts included in their units. If a unit includes one or more non-prepaid purchase contracts, we will issue the unit under a “non-prepaid unit agreement.” Non-prepaid unit agreements will reflect the fact that the holders have payment or other obligations under one or more of the purchase contracts comprising their units. We may also issue units under other kinds of unit agreements, which will be described in the applicable supplement, if applicable.

Each holder of units issued under a non-prepaid unit agreement will:

- be bound by the terms of each non-prepaid purchase contract included in the holder’s units and by the terms of the unit agreement with respect to those contracts; and
- appoint the unit agent as its authorized agent to execute, deliver, and perform on the holder’s behalf each non-prepaid purchase contract included in the holder’s units.

Any unit agreement for a unit that includes a non-prepaid purchase contract also will include provisions regarding the holder’s pledge of collateral and special settlement provisions. These are described above under the heading “Description of Purchase Contracts.”

A unit agreement also may serve as the governing document for a security included in a unit. For example, a non-prepaid purchase contract that is part of a unit may be issued under and governed by the relevant unit agreement.

Modification

We and the unit agent may amend the terms of any unit agreement and the units without the consent of the holders to cure any ambiguity, to correct any inconsistent provision, or in any other manner we deem necessary or desirable and which will not affect adversely the interests of the holders. In addition, we may amend the unit agreement and the terms of the units with the consent of the holders of a majority of the outstanding unexpired units affected. However, any modification to the units that materially and adversely affects the rights of the holders of the units, or reduces the percentage of outstanding units required to modify or amend the unit agreement or the terms of the units, requires the consent of the affected holders.

Enforceability of Rights of Unitholders; No Trust Indenture Act Protection

The unit agent will act solely as our agent and will not assume any obligation or relationship of agency or trust with the holders of the units. Except as described below, any record holder of a unit, without anyone else's consent, may enforce his or her rights as holder under any security included in the unit, in accordance with the terms of the included security and the indenture, warrant agreement, unit agreement, or purchase contract under which that security is issued. We describe these terms in other sections of this prospectus relating to debt securities, warrants, and purchase contracts.

Notwithstanding the foregoing, a unit agreement may limit or otherwise affect the ability of a holder of units issued under that agreement to enforce his or her rights, including any right to bring legal action, with respect to those units or any included securities, other than debt securities. We will describe any limitations of this kind in the applicable supplement.

No unit agreement will be qualified as an indenture, and no unit agent will be required to qualify as a trustee under the Trust Indenture Act of 1939. Therefore, holders of units issued under a unit agreement will not have the protection of the Trust Indenture Act of 1939 with respect to their units.

Unsecured Obligations

The units are our unsecured contractual obligations. Claims of holders of our units generally will have a junior position to claims of creditors of our subsidiaries including, in the case of our banking subsidiaries, their depositors.

DESCRIPTION OF PREFERRED STOCK

General

As of the date of this prospectus, under our Amended and Restated Certificate of Incorporation, we have authority to issue 100,000,000 shares of preferred stock, par value \$.01 per share. We may issue preferred stock in one or more series, each with the preferences, designations, limitations, conversion rights, and other rights as we may determine. Of our authorized and outstanding preferred stock, as of March 31, 2009:

- 35,045 shares were designated as 7% Cumulative Redeemable Preferred Stock, Series B, having a liquidation preference of \$100 per share, 7,642 shares of which were issued and outstanding;
- 34,500 shares were designated as 6.204% Non-Cumulative Preferred Stock, Series D, having a liquidation preference of \$25,000 per share, 33,000 shares of which were issued and outstanding;
- 85,100 shares were designated as Floating Rate Non-Cumulative Preferred Stock, Series E, having a liquidation preference of \$25,000 per share, 81,000 shares of which were issued and outstanding;
- 124,200 shares were designated as 8.20% Non-Cumulative Preferred Stock, Series H, having a liquidation preference of \$25,000 per share, 117,000 shares of which were issued and outstanding.
- 25,300 shares were designated as 6.625% Non-Cumulative Preferred Stock, Series I, having a liquidation preference of \$25,000 per share, 22,000 shares of which were issued and outstanding;

- 41,400 shares were designated as 7.25% Non-Cumulative Preferred Stock, Series J, having a liquidation preference of \$25,000 per share, 41,400 shares of which were issued and outstanding;
- 240,000 shares were designated as Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, having a liquidation preference of \$25,000 per share, 240,000 shares of which were issued and outstanding;
- 6,900,000 shares were designated as 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, having a liquidation preference of \$1,000 per share, 6,900,000 shares of which were issued and outstanding;
- 160,000 shares were designated as Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, having a liquidation preference of \$25,000 per share, 160,000 shares of which were issued and outstanding;
- 600,000 shares were designated as Fixed Rate Cumulative Perpetual Preferred Stock, Series N, having a liquidation preference of \$25,000 per share, 600,000 shares of which were issued and outstanding;
- 400,000 shares were designated as Fixed Rate Cumulative Perpetual Preferred Stock, Series Q, having a liquidation preference of \$25,000 per share, 400,000 shares of which were issued and outstanding;
- 800,000 shares were designated as Fixed Rate Cumulative Perpetual Preferred Stock, Series R, having a liquidation preference of \$25,000 per share, 800,000 shares of which were issued and outstanding;
- 21,000 shares were designated as Floating Rate Non-Cumulative Preferred Stock, Series 1, having a liquidation preference of \$30,000 per share, 21,000 shares of which were issued and outstanding;
- 37,000 shares were designated as Floating Rate Non-Cumulative Preferred Stock, Series 2, having a liquidation preference of \$30,000 per share, 37,000 shares of which were issued and outstanding;
- 27,000 shares were designated as 6.375% Non-Cumulative Preferred Stock, Series 3, having a liquidation preference of \$30,000 per share, 27,000 shares of which were issued and outstanding;
- 20,000 shares were designated as Floating Rate Non-Cumulative Preferred Stock, Series 4, having a liquidation preference of \$30,000 per share, 20,000 shares of which were issued and outstanding;
- 50,000 shares were designated as Floating Rate Non-Cumulative Preferred Stock, Series 5, having a liquidation preference of \$30,000 per share, 50,000 shares of which were issued and outstanding;
- 65,000 shares were designated as 6.70% Noncumulative Perpetual Preferred Stock, Series 6, having a liquidation preference of \$1,000 per share, 65,000 shares of which were issued and outstanding;
- 50,000 shares were designated as 6.25% Noncumulative Perpetual Preferred Stock, Series 7, having a liquidation preference of \$1,000 per share, 50,000 shares of which were issued and outstanding; and
- 89,100 shares were designated as 8.625% Noncumulative Preferred Stock, Series 8, having a liquidation preference of \$30,000 per share, 89,100 shares of which were issued and outstanding.

In addition, as of March 31, 2009, the following series of preferred stock were designated, but no shares of any of these series were outstanding:

- 3 million shares of ESOP Convertible Preferred Stock, Series C;
- 20 million shares of \$2.50 Cumulative Convertible Preferred Stock, Series BB;
- 7,001 shares of Floating Rate Non-Cumulative Preferred Stock, Series F; and
- 8,501 shares of Adjustable Rate Non-Cumulative Preferred Stock, Series G.

We refer to all of our preferred stock summarized above as our existing preferred stock. This brief summary does not purport to be complete and is qualified in its entirety by reference to the description of these securities contained in our Amended and Restated Certificate of Incorporation and the respective certificates of designation for each series of our existing preferred stock. In addition, for a more complete description of our existing preferred stock as of March 31, 2009, see the information contained in our Form 8-K filed with the SEC on April 20, 2009, which is incorporated by reference in this prospectus. We may update this description of some or all of our existing preferred stock from time to time in amendments to this Form 8-K or reports that we file under the Exchange Act.

The Preferred Stock

General. Any preferred stock sold under this prospectus will have the general dividend, voting, and liquidation preference rights stated below unless we specify otherwise in the applicable supplement. The applicable supplement for a series of preferred stock will describe the specific terms of those shares, including, where applicable:

- the title and stated value of the preferred stock;
- the aggregate number of shares of preferred stock offered;
- the offering price or prices of the preferred stock;
- the dividend rate or rates or method of calculation, the dividend period, and the dates dividends will be payable;
- whether dividends are cumulative or noncumulative, and, if cumulative, the date the dividends will begin to cumulate;
- the dividend and liquidation preference rights of the preferred stock relative to any existing or future series of our preferred stock;
- the dates the preferred stock become subject to redemption at our option, and any redemption terms;
- any redemption or sinking fund provisions;
- whether the preferred stock will be issued in other than book-entry form;
- whether the preferred stock will be listed on any securities exchange;
- any rights on the part of the stockholder or us to convert the preferred stock into shares of our common stock or any other security; and
- any additional voting, liquidation, preemptive, and other rights, preferences, privileges, limitations, and restrictions.

Dividends. The holders of our preferred stock will be entitled to receive when, as, and if declared by our board of directors, cash dividends at those rates as will be fixed by our board of directors, subject to the terms of our Amended and Restated Certificate of Incorporation. All dividends will be paid out of funds that are legally available for this purpose. Unless we specify

otherwise in the applicable supplement, whenever dividends on any non-voting preferred stock are in arrears for six quarterly dividend periods (whether or not consecutive), holders of the non-voting preferred stock will have the right to elect two additional directors to serve on our board of directors, and these two additional directors will continue to serve until full dividends on such non-voting preferred stock have been paid regularly for at least four quarterly dividend periods.

Voting. The holders of our preferred stock will have no voting rights except:

- as required by applicable law; or
- as specifically approved by us for that particular series.

Under regulations adopted by the Federal Reserve Board, if the holders of any series of our preferred stock become entitled to vote for the election of directors because dividends on that series are in arrears, that series may then be deemed a “class of voting securities.” In such a case, a holder of 25% or more of the series, or a holder of 5% or more if that holder would also be considered to exercise a “controlling influence” over us, may then be subject to regulation as a bank holding company in accordance with the Bank Holding Company Act. In addition, (1) any other bank holding company may be required to obtain the prior approval of the Federal Reserve Board to acquire or retain 5% or more of that series, and (2) any person other than a bank holding company may be required to obtain the approval of the Federal Reserve Board to acquire or retain 10% or more of that series.

Liquidation Preference. In the event of our voluntary or involuntary dissolution, liquidation, or winding up, the holders of any series of our preferred stock will be entitled to receive, after distributions to holders of any series or class of our capital stock ranking superior, an amount equal to the stated or liquidation value of the shares of the series plus an amount equal to accrued and unpaid dividends. If the assets and funds to be distributed among the holders of our preferred stock will be insufficient to permit full payment to the holders, then the holders of our preferred stock will share ratably in any distribution of our assets in proportion to the amounts that they otherwise would receive on their shares of our preferred stock if the shares were paid in full.

TARP Program. In October 2008 and January 2009, we issued preferred stock and warrants to purchase our common stock to the U.S. Treasury under the TARP Capital Purchase Program and targeted investment program. Under the terms of these issuances, for so long as any of the preferred stock issued to the U.S. Treasury remains outstanding, we are prohibited from purchasing or redeeming our capital securities or other equity securities, including our preferred stock, without the U.S. Treasury’s consent, until January 2012 or until the U.S. Treasury has transferred all of the preferred stock issued to it to third parties. Furthermore, as long as the preferred stock issued to the U.S. Treasury is outstanding, we are restricted from making dividend payments and prohibited from making repurchases or redemptions relating to our equity securities, including our preferred stock, until all accrued and unpaid dividends are paid on the preferred stock issued to U.S. Treasury, subject to certain limited exceptions.

DESCRIPTION OF DEPOSITARY SHARES

General

We may offer depositary receipts evidencing depositary shares, each of which will represent a fractional interest in shares of preferred stock, rather than full shares of these securities. We will deposit shares of preferred stock of each series represented by depositary shares under a deposit agreement between us and a U.S. bank or trust company that we will select (the “depository”).

This section describes some of the general terms and provisions applicable to all depositary shares. We will describe the specific terms of a series of depositary shares and the deposit agreement in the applicable supplement. The following description and any description of the depositary shares in the applicable supplement may not be complete and is subject to and qualified in its entirety by reference to the terms and provisions of the applicable deposit agreement and depositary receipts. Forms of the deposit agreement and depositary receipts reflecting the particular terms and provisions of a series of offered depositary shares will be filed with the SEC in connection with the offering and incorporated by reference in the registration statement and this prospectus. See “Where You Can Find More Information” below for information on how to obtain copies of any deposit agreements and depositary receipts.

Terms of the Depositary Shares

Depositary receipts issued under the deposit agreement will evidence the depositary shares. Depositary receipts will be distributed to those persons purchasing depositary shares representing fractional shares of preferred stock in accordance with the terms of the offering. Subject to the terms of the deposit agreement, each holder of a depositary share will be entitled, in proportion to the fractional interest of a share of preferred stock represented by the applicable depositary share, to all the rights and preferences of the preferred stock being represented, including dividend, voting, redemption, conversion, and liquidation rights, all as will be set forth in the applicable supplement relating to the depositary shares being offered.

Pending the preparation of definitive depositary receipts, the depository, upon our written order, may issue temporary depositary receipts. The temporary depositary receipts will be substantially identical to, and will have all the rights of, the definitive depositary receipts, but will not be in definitive form. Definitive depositary receipts will be prepared thereafter and temporary depositary receipts will be exchanged for definitive depositary receipts at our expense.

Withdrawal of Preferred Stock

Unless the depositary shares have been called for redemption, a holder of depositary shares may surrender his or her depositary receipts at the principal office of the depository, pay any charges, and comply with any other terms as provided in the deposit agreement for the number of shares of preferred stock underlying the depositary shares. A holder of depositary shares who withdraws shares of preferred stock will be entitled to receive whole shares of preferred stock on the basis set forth in the applicable supplement relating to the depositary shares being offered.

However, unless we specify otherwise in the applicable supplement, holders of whole shares of preferred stock will not be entitled to deposit those shares under the deposit agreement or to receive depositary receipts for those shares after the withdrawal. If the depositary shares surrendered by the holder in connection with the withdrawal exceed the number of depositary shares that represent the number of whole shares of preferred stock to be withdrawn, the depository will deliver to the holder at the same time a new depositary receipt evidencing the excess number of depositary shares.

Dividends and Other Distributions

The depository will distribute all cash dividends or other cash distributions received in respect of the preferred stock to the record holders of depositary shares relating to that preferred stock in proportion to the number of depositary shares owned by those holders. However, the depository will distribute only the amount that can be distributed without attributing to any holder of depositary shares a fraction of one cent. Any balance that is not distributed will be added to and treated as part of the next sum received by the depository for distribution to record holders.

If there is a distribution other than in cash, the depository will distribute property it receives to the record holders of depositary shares who are entitled to that property. However, if the depository determines that it is not feasible to make this distribution of property, the depository, with our approval, may sell that property and distribute the net proceeds to the holders of the depositary shares.

Redemption of Depositary Shares

If a series of preferred stock which relates to depositary shares is redeemed, the depositary shares will be redeemed from the proceeds received by the depository from the redemption, in whole or in part, of that series of preferred stock. Unless we specify otherwise in the applicable supplement, the depository will mail notice of redemption at least 30 and not more than 45 calendar days before the date fixed for redemption to the record holders of the depositary shares to be redeemed at their addresses appearing in the depository's books. The redemption price per depositary share will be equal to the applicable fraction of the redemption price per share payable on that series of the preferred stock.

Whenever we redeem preferred stock held by the depository, the depository will redeem as of the same redemption date the number of depositary shares representing the preferred stock redeemed. If less than all of the depositary shares are redeemed, the depositary shares redeemed will be selected by lot or pro rata or by any other equitable method as the depository may decide.

After the date fixed for redemption, the depositary shares called for redemption will no longer be deemed to be outstanding. At that time, all rights of the holder of the depositary shares will cease, except the right to receive any money or other property they become entitled to receive upon surrender to the depository of the depositary receipts.

Voting the Deposited Preferred Stock

Any voting rights of holders of the depositary shares are directly dependent on the voting rights of the underlying preferred stock, which customarily have limited voting rights. Upon receipt of notice of any meeting at which the holders of the preferred stock held by the depository are entitled to vote, the depository will mail the information contained in the notice of meeting to the record holders of the depositary shares relating to the preferred stock. Each record holder of depositary shares on the record date, which will be the same date as the record date for the preferred stock, will be entitled to instruct the depository as to the exercise of the voting rights pertaining to the amount of preferred stock underlying the holder's depositary shares. The depository will endeavor, insofar as practicable, to vote the amount of preferred stock underlying the depositary shares in accordance with these instructions. We will agree to take all action which may be deemed necessary by the depository to enable the depository to do so. The depository will not vote any shares of preferred stock except to the extent it receives specific instructions from the holders of depositary shares representing that number of shares of preferred stock.

Amendment and Termination of the Deposit Agreement

The form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement may be amended by agreement between us and the depository. However, any amendment which materially and adversely alters the rights of the existing holders of depositary shares will not be effective unless the amendment has been approved by the record holders of at least a majority of the depositary shares then outstanding. Either we or the depository may terminate a deposit agreement if all of the outstanding depositary shares have been redeemed or if there has been a final distribution in respect of our preferred stock in connection with our liquidation, dissolution, or winding up.

Charges of Depository

We will pay all transfer and other taxes, assessments, and governmental charges arising solely from the existence of the depository arrangements. We will pay the fees of the depository in connection with the initial deposit of the preferred stock and any redemption of the preferred stock. Holders of depository receipts will pay transfer and other taxes, assessments, and governmental charges and any other charges as are expressly provided in the deposit agreement to be for their accounts. The depository may refuse to effect any transfer of a depository receipt or any withdrawals of preferred stock evidenced by a depository receipt until all taxes, assessments, and governmental charges with respect to the depository receipt or preferred stock are paid by their holders.

Miscellaneous

The depository will forward to the holders of depository shares all of our reports and communications which are delivered to the depository and which we are required to furnish to the holders of our preferred stock.

Neither we nor the depository will be liable if we are prevented or delayed by law or any circumstance beyond our control in performing our obligations under the deposit agreement. All of our obligations as well as the depository's obligations under the deposit agreement are limited to performance in good faith of our respective duties set forth in the deposit agreement, and neither of us will be obligated to prosecute or defend any legal proceeding relating to any depository shares or preferred stock unless provided with satisfactory indemnity. We, and the depository, may rely upon written advice of counsel or accountants, or information provided by persons presenting preferred stock for deposit, holders of depository shares, or other persons believed to be competent and on documents believed to be genuine.

Resignation and Removal of Depository

The depository may resign at any time by delivering to us notice of its election to do so, and we may remove the depository at any time. Any resignation or removal will take effect only upon the appointment of a successor depository and the successor depository's acceptance of the appointment. Any successor depository must be a U.S. bank or trust company.

DESCRIPTION OF COMMON STOCK

The following summary of our common stock is qualified in its entirety by reference to the description of the common stock incorporated by reference in this prospectus.

General

As of the date of this prospectus, under our Amended and Restated Certificate of Incorporation, we are authorized to issue 10 billion shares of common stock, par value \$.01 per share, of which approximately 6.40 billion shares were outstanding on March 31, 2009. Our common stock trades on the New York Stock Exchange under the symbol "BAC." Our common stock also is listed on the London Stock Exchange, and certain shares are listed on the Tokyo Stock Exchange. As of March 31, 2009, approximately 1.22 billion shares were reserved for issuance in connection with our various employee and director benefit plans, the conversion of outstanding securities convertible into shares of our common stock, and for other purposes. After taking into account the reserved shares, there were approximately 2.38 billion authorized shares of our common stock available for issuance as of March 31, 2009.

In October 2008 and January 2009, we issued preferred stock and warrants to purchase our common stock to the U.S. Treasury under the TARP Capital Purchase Program and targeted investment program. Under the terms of these issuances, for so long as any of the preferred

stock issued to the U.S. Treasury remains outstanding, we are prohibited from increasing the current quarterly dividend rate on our common stock (currently \$0.01 per share) and from repurchasing our trust preferred securities or equity securities, including our common stock (except for repurchases of common stock in connection with benefit plans consistent with past practice), without the U.S. Treasury's consent, until January 2012 or until the U.S. Treasury has transferred all of the preferred stock issued to it to third parties. Furthermore, as long as the preferred stock issued to the U.S. Treasury is outstanding, dividend payments and repurchases or redemptions relating to certain equity securities, including our common stock, are prohibited until all accrued and unpaid dividends are paid on the preferred stock issued to the U.S. Treasury, subject to certain limited exceptions.

Voting and Other Rights

Holders of our common stock are entitled to one vote per share. There are no cumulative voting rights. In general, a majority of votes cast on a matter is sufficient to take action upon routine matters, including the election of directors in an uncontested election. However, (1) amendments to our Amended and Restated Certificate of Incorporation generally must be approved by the affirmative vote of the holders of a majority of the voting power of the outstanding stock, and (2) a merger, dissolution, or the sale of all or substantially all of our assets generally must be approved by the affirmative vote of the holders of a majority of the voting power of the outstanding stock.

In the event of our liquidation, holders of our common stock will be entitled to receive pro rata any assets legally available for distribution to stockholders, subject to any prior rights of any preferred stock then outstanding.

Our common stock does not have any preemptive rights, redemption privileges, sinking fund privileges, or conversion rights. All the outstanding shares of our common stock are, and upon proper conversion of any convertible securities, all of the shares of our common stock into which those securities are converted will be, validly issued, fully paid, and nonassessable.

Computershare Trust Company, N.A. is the transfer agent and registrar for our common stock.

Dividends

Subject to the preferential rights of any holders of any outstanding series of preferred stock, the holders of our common stock are entitled to receive dividends or distributions, whether payable in cash or otherwise, as our board of directors may declare out of funds legally available for payments. Stock dividends, if any are declared, may be paid from our authorized but unissued shares of our common stock.

REGISTRATION AND SETTLEMENT

Unless we specify otherwise in the applicable supplement, we will issue the securities in registered, and not bearer, form. This means that our obligation runs to the holder of the security named on the face of the security. Each debt security, warrant, purchase contract, unit, share of preferred stock, and depository share issued in registered form will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of securities.

We refer to those persons who have securities registered in their own names, on the books that we or the trustee, warrant agent, or other agent maintain for this purpose, as the “holders” of those securities. These persons are the legal holders of the securities. We refer to those who, indirectly through others, own beneficial interests in securities that are not registered in their own names as indirect owners of those securities. As we discuss below, indirect owners are not legal holders, and investors in securities issued in global, or book-entry, form or in street name will be indirect owners.

Book-Entry Only Issuance

Unless we specify otherwise in the applicable supplement, we will issue each security other than our common stock in global, or book-entry, form. This means that we will not issue actual notes or certificates to investors. Instead, we will issue global securities in registered form representing the entire issuance of securities. Each global security will be registered in the name of a financial institution or clearing system that holds the global security as depository on behalf of other financial institutions that participate in that depository’s book-entry system. These participating institutions, in turn, hold beneficial interests in the global securities on behalf of themselves or their customers.

Because securities issued in global form are registered in the name of the depository, we will recognize only the depository as the holder of the securities. This means that we will make all payments on the securities, including deliveries of any property other than cash, to the depository. The depository passes along the payments it receives from us to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depository and its participants are not obligated to pass these payments along under the terms of the securities. Instead, they do so under agreements they have made with one another or with their customers.

As a result, investors will not own securities issued in book-entry form directly. Instead, they will own beneficial interests in a global security, through a bank, broker, or other financial institution that participates in the depository’s book-entry system or holds an interest through a participant in the depository’s book-entry system. As long as the securities are issued in global form, investors will be indirect owners, and not holders, of the securities. The depository will not have knowledge of the actual beneficial owners of the securities.

Certificates in Registered Form

In the future, we may cancel a global security or we may issue securities initially in non-global, or certificated, form. We do not expect to exchange global securities for actual notes or certificates registered in the names of the beneficial owners of the global securities representing the securities unless:

- the depository notifies us that it is unwilling or unable to continue as depository for the global securities, or we become aware that the depository has ceased to be a clearing agency registered under the Securities Exchange Act of 1934, and in any case we fail to appoint a successor to the depository within 60 calendar days; or

- we, in our sole discretion, determine that the global securities will be exchangeable for certificated securities.

Street Name Owners

When we issue actual notes or certificates registered in the names of the beneficial owners, investors may choose to hold their securities in their own names or in street name. Securities held by an investor in street name would be registered in the name of a bank, broker, or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those securities through an account that he or she maintains at that institution.

For securities held in street name, we will recognize only the intermediary banks, brokers, and other financial institutions in whose names the securities are registered as the holders of those securities, and we will make all payments on those securities, including deliveries of any property other than cash, to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold securities in street name will be indirect owners, not holders, of those securities.

Legal Holders

Our obligations, as well as the obligations of the trustee under any indenture and the obligations, if any, of any warrant agents, unit agents, depository for depository shares, and any other third parties employed by us, the trustee, or any of those agents, run only to the holders of the securities. We do not have obligations to investors who hold beneficial interests in global securities, who hold the securities in street name, or who hold the securities by any other indirect means. This will be the case whether an investor chooses to be an indirect owner of a security or has no choice because we are issuing the securities only in global form. For example, once we make a payment or give a notice to the holder, we have no further responsibility for that payment or notice even if that holder is required, under agreements with depository participants or customers or by law, to pass it along to the indirect owners, but does not do so. Similarly, if we want to obtain the approval of the holders for any purpose, such as to amend the indenture for a series of debt securities or the warrant agreement for a series of warrants or the unit agreement for a series of units or to relieve us of the consequences of a default or of our obligation to comply with a particular provision of an indenture, we would seek the approval only from the holders, and not the indirect owners, of the relevant securities. Whether and how the holders contact the indirect owners is up to the holders.

When we refer to “you” in this prospectus, we mean those who invest in the securities being offered by this prospectus, whether they are the holders or only indirect owners of those securities. When we refer to “your securities” in this prospectus, we mean the securities in which you will hold a direct or indirect interest.

Special Considerations for Indirect Owners

If you hold securities through a bank, broker, or other financial institution, either in book-entry form or in street name, you should check with your own institution to find out:

- how it handles payments on your securities and notices;
- whether you can provide contact information to the registrar to receive copies of notices directly;
- whether it imposes fees or charges;

- whether and how you can instruct it to exercise any rights to purchase or sell warrant property under a warrant or purchase contract property under a purchase contract or to exchange or convert a security for or into other property;
- how it would handle a request for the holders' consent, if required;
- whether and how you can instruct it to send you the securities registered in your own name so you can be a holder, if that is permitted at any time;
- how it would exercise rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the securities are in book-entry form, how the depository's rules and procedures will affect these matters.

Depositories for Global Securities

Each security issued in book-entry form will be represented by a global security that we deposit with and register in the name of one or more financial institutions or clearing systems, or their nominees, which we will select. A financial institution or clearing system that we select for this purpose is called the "depository" for that security. A security usually will have only one depository, but it may have more.

Each series of securities will have one or more of the following as the depositories:

- The Depository Trust Company, New York, New York, which is known as "DTC";
- a financial institution holding the securities on behalf of Euroclear Bank SA/NV, which is known as "Euroclear";
- a financial institution holding the securities on behalf of Clearstream Banking, société anonyme, Luxembourg, which is known as "Clearstream, Luxembourg"; and
- any other clearing system or financial institution that we identify in the applicable supplement.

The depositories named above also may be participants in one another's clearing systems. For example, if DTC is the depository for a global security, investors may hold beneficial interests in that security through Euroclear or Clearstream, Luxembourg as DTC participants.

We will name the depository or depositories for your securities in the applicable supplement. If no depository is named, the depository will be DTC.

The Depository Trust Company

The following is based on information furnished to us by DTC:

DTC will act as securities depository for the securities. The securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee), or any other name as may be requested by an authorized representative of DTC. One fully registered global security will be issued for each issue of the securities, each in the aggregate principal amount of the issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of the issue.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing

agency” registered under Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that its direct participants deposit with DTC. DTC also facilitates the post-trade settlement among direct participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between direct participants’ accounts. This eliminates the need for physical movement of certificates representing securities. Direct participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a direct participant, either directly or indirectly (“indirect participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC rules applicable to its participants are on file with the SEC. More information about DTC can be found at www.dtcc.com and www.dtc.org.

Purchases of the securities under the DTC system must be made by or through direct participants, which will receive a credit for the securities on DTC’s records. The ownership interest of each actual purchaser of each security (the “beneficial owner”) is in turn to be recorded on the direct and indirect participants’ records. Beneficial owners will not receive written confirmation from DTC of their purchase. A beneficial owner, however, is expected to receive written confirmations providing details of the transaction, as well as periodic statements of its holdings, from the direct or indirect participant through which the beneficial owner entered into the transaction. Transfers of ownership interests in the securities are to be accomplished by entries made on the books of direct and indirect participants acting on behalf of beneficial owners. Beneficial owners will not receive certificates representing their ownership interests in the securities, except if the use of the book-entry system for the securities is discontinued.

To facilitate subsequent transfers, all securities deposited by direct participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual beneficial owners of the securities; DTC’s records reflect only the identity of the direct participants to whose accounts such securities are credited, which may or may not be the beneficial owners. The direct and indirect participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to direct participants, by direct participants to indirect participants, and by direct and indirect participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial owners of securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the securities, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, a beneficial owner of securities may wish to ascertain that the nominee holding the securities for its benefit has agreed to obtain and transmit notices to beneficial owners. In the alternative, a beneficial owner may wish to provide its name and address to the registrar and request that copies of notices be provided directly to it.

None of DTC, Cede & Co., or any other DTC nominee will consent or vote with respect to the securities unless authorized by a direct participant in accordance with DTC's Money Market Instrument ("MMI") procedures. Under its usual procedures, DTC mails an omnibus proxy to us as soon as possible after the regular record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those direct participants to whose accounts the securities are credited on the regular record date. These participants are identified in a listing attached to the omnibus proxy.

We will make dividend payments or any payments of principal, any premium, interest, or other amounts on the securities in immediately available funds directly to Cede & Co., or any other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit direct participants' accounts upon DTC's receipt of funds and corresponding detail information from us, on the applicable payment date in accordance with their respective holdings shown on DTC's records. Payments by participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in street name. These payments will be the responsibility of these participants and not of DTC or its nominee, us, the trustee, or any other agent or party, subject to any statutory or regulatory requirements that may be in effect from time to time. Payment of dividends or principal and any premium or interest to Cede & Co., or any other nominee as may be requested by an authorized representative of DTC, is our responsibility. Disbursement of the payments to direct participants is the responsibility of DTC, and disbursement of the payments to the beneficial owners is the responsibility of the direct or indirect participants.

We will send any redemption notices to DTC. If less than all of the securities of a series are being redeemed, DTC's practice is to determine by lot the amount of the interest of each direct participant in the issue to be redeemed.

A beneficial owner must give any required notice of its election to have its securities repurchased through the participant through which it holds its beneficial interest in the security to the applicable trustee or tender agent. The beneficial owner shall effect delivery of its securities by causing the direct participant to transfer its interest in the securities on DTC's records. The requirement for physical delivery of securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the securities are transferred by the direct participant on DTC's records and followed by a book-entry credit of tendered securities to the applicable trustee or agent's DTC account.

DTC may discontinue providing its services as depository for the securities at any time by giving us reasonable notice. If this occurs, and if a successor securities depository is not obtained, we will print and deliver certificated securities.

We may decide to discontinue use of the system of book-entry only transfers through DTC or a successor securities depository. In that event, we will print and delivery certificated securities to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for its accuracy.

Euroclear and Clearstream, Luxembourg

Euroclear and Clearstream, Luxembourg each hold securities for their customers and facilitate the clearance and settlement of securities transactions by electronic book-entry transfer between their respective account holders (each such account holder, a "participant" and collectively, the "participants"). Euroclear and Clearstream, Luxembourg provide various services including safekeeping, administration, clearance and settlement of internationally

traded securities and securities lending and borrowing. Euroclear and Clearstream, Luxembourg also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream, Luxembourg have established an electronic bridge between their two systems across which their respective participants may settle trades with each other. Euroclear is incorporated under the laws of Belgium and Clearstream, Luxembourg is incorporated under the laws of Luxembourg.

Euroclear and Clearstream, Luxembourg customers are world-wide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies, and clearing corporations. Indirect access to Euroclear and Clearstream, Luxembourg is available to other institutions that clear through or maintain a custodial relationship with a participant of either system.

The address of Euroclear is Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855, Luxembourg.

Euroclear and Clearstream, Luxembourg may be depositories for a global security sold or traded outside the United States. In addition, if DTC is the depository for a global security, Euroclear and Clearstream, Luxembourg may hold interests in the global security as participants in DTC. As long as any global security is held by Euroclear or Clearstream, Luxembourg as depository, you may hold an interest in the global security only through an organization that participates, directly or indirectly, in Euroclear or Clearstream, Luxembourg. If Euroclear or Clearstream, Luxembourg is the depository for a global security and there is no depository in the United States, you will not be able to hold interests in that global security through any securities clearing system in the United States.

Payments, deliveries, transfers, exchanges, notices, and other matters relating to the securities made through Euroclear or Clearstream, Luxembourg must comply with the rules and procedures of those clearing systems. Those clearing systems could change their rules and procedures at any time. We have no control over those clearing systems or their participants, and we take no responsibility for their activities. Transactions between participants in Euroclear or Clearstream, Luxembourg, on one hand, and participants in DTC, on the other hand, when DTC is the depository, also would be subject to DTC's rules and procedures.

Investors will be able to make and receive through Euroclear and Clearstream, Luxembourg payments, deliveries, transfers, exchanges, notices, and other transactions involving any securities held through those clearing systems only on days when those clearing systems are open for business. Those clearing systems may not be open for business on days when banks, brokers, and other institutions are open for business in the United States. In addition, because of time-zone differences, U.S. investors who hold their interests in the securities through these clearing systems and wish to transfer their interests, or to receive or make a payment or delivery or exercise any other right with respect to their interests, on a particular day may find that the transaction will not be effected until the next business day in Brussels or Luxembourg, as applicable. Thus, investors who wish to exercise rights that expire on a particular day may need to act before the expiration date. In addition, investors who hold their interests through both DTC and Euroclear or Clearstream, Luxembourg may need to make special arrangements to finance any purchases or sales of their interests between the United States and European clearing systems, and those transactions may settle later than would be the case for transactions within one clearing system.

Special Considerations for Global Securities

As an indirect owner, an investor's rights relating to a global security will be governed by the account rules of the depository and those of the investor's financial institution or other intermediary through which it holds its interest (e.g., Euroclear or Clearstream, Luxembourg, if DTC is the depository), as well as general laws relating to securities transfers. We do not recognize this type of investor or any intermediary as a holder of securities. Instead, we deal only with the depository that holds the global security.

If securities are issued only in the form of a global security, an investor should be aware of the following:

- an investor cannot cause the securities to be registered in his or her own name, and cannot obtain physical certificates for his or her interest in the securities, except in the special situations described above;
- an investor will be an indirect holder and must look to his or her own bank or broker for payments on the securities and protection of his or her legal rights relating to the securities, as we describe above under "—Legal Holders";
- under existing industry practices, if we or the applicable trustee request any action of owners of beneficial interests in any global security or if an owner of a beneficial interest in any global security desires to give instructions or take any action that a holder of an interest in a global security is entitled to give or take under the applicable indenture, Euroclear or Clearstream, Luxembourg, as the case may be, would authorize the participants owning the relevant beneficial interests to give instructions or take such action, and such participants would authorize indirect holders to give or take such action or would otherwise act upon the instructions of such indirect holders;
- an investor may not be able to sell interests in the securities to some insurance companies and other institutions that are required by law to own their securities in certificated form;
- an investor may not be able to pledge his or her interest in a global security in circumstances where certificates representing the securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective; furthermore, as Euroclear and Clearstream, Luxembourg act on behalf of their respective participants only, who in turn may act on behalf of their respective clients, the ability of beneficial owners who are not participants with Euroclear or Clearstream, Luxembourg to pledge interests in any global security to persons or entities that are not participants with Euroclear or Clearstream, Luxembourg or otherwise take action in respect of interests in any global security, may be limited;
- the depository's policies will govern payments, deliveries, transfers, exchanges, notices, and other matters relating to an investor's interest in a global security, and those policies may change from time to time;
- we, the trustee, any warrant agents, and any unit or other agents will not be responsible for any aspect of the depository's policies, actions, or records of ownership interests in a global security;
- we, the trustee, any warrant agents, and any unit or other agents do not supervise the depository in any way;
- the depository will require that those who purchase and sell interests in a global security within its book-entry system use immediately available funds, and your broker or bank may require you to do so as well; and

- financial institutions that participate in the depository's book-entry system and through which an investor holds his or her interest in the global securities, directly or indirectly, also may have their own policies affecting payments, deliveries, transfers, exchanges, notices, and other matters relating to the securities. Those policies may change from time to time. For example, if you hold an interest in a global security through Euroclear or Clearstream, Luxembourg when DTC is the depository, Euroclear or Clearstream, Luxembourg, as applicable, will require those who purchase and sell interests in that security through them to use immediately available funds and comply with other policies and procedures, including deadlines for giving instructions as to transactions that are to be effected on a particular day. There may be more than one financial intermediary in the chain of ownership for an investor. We do not monitor and are not responsible for the policies or actions or records of ownership interests of any of those intermediaries.

Registration, Transfer, and Payment of Certificated Securities

If we ever issue securities in certificated form, those securities may be presented for registration of transfer at the office of the registrar or at the office of any transfer agent we designate and maintain. The registrar or transfer agent will make the transfer or registration only if it is satisfied with the documents of title and identity of the person making the request. There will not be a service charge for any exchange or registration of transfer of the securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the exchange. At any time we may change transfer agents or approve a change in the location through which any transfer agent acts. We also may designate additional transfer agents for any securities at any time.

We will not be required to issue, exchange, or register the transfer of any security to be redeemed for a period of 15 calendar days before the selection of the securities to be redeemed. In addition, we will not be required to exchange or register the transfer of any security that was selected, called, or is being called for redemption, except the unredeemed portion of any security being redeemed in part.

We will pay amounts payable on any certificated securities at the offices of the paying agents we may designate from time to time.

U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following summary of the material U.S. federal income tax considerations of the acquisition, ownership, and disposition of certain of the debt securities, preferred stock, depositary shares representing fractional interests in preferred stock, and common stock that we are offering, is based upon the advice of Morrison & Foerster LLP, our tax counsel. The following discussion is not exhaustive of all possible tax considerations. This summary is based upon the Internal Revenue Code of 1986, as amended (the "Code"), regulations promulgated under the Code by the U.S. Treasury Department (including proposed and temporary regulations), rulings, current administrative interpretations and official pronouncements of the Internal Revenue Service (the "IRS"), and judicial decisions, all as currently in effect and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below.

This summary is for general information only, and does not purport to discuss all aspects of U.S. federal income taxation that may be important to a particular holder in light of its investment or tax circumstances or to holders subject to special tax rules, such as: partnerships, subchapter S corporations, or other pass-through entities, any government (or instrumentality or agency thereof), banks, financial institutions, tax-exempt entities, insurance companies, regulated investment companies, real estate investment trusts, trusts and estates, dealers in securities or currencies, traders in securities that have elected to use the mark-to-market method of accounting for their securities, persons holding the debt securities, preferred stock, depositary shares, or common stock as part of an integrated investment, including a "straddle," "hedge," "constructive sale," or "conversion transaction," persons (other than Non-U.S. Holders) whose functional currency for tax purposes is not the U.S. dollar, and persons subject to the alternative minimum tax provisions of the Code. This summary does not include any description of the tax laws of any state or local governments, or of any foreign government, that may be applicable to a particular holder. This summary also may not apply to all forms of debt securities, preferred stock, depositary shares, or common stock that we may issue. If the tax consequences associated with a particular form of debt security, preferred stock, common stock, or depositary share are different than those described below, they will be described in the applicable supplement.

This summary is directed solely to holders that, except as otherwise specifically noted, will purchase the debt securities, preferred stock, depositary shares, or common stock offered in this prospectus upon original issuance and will hold such securities as capital assets within the meaning of Section 1221 of the Code, which generally means as property held for investment.

You should consult your own tax advisor concerning the U.S. federal income tax consequences to you of acquiring, owning, and disposing of these securities, as well as any tax consequences arising under the laws of any state, local, foreign, or other tax jurisdiction and the possible effects of changes in U.S. federal or other tax laws.

As used in this prospectus, the term "U.S. Holder" means a beneficial owner of the debt securities, preferred stock, depositary shares, or common stock offered in this prospectus that is for U.S. federal income tax purposes:

- a citizen or resident of the United States;
- a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or of any state of the United States or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or

- any trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust.

Notwithstanding the preceding paragraph, to the extent provided in Treasury regulations, some trusts in existence on August 20, 1996, and treated as United States persons prior to that date, that elect to continue to be treated as United States persons also will be U.S. Holders. As used in this prospectus, the term “Non-U.S. Holder” is a holder that is not a U.S. Holder.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds the debt securities, preferred stock, depository shares, or common stock offered in this prospectus, the U.S. federal income tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership and accordingly, this summary does not apply to partnerships. A partner of a partnership holding the debt securities, preferred stock, depository shares, or common stock should consult its own tax advisor regarding the U.S. federal income tax consequences to the partner of the acquisition, ownership, and disposition by the partnership of the debt securities, preferred stock, depository shares, or common stock.

Taxation of Debt Securities

This subsection describes the material U.S. federal income tax consequences of the acquisition, ownership, and disposition of the debt securities offered in this prospectus, other than the debt securities described below under “—Convertible, Renewable, Extendible, Indexed, and Other Debt Securities,” which will be described in the applicable supplement. This subsection is directed solely to holders that, except as otherwise specifically noted, will purchase the debt securities offered in this prospectus upon original issuance at the issue price, as defined below.

Consequences to U.S. Holders

The following is a summary of the material U.S. federal income tax consequences that will apply to U.S. Holders of debt securities.

Payment of Interest. Except as described below in the case of interest on a debt security issued with original issue discount, as defined below under “—Consequences to U.S. Holders—Original Issue Discount,” interest on a debt security generally will be included in the income of a U.S. Holder as interest income at the time it is accrued or is received in accordance with the U.S. Holder’s regular method of accounting for U.S. federal income tax purposes and will be ordinary income.

Original Issue Discount. Some of our debt securities may be issued with original issue discount (“OID”). U.S. Holders of debt securities issued with OID, other than short-term debt securities with a maturity of one year or less from its date of issue, will be subject to special tax accounting rules, as described in greater detail below. For tax purposes, OID is the excess of the “stated redemption price at maturity” of a debt instrument over its “issue price.” The “stated redemption price at maturity” of a debt security is the sum of all payments required to be made on the debt security other than “qualified stated interest” payments, as defined below. The “issue price” of a debt security is generally the first offering price to the public at which a substantial amount of the issue was sold (ignoring sales to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers). The term “qualified stated interest” generally means stated interest that is unconditionally payable in cash or property (other than debt instruments of the issuer), or that is treated as constructively received, at least annually at a single fixed rate or, under certain circumstances, at a variable rate. If a debt security bears interest during any accrual period at a rate below the rate applicable for the remaining term of the debt security (for example, debt securities with teaser

rates or interest holidays), then some or all of the stated interest may not be treated as qualified stated interest.

A U.S. Holder of a debt security with a maturity of more than one year from its date of issue that has been issued with OID (an "OID debt security") is generally required to include any qualified stated interest payments in income as interest at the time it is accrued or is received in accordance with the U.S. Holder's regular accounting method for tax purposes, as described above under "—Consequences to U.S. Holders—Payment of Interest." A U.S. Holder of an OID debt security is generally required to include in income the sum of the daily accruals of the OID for the debt security for each day during the taxable year (or portion of the taxable year) in which the U.S. Holder held the OID debt security, regardless of such holder's regular method of accounting. Thus, a U.S. Holder may be required to include OID in income in advance of the receipt of some or all of the related cash payments. The daily portion is determined by allocating the OID for each day of the accrual period. An accrual period may be of any length and the accrual periods may even vary in length over the term of the OID debt security, provided that each accrual period is no longer than one year and each scheduled payment of principal or interest occurs either on the first day of an accrual period or on the final day of an accrual period. The amount of OID allocable to an accrual period is equal to the excess of: (1) the product of the "adjusted issue price" of the OID debt security at the beginning of the accrual period and its yield to maturity (computed generally on a constant yield method and compounded at the end of each accrual period, taking into account the length of the particular accrual period) over (2) the amount of any qualified stated interest allocable to the accrual period. OID allocable to a final accrual period is the difference between the amount payable at maturity, other than a payment of qualified stated interest, and the adjusted issue price at the beginning of the final accrual period. Special rules will apply for calculating OID for an initial short accrual period. The "adjusted issue price" of an OID debt security at the beginning of any accrual period is the sum of the issue price of the OID debt security plus the amount of OID allocable to all prior accrual periods reduced by any payments received on the OID debt security that were not qualified stated interest. Under these rules, a U.S. Holder generally will have to include in income increasingly greater amounts of OID in successive accrual periods.

If the excess of the "stated redemption price at maturity" of a debt security over its "issue price" is less than 1/4 of 1% of the debt instrument's stated redemption price at maturity multiplied by the number of complete years from its issue date to its maturity, or weighted average maturity in the case of debt securities with more than one principal payment ("*de minimis* OID"), the debt security is not treated as issued with OID. A U.S. Holder generally must include the *de minimis* OID in income at the time payments, other than qualified stated interest, on the debt securities are made in proportion to the amount paid (unless the U.S. Holder makes the election described below under "—Consequences to U.S. Holders—Election to Treat All Interest as Original Issue Discount"). Any amount of *de minimis* OID that is included in income in this manner will be treated as capital gain.

Additional rules applicable to debt securities with OID that are denominated in or determined by reference to a currency other than the U.S. dollar are described under "—Consequences to U.S. Holders—Non-U.S. Dollar Denominated Debt Securities" below.

Variable Rate Debt Securities. In the case of a debt security that is a variable rate debt security, special rules apply. In general, if a debt security qualifies for treatment as a "variable rate debt instrument" under Treasury regulations and provides for stated interest that is unconditionally payable at least annually at a variable rate that, subject to certain exceptions, is a single "qualified floating rate" or "objective rate," each as defined below, all stated interest on the debt security is treated as qualified stated interest. In that case, both the debt security's "yield to maturity" and "qualified stated interest" will be determined, solely for purposes of calculating the accrual of OID, if any, as though the debt security will bear interest in all periods throughout its term at a fixed rate generally equal to the rate that would be applicable to

interest payments on the debt security on its date of issue or, in the case of an objective rate (other than a “qualified inverse floating rate”), the rate that reflects the yield to maturity that is reasonably expected for the debt security. A U.S. Holder of a variable rate debt instrument would then recognize OID, if any, that is calculated based on the debt security’s assumed yield to maturity. If the interest actually accrued or paid during an accrual period exceeds or is less than the assumed fixed interest, the qualified stated interest or OID allocable to that period is increased or decreased under rules set forth in Treasury regulations. Special rules apply for determining the amount of OID for other variable rate debt instruments, such as instruments with more than one qualified floating rate or instruments with a single fixed rate and one or more qualified floating rates.

A debt security will qualify as a variable rate debt instrument if the debt security’s issue price does not exceed the total noncontingent principal payments by more than the lesser of: (i) .015 multiplied by the product of the total noncontingent principal payments and the number of complete years to maturity from the issue date, or (ii) 15% of the total noncontingent principal payments; and the debt security provides for stated interest, compounded or paid at least annually, only at one or more qualified floating rates, a single fixed rate and one or more qualified floating rates, a single objective rate, or a single fixed rate and a single objective rate that is a qualified inverse floating rate. Generally, a rate is a qualified floating rate if variations in the rate can reasonably be expected to measure contemporaneous fluctuations in the cost of newly borrowed funds in the currency in which the debt instrument is denominated. If a debt security provides for two or more qualified floating rates that are within 0.25 percentage points of each other on the issue date or can reasonably be expected to have approximately the same values throughout the term of the debt security, the qualified floating rates together constitute a single qualified floating rate. Generally, an objective rate is a rate that is determined using a single fixed formula that is based on objective financial or economic information such as one or more qualified floating rates. An objective rate is a qualified inverse floating rate if that rate is equal to a fixed rate minus a qualified floating rate and variations in the rate can reasonably be expected to inversely reflect contemporaneous variations in the qualified floating rate.

A variable rate debt security generally will not qualify for treatment as a “variable rate debt instrument” if, among other circumstances:

- the variable rate of interest is subject to one or more minimum or maximum rate floors or ceilings or one or more governors limiting the amount of increase or decrease in each case which are not fixed throughout the term of the debt security and which are reasonably expected as of the issue date to cause the rate in some accrual periods to be significantly higher or lower than the overall expected return on the debt security determined without the floor, ceiling, or governor;
- in the case of certain debt securities, it is reasonably expected that the average value of the variable rate during the first half of the term of the debt security will be either significantly less than or significantly greater than the average value of the rate during the final half of the term of the debt security; or
- the value of the rate on any date during the term of the debt security is set earlier than three months prior to the first day on which that value is in effect or later than one year following that first day.

In these situations, as well as others, the debt security generally will be subject to taxation under rules applicable to contingent payment debt instruments. U.S. Holders should consult with their own tax advisors regarding the specific U.S. federal income tax considerations with respect to these debt securities.

Acquisition Premium. If a U.S. Holder purchases an OID debt security for an amount greater than its adjusted issue price (as determined above) at the purchase date and less than or

equal to the sum of all amounts, other than qualified stated interest, payable on the OID debt security after the purchase date, the excess is “acquisition premium.” Under these rules, in general, the amount of OID which must be included in income for the debt security for any taxable year (or any portion of a taxable year in which the debt security is held) will be reduced (but not below zero) by the portion of the acquisition premium allocated to the period. The amount of acquisition premium allocated to each period is determined by multiplying the OID that otherwise would have been included in income by a fraction, the numerator of which is the excess of the cost over the adjusted issue price of the OID debt security and the denominator of which is the excess of the OID debt security’s stated redemption price at maturity over its adjusted issue price.

If a U.S. Holder purchases an OID debt security for an amount less than its adjusted issue price (as determined above) at the purchase date, any OID accruing with respect to that OID debt security will be required to be included in income and, to the extent of the difference between the purchase amount and the OID debt security’s adjusted issue price, the OID debt security will be treated as having “market discount.” See “—Consequences to U.S. Holders—Market Discount” below.

Amortizable Bond Premium. If a U.S. Holder purchases a debt security (including an OID debt security) for an amount in excess of the sum of all amounts payable on the debt security after the purchase date, other than qualified stated interest, such holder will be considered to have purchased such debt security with “amortizable bond premium” equal in amount to such excess. A U.S. Holder may elect to amortize such premium as an offset to interest income using a constant yield method over the remaining term of the debt security based on the U.S. Holder’s yield to maturity with respect to the debt security.

A U.S. Holder generally may use the amortizable bond premium allocable to an accrual period to offset interest required to be included in the U.S. Holder’s income under its regular method of accounting with respect to the debt security in that accrual period. If the amortizable bond premium allocable to an accrual period exceeds the amount of interest allocable to such accrual period, such excess would be allowed as a deduction for such accrual period, but only to the extent of the U.S. Holder’s prior interest inclusions on the debt security that have not been offset previously by bond premium. Any excess is generally carried forward and allocable to the next accrual period.

If a debt security may be redeemed by us prior to its maturity date, the amount of amortizable bond premium will be based on the amount payable at the applicable redemption date, but only if use of the redemption date (in lieu of the stated maturity date) results in a smaller amortizable bond premium for the period ending on the redemption date. In addition, special rules limit the amortization of bond premium in the case of convertible debt securities.

An election to amortize bond premium applies to all taxable debt obligations held by the U.S. Holder at the beginning of the first taxable year to which the election applies and thereafter acquired by the U.S. Holder and may be revoked only with the consent of the IRS. Generally, a holder may make an election to include in income its entire return on a debt security (*i.e.*, the excess of all remaining payments to be received on the debt security over the amount paid for the debt security by such holder) in accordance with a constant yield method based on the compounding of interest, as discussed below under “—Consequences to U.S. Holders—Election to Treat All Interest as Original Issue Discount.” If a holder makes such an election for a debt security with amortizable bond premium, such election will result in a deemed election to amortize bond premium for all of the holder’s debt instruments with amortizable bond premium and may be revoked only with the permission of the IRS.

A U.S. Holder that elects to amortize bond premium will be required to reduce its tax basis in the debt security by the amount of the premium amortized during its holding period. OID debt securities purchased at a premium will not be subject to the OID rules described above.

If a U.S. Holder does not elect to amortize bond premium, the amount of bond premium will be included in its tax basis in the debt security. Therefore, if a U.S. Holder does not elect to amortize bond premium and it holds the debt security to maturity, the premium generally will be treated as capital loss when the debt security matures.

Market Discount. If a U.S. Holder purchases a debt security for an amount that is less than its stated redemption price at maturity, or, in the case of an OID debt security, its adjusted issue price, such holder will be considered to have purchased the debt security with "market discount." Any payment, other than qualified stated interest, or any gain on the sale, exchange, retirement, or other disposition of a debt security with market discount generally will be treated as ordinary interest income to the extent of the market discount not previously included in income that accrued on the debt security during such holder's holding period. In general, market discount is treated as accruing on a straight-line basis over the term of the debt security unless an election is made to accrue the market discount under a constant yield method. In addition, a U.S. Holder may be required to defer, until the maturity of the debt security or its earlier disposition in a taxable transaction, the deduction of a portion of the interest paid on any indebtedness incurred or maintained to purchase or carry the debt security in an amount not exceeding the accrued market discount on the debt security.

A U.S. Holder may elect to include market discount in income currently as it accrues (on either a straight-line or constant yield basis), in lieu of treating a portion of any gain realized on a sale, exchange, retirement, or other disposition of the debt security as ordinary income. If an election is made to include market discount on a current basis, the interest deduction deferral rule described above will not apply. If a U.S. Holder makes such an election, it will apply to all market discount debt instruments acquired by such holder on or after the first day of the first taxable year to which the election applies. The election may not be revoked without the consent of the IRS. U.S. Holders should consult with their own tax advisors before making this election.

If the difference between the stated redemption price at maturity of a debt security or, in the case of an OID debt security, its adjusted issue price, and the amount paid for the debt security is less than 1/4 of 1% of the debt instrument's stated redemption price at maturity or, in the case of an OID debt security, its adjusted issue price, multiplied by the number of remaining complete years to the debt security's maturity ("*de minimis* market discount"), the debt security is not treated as issued with market discount.

Generally, a holder may make an election to include in income its entire return on a debt security (*i.e.*, the excess of all remaining payments to be received on the debt security over the amount paid for the debt security by such holder) in accordance with a constant yield method based on the compounding of interest, as discussed below under "—Consequences to U.S. Holders—Election to Treat All Interest as Original Issue Discount." If a holder makes such an election for a debt security with market discount, the holder will be required to include market discount in income currently as it accrues on a constant yield basis for all market discount debt instruments acquired by such holder on or after the first day of the first taxable year to which the election applies, and such election may be revoked only with the permission of the IRS.

Election to Treat All Interest as Original Issue Discount. A U.S. Holder may elect to include in income all interest that accrues on a debt security using the constant-yield method applicable to OID described above, subject to certain limitations and exceptions. For purposes of this election, interest includes stated interest, acquisition discount, OID, *de minimis* OID, market discount, *de minimis* market discount, and unstated interest, as adjusted by any amortizable bond premium or acquisition premium, each as described herein. If this election is made for a debt security, then, to apply the constant-yield method: (i) the issue price of the debt security will equal its cost, (ii) the issue date of the debt security will be the date it was acquired, and (iii) no payments on the debt security will be treated as payments of qualified stated interest. A

U.S. Holder must make this election for the taxable year in which the debt security was acquired, and may not revoke the election without the consent of the IRS. U.S. Holders should consult with their own tax advisors before making this election.

Debt Securities That Trade "Flat." We expect that certain debt securities will trade in the secondary market with accrued interest. However, we may issue debt securities with terms and conditions that would make it likely that such debt securities would trade "flat" in the secondary market, which means that upon a sale of a debt security a U.S. Holder would not be paid an amount that reflects the accrued but unpaid interest with respect to such debt security. Nevertheless, for U.S. federal income tax purposes, a portion of the sales proceeds equal to the interest accrued with respect to such debt security from the last interest payment date to the sale date must be treated as interest income rather than as an amount realized upon the sale. Accordingly, a U.S. Holder that sells such a debt security between interest payment dates would be required to recognize interest income and, in certain circumstances, would recognize a capital loss (the deductibility of which is subject to limitations) on the sale of the debt security. Concurrently, a U.S. Holder that purchases such a debt security between interest payment dates would not be required to include in income that portion of any interest payment received that is attributable to interest that accrued prior to the purchase. Such payment is treated as a return of capital which reduces the U.S. Holder's remaining cost basis in the debt security. However, interest that accrues after the purchase date is included in income in the year received or accrued (depending on the U.S. Holder's accounting method). U.S. Holders that purchase such debt securities between interest payment dates should consult their own tax advisors concerning such holder's adjusted tax basis in the debt security and whether such debt securities should be treated as having been purchased with market discount, as described above.

Short-Term Debt Securities. Some of our debt securities may be issued with maturities of one year or less from the date of issue, which we refer to as short-term debt securities. Treasury regulations provide that no payments of interest on a short-term debt security are treated as qualified stated interest. Accordingly, in determining the amount of discount on a short-term debt security, all interest payments, including stated interest, are included in the short-term debt security's stated redemption price at maturity.

In general, individual and certain other U.S. Holders using the cash basis method of tax accounting are not required to include accrued discount on short-term debt securities in income currently unless they elect to do so, but they may be required to include any stated interest in income as the interest is received. However, a cash basis U.S. Holder will be required to treat any gain realized on a sale, exchange, or retirement of the short-term debt security as ordinary income to the extent such gain does not exceed the discount accrued with respect to the short-term debt security, which will be determined on a straight-line basis unless the holder makes an election to accrue the discount under the constant-yield method, through the date of sale or retirement. In addition, a cash basis U.S. Holder that does not elect to currently include accrued discount in income will be not allowed to deduct any of the interest paid or accrued on any indebtedness incurred or maintained to purchase or carry a short-term debt security (in an amount not exceeding the deferred income), but instead will be required to defer deductions for such interest until the deferred income is realized upon the maturity of the short-term debt security or its earlier disposition in a taxable transaction. Notwithstanding the foregoing, a cash-basis U.S. Holder of a short-term debt security may elect to include accrued discount in income on a current basis. If this election is made, the limitation on the deductibility of interest described above will not apply.

A U.S. Holder using the accrual method of tax accounting and some cash basis holders (including banks, securities dealers, regulated investment companies, and certain trust funds) generally will be required to include accrued discount on a short-term debt security in income on a current basis, on either a straight-line basis or, at the election of the holder, under the constant-yield method based on daily compounding.

Regardless of whether a U.S. Holder is a cash-basis or accrual-basis holder, the holder of a short-term debt security may elect to include accrued "acquisition discount" with respect to the short-term debt security in income on a current basis. Acquisition discount is the excess of the remaining redemption amount of the short-term debt security at the time of acquisition over the purchase price. Acquisition discount will be treated as accruing on a straight-line basis or, at the election of the holder, under a constant yield method based on daily compounding. If a U.S. Holder elects to include accrued acquisition discount in income, the rules for including OID will not apply. In addition, the market discount rules described above will not apply to short-term debt securities.

Sale, Exchange, or Retirement of Debt Securities. Upon the sale, exchange, retirement, or other disposition of a debt security, a U.S. Holder will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement, or other disposition (less an amount equal to any accrued interest not previously included in income if the debt security is disposed of between interest payment dates, which will be included in income as interest income for U.S. federal income tax purposes) and the U.S. Holder's adjusted tax basis in the debt security. The amount realized by the U.S. Holder will include the amount of any cash and the fair market value of any other property received for the debt security. A U.S. Holder's adjusted tax basis in a debt security generally will be the cost of the debt security to such U.S. Holder, increased by any OID, market discount, *de minimis* OID, *de minimis* market discount, or any discount with respect to a short-term debt security previously included in income with respect to the debt security, and decreased by the amount of any premium previously amortized to reduce interest on the debt security and the amount of any payment (other than a payment of qualified stated interest) received in respect of the debt security.

Except as discussed above with respect to market discount, or as described below with respect to Non-U.S. Dollar Denominated Debt Securities, gain or loss realized on the sale, exchange, retirement, or other disposition of a debt security generally will be capital gain or loss and will be long-term capital gain or loss if the debt security has been held for more than one year. Net long-term capital gain recognized by an individual U.S. Holder before January 1, 2011 generally is subject to tax at a maximum rate of 15%. The ability of U.S. Holders to deduct capital losses is subject to limitations under the Code.

Reopenings. Treasury regulations provide specific rules regarding whether additional debt instruments issued in a reopening will be considered part of the same issue, with the same issue price and yield to maturity, as the original debt instruments for U.S. federal income tax purposes. Except as provided otherwise in an applicable supplement, we expect that additional debt securities issued by us in any reopening will be issued such that they will be considered part of the original issuance to which they relate.

Debt Securities Subject to Contingencies Including Optional Redemption. Certain of the debt securities may provide for an alternative payment schedule or schedules applicable upon the occurrence of a contingency or contingencies, other than a remote or incidental contingency, whether such contingency relates to payments of interest or of principal. In addition, certain of the debt securities may contain provisions permitting them to be redeemed prior to their stated maturity at our option and/or at the option of the holder. Debt securities containing these features may be subject to rules that differ from the general rules discussed herein. U.S. Holders considering the purchase of debt securities with these features should carefully examine the applicable supplement and should consult their own tax advisors regarding the U.S. federal income tax consequences to a U.S. Holder of the ownership and disposition of such debt securities since the U.S. federal income tax consequences with respect to OID will depend, in part, on the particular terms and features of the debt securities.

Non-U.S. Dollar Denominated Debt Securities. Additional considerations apply to a U.S. Holder of a debt security payable in a currency other than U.S. dollars ("foreign currency").

We refer to these securities as Non-U.S. Dollar Denominated Debt Securities. In the case of payments of interest, U.S. Holders using the cash method of accounting for U.S. federal income tax purposes will be required to include in income the U.S. dollar value of the foreign currency payment on a Non-U.S. Dollar Denominated Debt Security (other than OID or market discount) when the payment of interest is received. The U.S. dollar value of the foreign currency payment is determined by translating the foreign currency received at the spot rate for such foreign currency on the date the payment is received, regardless of whether the payment is in fact converted to U.S. dollars at that time. The U.S. dollar value will be the U.S. Holder's tax basis in the foreign currency received. A U.S. Holder will not recognize foreign currency exchange gain or loss with respect to the receipt of such payment.

U.S. Holders using the accrual method of accounting for U.S. federal income tax purposes will be required to include in income the U.S. dollar value of the amount of interest income that has accrued and is otherwise required to be taken into account with respect to a Non-U.S. Dollar Denominated Debt Security during an accrual period. The U.S. dollar value of the accrued income will be determined by translating the income at the average rate of exchange for the accrual period or, with respect to an accrual period that spans two taxable years, at the average rate for the partial period within the taxable year. A U.S. Holder may elect, however, to translate the accrued interest income using the exchange rate on the last day of the accrual period or, with respect to an accrual period that spans two taxable years, using the exchange rate on the last day of the taxable year. If the last day of an accrual period is within five business days of the date of receipt of the accrued interest, a U.S. Holder may translate the interest using the exchange rate on the date of receipt. The above election will apply to all other debt obligations held by the U.S. Holder and may not be changed without the consent of the IRS. U.S. Holders should consult their own tax advisors before making the above election. Upon receipt of an interest payment (including, upon the sale of the debt security, the receipt of proceeds which include amounts attributable to accrued interest previously included in income), the holder will recognize foreign currency exchange gain or loss in an amount equal to the difference between the U.S. dollar value of such payment (determined by translating the foreign currency received at the spot rate for such foreign currency on the date such payment is received) and the U.S. dollar value of the interest income previously included in income with respect to such payment. This gain or loss will be treated as ordinary income or loss.

OID on a debt security that is also a Non-U.S. Dollar Denominated Debt Security will be determined for any accrual period in the applicable foreign currency and then translated into U.S. dollars, in the same manner as interest income accrued by a holder on the accrual basis, as described above (regardless of such holder's regular method of accounting). A U.S. Holder will recognize foreign currency exchange gain or loss when OID is paid (including, upon the sale of such debt security, the receipt of proceeds which include amounts attributable to OID previously included in income) to the extent of the difference between the U.S. dollar value of such payment (determined by translating the foreign currency received at the spot rate for such foreign currency on the date such payment is received) and the U.S. dollar value of the accrued OID (determined in the same manner as for accrued interest). For these purposes, all receipts on a debt security will be viewed: (i) first, as the receipt of any stated interest payment called for under the terms of the debt security, (ii) second, as receipts of previously accrued OID (to the extent thereof), with payments considered made for the earliest accrual periods first, and (iii) third, as the receipt of principal.

The amount of market discount on Non-U.S. Dollar Denominated Debt Securities includible in income generally will be determined by translating the market discount determined in the foreign currency into U.S. dollars at the spot rate on the date the Non-U.S. Dollar Denominated Debt Security is retired or otherwise disposed of. If a U.S. Holder elected to accrue market discount currently, then the amount which accrues is determined in the foreign currency and then translated into U.S. dollars on the basis of the average exchange rate in effect during such

accrual period. A U.S. Holder will recognize foreign currency exchange gain or loss with respect to market discount which is accrued currently using the approach applicable to the accrual of interest income as described above.

Amortizable bond premium on a Non-U.S. Dollar Denominated Debt Security will be computed in the applicable foreign currency. If a U.S. Holder elected to amortize the premium, the amortizable bond premium will reduce interest income in the applicable foreign currency. At the time bond premium is amortized, foreign currency exchange gain or loss will be realized based on the difference between spot rates at such time and the time of acquisition of the Non-U.S. Dollar Denominated Debt Security. If a U.S. Holder does not elect to amortize bond premium, the bond premium computed in the foreign currency must be translated into U.S. dollars at the spot rate on the maturity date and such bond premium will constitute a capital loss which may be offset or eliminated by foreign currency exchange gain.

If a U.S. Holder purchases a Non-U.S. Dollar Denominated Debt Security with previously owned foreign currency, foreign currency exchange gain or loss (which will be treated as ordinary income or loss) will be recognized in an amount equal to the difference, if any, between the tax basis in the foreign currency and the U.S. dollar fair market value of the foreign currency used to purchase the Non-U.S. Dollar Denominated Debt Security, determined on the date of purchase.

Upon the sale, exchange, retirement, or other taxable disposition of a Non-U.S. Dollar Denominated Debt Security, a U.S. Holder will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement, or other disposition (less an amount equal to any accrued and unpaid interest not previously included in income, which will be treated as a payment of interest for U.S. federal income tax purposes) and the adjusted tax basis in the Non-U.S. Dollar Denominated Debt Security. The adjusted tax basis in a Non-U.S. Dollar Denominated Debt Security will equal the amount paid for the Non-U.S. Dollar Denominated Debt Security, increased by the amounts of any market discount or OID previously included in income with respect to the Non-U.S. Dollar Denominated Debt Security and reduced by any amortized acquisition or other premium and any principal payments received in respect of the Non-U.S. Dollar Denominated Debt Security. The amount of any payment in or adjustments measured by foreign currency will be equal to the U.S. dollar value of the foreign currency on the date of the purchase or adjustment. The amount realized will be based on the U.S. dollar value of the foreign currency on the date the payment is received or the Non-U.S. Dollar Denominated Debt Security is disposed of (or deemed disposed of as a result of a material change in the terms of the debt security). If, however, a Non-U.S. Dollar Denominated Debt Security is traded on an established securities market and the U.S. Holder uses the cash basis method of tax accounting, the U.S. dollar value of the amount realized will be determined by translating the foreign currency payment at the spot rate of exchange on the settlement date of the purchase or sale. A U.S. Holder that uses the accrual basis method of tax accounting may elect the same treatment with respect to the purchase and sale of Non-U.S. Dollar Denominated Debt Securities traded on an established securities market, provided that the election is applied consistently.

Except with respect to market discount as discussed above, and the foreign currency rules discussed below, gain or loss recognized upon the sale, exchange, retirement, or other taxable disposition of a Non-U.S. Dollar Denominated Debt Security will be capital gain or loss and will be long-term capital gain or loss if at the time of sale, exchange, retirement, or other disposition, the Non-U.S. Dollar Denominated Debt Security has been held for more than one year. Net long-term capital gain recognized by an individual U.S. Holder before January 1, 2011 generally is subject to tax at a maximum rate of 15%. The ability of U.S. Holders to deduct capital losses is subject to limitations under the Code.

A portion of the gain or loss with respect to the principal amount of a Non-U.S. Dollar Denominated Debt Security may be treated as foreign currency exchange gain or loss. Foreign currency exchange gain or loss will be treated as ordinary income or loss. For these purposes, the

principal amount of the Non-U.S. Dollar Denominated Debt Security is the purchase price for the Non-U.S. Dollar Denominated Debt Security calculated in the foreign currency on the date of purchase, and the amount of exchange gain or loss recognized is equal to the difference between (i) the U.S. dollar value of the principal amount determined on the date of the sale, exchange, retirement or other disposition of the Non-U.S. Dollar Denominated Debt Security and (ii) the U.S. dollar value of the principal amount determined on the date the foreign currency debt security was purchased. The amount of foreign currency exchange gain or loss will be limited to the amount of overall gain or loss realized on the disposition of the Non-U.S. Dollar Denominated Debt Security.

The tax basis in foreign currency received as interest on a Non-U.S. Dollar Denominated Debt Security will be the U.S. dollar value of the foreign currency determined at the spot rate in effect on the date the foreign currency is received. The tax basis in foreign currency received on the sale, exchange, retirement, or other disposition of a Non-U.S. Dollar Denominated Debt Security will be equal to the U.S. dollar value of the foreign currency, determined at the time of the sale, exchange, retirement or other disposition. As discussed above, if the Non-U.S. Dollar Denominated Debt Securities are traded on an established securities market, a cash basis U.S. Holder (or, upon election, an accrual basis U.S. Holder) will determine the U.S. dollar value of the foreign currency by translating the foreign currency received at the spot rate of exchange on the settlement date of the sale, exchange, retirement, or other disposition. Accordingly, in such case, no foreign currency exchange gain or loss will result from currency fluctuations between the trade date and settlement date of a sale, exchange, retirement, or other disposition. Any gain or loss recognized on a sale, exchange, retirement, or other disposition of foreign currency (including its exchange for U.S. dollars or its use to purchase debt securities) will be ordinary income or loss.

For special treatment of Non-U.S. Dollar Denominated Debt Securities that are also contingent payment debt securities, see the applicable supplement.

Consequences to Non-U.S. Holders

The following is a summary of certain U.S. federal income tax consequences that will apply to Non-U.S. Holders of debt securities.

Payments of Interest. Under current U.S. federal income tax law and subject to the discussion below concerning backup withholding, principal (and premium, if any) and interest payments, including any OID, that are received from us or our agent and that are not effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, generally will not be subject to U.S. federal income or withholding tax except as provided below. Interest, including any OID, may be subject to a 30% withholding tax (or less under an applicable treaty, if any) if:

- a Non-U.S. Holder actually or constructively owns 10% or more of the total combined voting power of all classes of our stock entitled to vote;
- a Non-U.S. Holder is a “controlled foreign corporation” for U.S. federal income tax purposes that is related to us (directly or indirectly) through stock ownership;
- a Non-U.S. Holder is a bank extending credit under a loan agreement in the ordinary course of its trade or business;
- the interest payments on the debt security are determined by reference to the income, profits, changes in the value of property or other attributes of the debtor or a related party (other than payments that are based on the value of a security or index of securities that are, and will continue to be, actively traded within the meaning of

Section 1092(d) of the Code, and that are not nor will be a “United States real property interest” as described in Section 897(c)(1) or 897(g) of the Code); or

- the Non-U.S. Holder does not satisfy the certification requirements described below.

In the case of debt securities in registered form, a Non-U.S. Holder generally will satisfy the certification requirements if either: (A) the Non-U.S. Holder certifies to us or our agent, under penalties of perjury, that it is a non-United States person and provides its name and address (which certification may generally be made on an IRS Form W-8BEN, or a successor form), or (B) a securities clearing organization, bank, or other financial institution that holds customer securities in the ordinary course of its trade or business (a “financial institution”) and holds the debt security certifies to us or our agent under penalties of perjury that either it or another financial institution has received the required statement from the Non-U.S. Holder certifying that it is a non-United States person and furnishes us with a copy of the statement.

Special rules apply with respect to compliance with certain restrictions and procedures relating to the offer, sale, and delivery of and payments on bearer debt securities. We generally will issue debt securities only in registered form, without coupons, although we may issue debt securities in bearer form, in which case we will so specify the applicable restrictions and procedures in the applicable supplement.

Payments not meeting the requirements set forth above and thus subject to withholding of U.S. federal income tax may nevertheless be exempt from withholding (or subject to withholding at a reduced rate) if the Non-U.S. Holder provides us with a properly executed IRS Form W-8BEN (or successor form) claiming an exemption from, or reduction in, withholding under the benefit of a tax treaty, or IRS Form W-8ECI (or other applicable form) stating that interest paid on the debt securities is not subject to withholding tax because it is effectively connected with the conduct of a trade or business within the United States as discussed below. To claim benefits under an income tax treaty, a Non-U.S. Holder must obtain a taxpayer identification number and certify as to its eligibility under the appropriate treaty’s limitations on benefits article. In addition, special rules may apply to claims for treaty benefits made by Non-U.S. Holders that are entities rather than individuals. A Non-U.S. Holder that is eligible for a reduced rate of U.S. federal withholding tax pursuant to an income tax treaty may obtain a refund of any excess amounts withheld by filing an appropriate claim for refund with the IRS.

Additional Payments. If the amount or timing of any payments on a debt security is contingent, the interest payments on the debt security may be treated as “contingent interest” under Section 871(h)(4) of the Code, in which case such interest may not be eligible for the exemption from U.S. federal income and withholding tax, as described above (other than for a holder that otherwise claims an exemption from, or reduction in, withholding under the benefit of an income tax treaty). In certain circumstances, if specified in the applicable supplement, we will pay to a Non-U.S. Holder of any debt security additional amounts to ensure that every net payment on that debt security will not be less, due to the payment of U.S. federal withholding tax, than the amount then otherwise due and payable. See “Description of Debt Securities—Payment of Additional Amounts” above. However, because the likelihood that such payments will be made is remote, we do not believe that, because of these potential additional payments, the interest on the debt securities should be treated as contingent interest.

Sale, Exchange, or Retirement of Debt Securities. A Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on any capital gain or market discount realized on the sale, exchange, retirement, or other disposition of debt securities, provided that: (a) the gain is not effectively connected with the conduct of a trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, (b) in the case of a Non-U.S. Holder that is an individual, the Non-U.S. Holder is not present in the United States for 183 days or more in the taxable year of the sale, exchange, or other disposition of the debt security, and (c) the Non-U.S. Holder is not subject to tax pursuant to certain provisions of

U.S. federal income tax law applicable to certain expatriates. An individual Non-U.S. Holder who is present in the United States for 183 days or more in the taxable year of sale, exchange, or other disposition of a debt security, and if certain other conditions are met, will be subject to U.S. federal income tax at a rate of 30% on the gain realized on the sale, exchange, or other disposition of such debt security.

Income Effectively Connected with a Trade or Business within the United States. If a Non-U.S. Holder of a debt security is engaged in the conduct of a trade or business within the United States and if interest (including any OID) on the debt security, or gain realized on the sale, exchange, or other disposition of the debt security, is effectively connected with the conduct of such trade or business (and, if certain tax treaties apply, is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States), the Non-U.S. Holder, although exempt from U.S. federal withholding tax (provided that the certification requirements discussed above are satisfied), generally will be subject to U.S. federal income tax on such interest (including any OID) or gain on a net income basis in the same manner as if it were a U.S. Holder. Non-U.S. holders should read the material under the heading “—Consequences to U.S. Holders,” for a description of the U.S. federal income tax consequences of acquiring, owning, and disposing of debt securities. In addition, if such Non-U.S. Holder is a foreign corporation, it may also be subject to a branch profits tax equal to 30% (or such lower rate provided by an applicable U.S. income tax treaty) of a portion of its earnings and profits for the taxable year that are effectively connected with its conduct of a trade or business in the United States, subject to certain adjustments.

Convertible, Renewable, Extendible, Indexed, and Other Debt Securities

Special U.S. federal income tax rules are applicable to certain other debt securities, including contingent Non-U.S. Dollar Denominated Debt Securities, debt securities that may be convertible into or exercisable or exchangeable for our common or preferred stock or other securities or debt or equity securities of one or more third parties, debt securities the payments on which are determined or partially determined by reference to any index and other debt securities that are subject to the rules governing contingent payment obligations which are not subject to the rules governing variable rate debt securities, any renewable and extendible debt securities and any debt securities providing for the periodic payment of principal over the life of the debt security. The material U.S. federal income tax considerations with respect to these debt securities will be discussed in the applicable pricing supplement.

Backup Withholding and Information Reporting

In general, in the case of a U.S. Holder, other than certain exempt holders, we and other payors are required to report to the IRS all payments of principal, any premium, and interest on the debt security, and the accrual of OID on an OID debt security. In addition, we and other payors generally are required to report to the IRS any payment of proceeds of the sale of a debt security before maturity. Additionally, backup withholding generally will apply to any payments, including payments of OID, if a U.S. Holder fails to provide an accurate taxpayer identification number and certify that the taxpayer identification number is correct, the U.S. Holder is notified by the IRS that it has failed to report all interest and dividends required to be shown on its U.S. federal income tax returns or a U.S. Holder does not certify that it has not underreported its interest and dividend income.

In the case of a Non-U.S. Holder, backup withholding and information reporting will not apply to payments made if the Non-U.S. Holder provides the required certification that it is not a United States person, or the Non-U.S. Holder otherwise establishes an exemption, provided that the payor or withholding agent does not have actual knowledge that the holder is a United States person, or that the conditions of any exemption are not satisfied.

In addition, payments of the proceeds from the sale of a debt security to or through a foreign office of a broker or the foreign office of a custodian, nominee, or other dealer acting on behalf of a holder generally will not be subject to information reporting or backup withholding. However, if the broker, custodian, nominee, or other dealer is a United States person, the government of the United States or the government of any state or political subdivision of any state, or any agency or instrumentality of any of these governmental units, a controlled foreign corporation for U.S. federal income tax purposes, a foreign partnership that is either engaged in a trade or business within the United States or whose United States partners in the aggregate hold more than 50% of the income or capital interest in the partnership, a foreign person 50% or more of whose gross income for a certain period is effectively connected with a trade or business within the United States, or a United States branch of a foreign bank or insurance company, information reporting (but not backup withholding) generally will be required with respect to payments made to a holder unless the broker, custodian, nominee, or other dealer has documentation of the holder's foreign status and the broker, custodian, nominee, or other dealer has no actual knowledge to the contrary.

Payment of the proceeds from a sale of a debt security to or through the United States office of a broker is subject to information reporting and backup withholding, unless the holder certifies as to its non-United States person status or otherwise establishes an exemption from information reporting and backup withholding.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a holder's U.S. federal income tax liability provided the required information is furnished to the IRS.

Taxation of Common Stock, Preferred Stock, and Depositary Shares

This subsection describes the material U.S. federal income tax consequences of the acquisition, ownership and disposition of the common stock, preferred stock and depositary shares offered in this prospectus.

Taxation of Holders of Depositary Shares

For U.S. federal income tax purposes, holders of depositary shares generally will be treated as if they were the holders of the preferred stock represented by such depositary shares. Accordingly, such holders will be entitled to take into account, for U.S. federal income tax purposes, income, and deductions to which they would be entitled if they were holders of such preferred stock, as described more fully below. Exchanges of preferred stock for depositary shares and depositary shares for preferred stock generally will not be subject to U.S. federal income taxation.

Consequences to U.S. Holders

The following is a summary of certain U.S. federal income tax consequences that will apply to U.S. Holders of our common stock, preferred stock, and depositary shares.

Distributions on Common Stock, Preferred Stock, and Depositary Shares. Distributions made to U.S. Holders out of our current or accumulated earnings and profits, as determined for U.S. federal income tax purposes, will be included in the income of a U.S. Holder as dividend income and will be subject to tax as ordinary income. Dividends received by an individual U.S. Holder in taxable years beginning before January 1, 2011 that constitute "qualified dividend income" are generally subject to tax at a maximum rate of 15% applicable to net long-term capital gains, provided that certain holding period and other requirements are met. Dividends received by a corporate U.S. Holder, except as described in the next subsection, generally will be eligible for the 70% dividends-received deduction.

Distributions in excess of our current and accumulated earnings and profits will not be taxable to a U.S. Holder to the extent that the distributions do not exceed the U.S. Holder's adjusted tax basis in the shares, but rather will reduce the adjusted tax basis of such shares. To the extent that distributions in excess of our current and accumulated earnings and profits exceed the U.S. Holder's adjusted tax basis in the shares, such distributions will be included in income as capital gain. In addition, a corporate U.S. Holder will not be entitled to the dividends-received deduction on this portion of a distribution.

We will notify holders of our shares after the close of our taxable year as to the portions of the distributions attributable to that year that constitute ordinary income, qualified dividend income and nondividend distributions, if any.

Limitations on Dividends-Received Deduction. A corporate U.S. Holder may not be entitled to take the 70% dividends-received deduction in all circumstances. Prospective corporate investors in our common stock, preferred stock, or depositary shares should consider the effect of:

- Section 246A of the Code, which reduces the dividends-received deduction allowed to a corporate U.S. Holder that has incurred indebtedness that is "directly attributable" to an investment in portfolio stock, which may include our common stock, preferred stock, and depositary shares;
- Section 246(c) of the Code, which, among other things, disallows the dividends-received deduction in respect of any dividend on a share of stock that is held for less than the minimum holding period (generally, for common stock, at least 46 days during the 90 day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend); and
- Section 1059 of the Code, which, under certain circumstances, reduces the basis of stock for purposes of calculating gain or loss in a subsequent disposition by the portion of any "extraordinary dividend" (as defined below) that is eligible for the dividends-received deduction.

Extraordinary Dividends. A corporate U.S. Holder will be required to reduce its tax basis (but not below zero) in our common stock, preferred stock, or depositary shares by the nontaxed portion of any "extraordinary dividend" if the stock was not held for more than two years before the earliest of the date such dividend is declared, announced, or agreed. Generally, the nontaxed portion of an extraordinary dividend is the amount excluded from income by operation of the dividends-received deduction. An extraordinary dividend generally would be a dividend that:

- in the case of common stock, equals or exceeds 10% of the corporate U.S. Holder's adjusted tax basis in the common stock, treating all dividends having ex-dividend dates within an 85 day period as one dividend; or
- in the case of preferred stock, equals or exceeds 5% of the corporate U.S. Holder's adjusted tax basis in the preferred stock, treating all dividends having ex-dividend dates within an 85 day period as one dividend; or
- exceeds 20% of the corporate U.S. Holder's adjusted tax basis in the stock, treating all dividends having ex-dividend dates within a 365 day period as one dividend.

In determining whether a dividend paid on stock is an extraordinary dividend, a corporate U.S. Holder may elect to substitute the fair market value of the stock for its tax basis for purposes of applying these tests if the fair market value as of the day before the ex-dividend date is established to the satisfaction of the Secretary of the Treasury. An extraordinary dividend also includes any amount treated as a dividend in the case of a redemption that is either non-pro rata as to all stockholders or in partial liquidation of the corporation, regardless of the stockholder's holding period and regardless of the size of the dividend. Any part of the nontaxed portion of an extraordinary dividend that is not applied to reduce the corporate U.S. Holder's tax basis as a

result of the limitation on reducing its basis below zero would be treated as capital gain and would be recognized in the taxable year in which the extraordinary dividend is received.

Corporate U.S. Holders should consult with their own tax advisors with respect to the possible application of the extraordinary dividend provisions of the Code to the ownership or disposition of common stock, preferred stock, or depositary shares in their particular circumstances.

Sale, Exchange, or other Taxable Disposition. Upon the sale, exchange, or other taxable disposition of our common stock, preferred stock, or depositary shares (other than by redemption or repurchase by us), a U.S. Holder generally will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, or other taxable disposition and the U.S. Holder's adjusted tax basis in the shares. The amount realized by the U.S. Holder will include the amount of any cash and the fair market value of any other property received upon the sale, exchange, or other taxable disposition of the shares. A U.S. Holder's tax basis in a share generally will be equal to the cost of the share to such U.S. Holder, which may be adjusted for certain subsequent events (for example, if the U.S. Holder receives a nondividend distribution, as described above). Gain or loss realized on the sale, exchange, or other taxable disposition of our common stock, preferred stock, or depositary shares generally will be capital gain or loss and will be long-term capital gain or loss if the shares have been held for more than one year. Net long-term capital gain recognized by an individual U.S. Holder before January 1, 2011 generally is subject to tax at a maximum rate of 15%. The ability of U.S. Holders to deduct capital losses is subject to limitations under the Code.

Redemption or Repurchase of Common Stock, Preferred Stock, or Depositary Shares. If we are permitted to and redeem or repurchase a U.S. Holder's common stock, preferred stock, or depositary shares, the redemption or repurchase generally would be a taxable event for U.S. federal income tax purposes. A U.S. Holder would be treated as if it had sold its shares if the redemption or repurchase:

- results in a complete termination of the U.S. holder's stock interest in us;
- is substantially disproportionate with respect to the U.S. Holder; or
- is not essentially equivalent to a dividend with respect to the U.S. Holder, in each case as determined under the Code.

In determining whether any of these tests has been met, shares of stock considered to be owned by a U.S. Holder by reason of certain constructive ownership rules set forth in Section 318 of the Code, as well as shares actually owned, must be taken into account.

If we redeem or repurchase a U.S. Holder's shares in a redemption or repurchase that meets one of the tests described above, the U.S. Holder generally would recognize taxable gain or loss equal to the sum of the amount of cash and fair market value of property (other than our stock or the stock of a successor to us) received less the U.S. Holder's tax basis in the shares redeemed or repurchased. This gain or loss generally would be long-term capital gain or capital loss if the shares have been held for more than one year.

If a redemption or repurchase does not meet any of the tests described above, a U.S. Holder generally will be taxed on the cash and fair market value of the property received as a dividend to the extent paid out of our current and accumulated earnings and profits. Any amount in excess of our current or accumulated earnings and profits would first reduce the U.S. holder's tax basis in the shares and thereafter would be treated as capital gain. If a redemption or repurchase is treated as a distribution that is taxable as a dividend, the U.S. Holder's tax basis in the redeemed or repurchased shares would be transferred to the remaining shares of our stock that the U.S. Holder owns, if any.

Special rules apply if we redeem our common stock, preferred stock, or depositary shares for our debt securities. We will discuss any special U.S. federal income tax considerations in the applicable supplement if we have the option to redeem our common stock, preferred stock, or depositary shares for our debt securities.

Consequences to Non-U.S. Holders

The following is a summary of certain U.S. federal income tax consequences that will apply to Non-U.S. Holders of our common stock, preferred stock, and depositary shares.

Distributions on Common Stock, Preferred Stock, and Depositary Shares. Distributions made to Non-U.S. Holders out of our current or accumulated earnings and profits, as determined for U.S. federal income tax purposes, and that is not effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, generally will be subject to U.S. federal income and withholding tax at a rate of 30% (or lower rate under an applicable treaty, if any). Payments subject to withholding of U.S. federal income tax may nevertheless be exempt from withholding (or subject to withholding at a reduced rate) if the Non-U.S. Holder provides us with a properly executed IRS Form W-8BEN (or successor form) claiming an exemption from, or reduction in, withholding under the benefit of a tax treaty, or IRS Form W-8ECI (or other applicable form) stating that a dividend paid on our shares is not subject to withholding tax because it is effectively connected with the conduct of a trade or business within the United States, as discussed below.

To claim benefits under an income tax treaty, a Non-U.S. Holder must certify to us or our agent, under penalties of perjury, that it is a non-United States person and provide its name and address (which certification may generally be made on an IRS Form W-8BEN, or a successor form), obtain and provide a taxpayer identification number, and certify as to its eligibility under the appropriate treaty's limitations on benefits article. In addition, special rules may apply to claims for treaty benefits made by Non-U.S. Holders that are entities rather than individuals. A Non-U.S. Holder that is eligible for a reduced rate of U.S. federal withholding tax under an income tax treaty may obtain a refund of any excess amounts withheld by filing an appropriate claim for refund with the IRS.

Sale, Exchange, or other Taxable Disposition. A Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on any capital gain realized on the sale, exchange, or other taxable disposition of our common stock, preferred stock, or depositary shares, provided that: (a) the gain is not effectively connected with the conduct of a trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, (b) in the case of a Non-U.S. Holder that is an individual, the Non-U.S. Holder is not present in the United States for 183 days or more in the taxable year of the sale, exchange, or other disposition of the shares, (c) the Non-U.S. Holder is not subject to tax pursuant to certain provisions of U.S. federal income tax law applicable to certain expatriates, and (d) we are not nor have we been a "United States real property holding corporation" for U.S. federal income tax purposes. An individual Non-U.S. Holder who is present in the United States for 183 days or more in the taxable year of sale, exchange, or other disposition of our common stock, preferred stock, or depositary shares and if certain other conditions are met, will be subject to U.S. federal income tax at a rate of 30% on the gains realized on the sale, exchange, or other disposition of such shares.

We would not be treated as a "United States real property holding corporation" if less than 50% of our assets throughout a prescribed testing period consist of interests in real property located within the United States, excluding, for this purpose, interests in real property solely in a capacity as a creditor. Even if we are treated as a "United States real property holding corporation," a Non-U.S. Holder's sale of our common stock, preferred stock, or depositary shares

nonetheless generally will not be subject to U.S. federal income or withholding tax, provided that (a) our stock owned is of a class that is “regularly traded,” as defined by applicable Treasury regulations, on an established securities market, and (b) the selling Non-U.S. Holder held, actually or constructively, 5% or less of our outstanding stock of that class at all times during the five-year period ending on the date of disposition.

To the extent we are or have been a “United States real property holding corporation” for U.S. federal income tax purposes and a Non-U.S. Holder held, directly or indirectly, at any time during the five-year period ending on the date of disposition, more than 5% of the class of stock and the non-U.S. Holder was not eligible for any treaty exemption, any gain on the sale of our common stock, preferred stock, or depository shares would be treated as effectively connected with a trade or business within the United States, the treatment of which is described below, and the purchaser of the stock could be required to withhold 10% of the purchase price and remit such amount to the IRS.

We believe that we are not currently, and do not anticipate becoming, a “United States real property holding corporation” for U.S. federal income tax purposes.

Income Effectively Connected with a Trade or Business within the United States. If a Non-U.S. Holder of our common stock, preferred stock, or depository shares is engaged in the conduct of a trade or business within the United States and if dividends on the shares, or gain realized on the sale, exchange, or other disposition of the shares, are effectively connected with the conduct of such trade or business (and, if certain tax treaties apply, is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States), the Non-U.S. Holder, although exempt from U.S. federal withholding tax (provided that the certification requirements discussed above are satisfied), generally will be subject to U.S. federal income tax on such dividends or gain on a net income basis in the same manner as if it were a U.S. Holder. Non-U.S. Holders should read the material under the heading “—Consequences to U.S. Holders” above for a description of the U.S. federal income tax consequences of acquiring, owning, and disposing of our common stock, preferred stock, or depository shares. In addition, if such Non-U.S. Holder is a foreign corporation, it may also be subject to a branch profits tax equal to 30% (or such lower rate provided by an applicable U.S. income tax treaty) of a portion of its earnings and profits for the taxable year that are effectively connected with its conduct of a trade or business in the United States, subject to certain adjustments.

Backup Withholding and Information Reporting

In general, in the case of a U.S. Holder, other than certain exempt holders, we and other payors are required to report to the IRS all payments of dividends on our common stock, preferred stock, or depository shares. In addition, we and other payors generally are required to report to the IRS any payment of proceeds of the sale of common stock, preferred stock, or depository shares. Additionally, backup withholding generally will apply to any dividend payment and to proceeds received on a sale or exchange if a U.S. Holder fails to provide an accurate taxpayer identification number and certify that the taxpayer identification number is correct, the U.S. Holder is notified by the IRS that it has failed to report all dividends required to be shown on its U.S. federal income tax returns, or the U.S. Holder does not certify that it has not underreported its interest and dividend income.

In the case of a Non-U.S. Holder, backup withholding and information reporting will not apply to payments made if the Non-U.S. Holder provides the required certification that it is not a United States person, as described above, or the Non-U.S. Holder otherwise establishes an exemption, provided that the payor or withholding agent does not have actual knowledge that the holder is a United States person, or that the conditions of any exemption are not satisfied.

In addition, payments of the proceeds from the sale of our common stock, preferred stock, or depository shares to or through a foreign office of a broker or the foreign office of a custodian,

nominee, or other dealer acting on behalf of a holder generally will not be subject to information reporting or backup withholding. However, if the broker, custodian, nominee, or other dealer is a United States person, the government of the United States or the government of any state or political subdivision of any state, or any agency or instrumentality of any of these governmental units, a controlled foreign corporation for U.S. federal income tax purposes, a foreign partnership that is either engaged in a trade or business within the United States or whose United States partners in the aggregate hold more than 50% of the income or capital interest in the partnership, a foreign person 50% or more of whose gross income for a certain period is effectively connected with a trade or business within the United States, or a United States branch of a foreign bank or insurance company, information reporting (but not backup withholding) generally will be required with respect to payments made to a holder unless the broker, custodian, nominee, or other dealer has documentation of the holder's foreign status and the broker, custodian, nominee, or other dealer has no actual knowledge to the contrary.

Payment of the proceeds from a sale of our common stock, preferred stock, or depository shares to or through the United States office of a broker is subject to information reporting and backup withholding, unless the holder certifies as to its non-United States person status or otherwise establishes an exemption from information reporting and backup withholding.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a holder's U.S. federal income tax liability provided the required information is furnished to the IRS.

Convertible Preferred Stock and Other Equity Securities

Special U.S. federal income tax rules are applicable to certain other of our equity securities, including preferred stock convertible into or exercisable or exchangeable for our common stock or other securities. The material U.S. federal income tax considerations with respect to these securities will be discussed in the applicable pricing supplement. Investors should consult with their own tax advisors regarding the specific U.S. federal income tax considerations with respect to these securities.

Taxation of Warrants

The applicable supplement will contain a discussion of any special U.S. federal income tax considerations with respect to the acquisition, ownership and disposition of warrants offered in this prospectus, including any tax considerations relating to the specific terms of the warrants. Investors considering the purchase of warrants we are offering should carefully examine the applicable supplement regarding the special U.S. federal income tax considerations, if any, of the acquisition, ownership and disposition of the warrants.

Investors should consult with their own tax advisors regarding the U.S. federal income tax consequences and the tax consequences of any other taxing jurisdiction relating to the ownership and disposition of warrants we are offering in light of their investment or tax circumstances.

Taxation of Purchase Contracts

The applicable supplement will contain a discussion of any special U.S. federal income tax considerations with respect to the acquisition, ownership and disposition of purchase contracts offered in this prospectus, including any tax considerations relating to the specific terms of the purchase contracts. Investors considering the purchase of purchase contracts we are offering should carefully examine the applicable supplement regarding the special U.S. federal income tax considerations, if any, of the acquisition, ownership and disposition of the purchase contracts.

Investors should consult with their own tax advisors regarding the U.S. federal income tax consequences and the tax consequences of any other taxing jurisdiction relating to the ownership and disposition of the purchase contracts in light of their investment or tax circumstances.

Taxation of Units

The applicable supplement will contain a discussion of any special U.S. federal income tax considerations with respect to the acquisition, ownership and disposition of units that we are offering, including any tax considerations relating to the specific terms of the units. Investors considering the purchase of units that we are offering should carefully examine the applicable supplement regarding the special U.S. federal income tax consequences, if any, of the acquisition, ownership and disposition of the units.

Investors should consult with their own tax advisors regarding the U.S. federal income tax consequences and the tax consequences of any other taxing jurisdiction relating to the ownership and disposition of units comprised of two or more of the securities we are offering in light of their investment or tax circumstances.

Reportable Transactions

Applicable Treasury regulations require taxpayers that participate in “reportable transactions” to disclose their participation to the IRS by attaching Form 8886 to their U.S. federal tax returns and to retain a copy of all documents and records related to the transaction. In addition, “material advisors” with respect to such a transaction may be required to file returns and maintain records, including lists identifying investors in the transactions, and to furnish those records to the IRS upon demand. A transaction may be a “reportable transaction” based on any of several criteria, one or more of which may be present with respect to an investment in the securities that we are offering. Whether an investment in these securities constitutes a “reportable transaction” for any investor depends on the investor’s particular circumstances. The Treasury regulations provide that, in addition to certain other transactions, a “loss transaction” constitutes a “reportable transaction.” A “loss transaction” is any transaction resulting in the taxpayer claiming a loss under Section 165 of the Code, in an amount equal to or in excess of certain threshold amounts, subject to certain exceptions. The Treasury regulations specifically provide that a loss resulting from a “Section 988 transaction” will constitute a Section 165 loss, and certain exceptions will not be available if the loss from sale or exchange is treated as ordinary under Section 988. In general, certain securities issued in a foreign currency will be subject to the rules governing foreign currency exchange gain or loss. Therefore, losses realized with respect to such a security may constitute a Section 988 transaction, and a holder of such a security that recognizes exchange loss in an amount that exceeds the loss threshold amount applicable to that holder may be required to file Form 8886. Investors should consult their own tax advisors concerning any possible disclosure obligation they may have with respect to their investment in the securities that we are offering and should be aware that, should any “material advisor” determine that the return filing or investor list maintenance requirements apply to such a transaction, they would be required to comply with these requirements.

EU DIRECTIVE ON THE TAXATION OF SAVINGS INCOME

On July 1, 2005, a directive adopted by the European Union Council of Economic and Finance Ministers regarding the taxation of savings income payments came into effect. The directive obliges a member state of the European Union, (“EU”), to provide to the tax authorities of another EU member state details of payments of interest or other similar income payments made by a person (such as an issuer or paying agent) within its jurisdiction for the immediate benefit of an individual in that other EU member state (including certain payments secured for

their benefit). However, Austria, Belgium, and Luxembourg have opted out of the above reporting requirements and are instead applying a special withholding tax for a transitional period in relation to such payments of interest. The withholding tax will be imposed at the rate of 20% for payments from July 1, 2008 to June 30, 2011 and at the rate of 35% from July 1, 2011 onwards. Withholding tax is not applied if the individual presents a certificate in the required form from the tax authority of his or her EU member state of residence that confirms that the applicable tax authority is aware of the investment made abroad. This transitional period will terminate at the end of the first fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments.

Also with effect from July 1, 2005, a number of non-EU countries and certain dependent or associated territories of EU member states have adopted similar measures (either provision of information or transitional withholding) in relation to payments of interest or other similar income payments made by a person in that jurisdiction for the immediate benefit of an individual or to certain non-corporate entities in any EU member state. The EU member states have entered into reciprocal provision of information or transactional special withholding tax arrangements with certain of those dependent or associated territories. These apply in the same way as payments by persons in any EU member state to individuals of another EU member state.

On November 13, 2008, the European Commission proposed changes to the EU savings directive which extended its scope so that it applies to interest payments to certain intermediate persons or structures interposed between the person making the payment and the individual who is the beneficial owner of the interest. It is proposed that an EU member state intermediary that receives an interest payment be treated as a person making payment, so as to subject it to the exchange of information or withholding obligation in the EU savings directive. Further, it is proposed that an interest payment made to an intermediary established outside the EU be treated as a payment made directly to the individual beneficiary if the person making the payment knows that the individual beneficiary is EU resident.

PLAN OF DISTRIBUTION

We may sell the securities offered under this prospectus:

- through underwriters;
- through dealers;
- through agents; or
- directly to purchasers.

In addition, we may issue the securities as a dividend or distribution or in a subscription rights offering to our existing security holders.

The underwriters, dealers, or agents may include Banc of America Securities LLC, Banc of America Securities Limited, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates.

Each supplement relating to an offering of securities will state the terms of the offering, including:

- the names of any underwriters, dealers, or agents;
- the public offering or purchase price of the offered securities and the net proceeds that we will receive from the sale;
- any underwriting discounts and commissions or other items constituting underwriters' compensation;
- any discounts, commissions, or fees allowed or paid to dealers or agents; and
- any securities exchange on which the offered securities may be listed.

Distribution Through Underwriters

We may offer and sell securities from time to time to one or more underwriters who would purchase the securities as principal for resale to the public, either on a firm commitment or best efforts basis. If we sell securities to underwriters, we will execute an underwriting agreement with them at the time of the sale and will name them in the applicable supplement. In connection with these sales, the underwriters may be deemed to have received compensation from us in the form of underwriting discounts and commissions. The underwriters also may receive commissions from purchasers of securities for whom they may act as agent. Unless we specify otherwise in the applicable supplement, the underwriters will not be obligated to purchase the securities unless the conditions set forth in the underwriting agreement are satisfied, and if the underwriters purchase any of the securities, they will be required to purchase all of the offered securities. The underwriters may acquire the securities for their own account and may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or varying prices determined at the time of sale. The underwriters may sell the offered securities to or through dealers, and those dealers may receive discounts, concessions, or commissions from the underwriters as well as from the purchasers for whom they may act as agent. Any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers may be changed from time to time.

Distribution Through Dealers

We may offer and sell securities from time to time to one or more dealers who would purchase the securities as principal. The dealers then may resell the offered securities to the public at fixed or varying prices to be determined by those dealers at the time of resale. We will set forth the names of the dealers and the terms of the transaction in the applicable supplement.

Distribution Through Agents

We may offer and sell securities on a continuous basis through agents that become parties to an underwriting or distribution agreement. We will name any agent involved in the offer and sale, and describe any commissions payable by us in the applicable supplement. Unless we specify otherwise in the applicable supplement, the agent will be acting on a best efforts basis during the appointment period.

Direct Sales

We may sell directly to, and solicit offers from, institutional investors or others who may be deemed to be underwriters, as defined in the Securities Act of 1933, for any resale of the securities. We will describe the terms of any sales of this kind in the applicable supplement.

General Information

Underwriters, dealers, or agents participating in an offering of securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the offered securities for whom they act as agent, may be deemed to be underwriting discounts and commissions under the Securities Act of 1933.

We may offer to sell securities either at a fixed price or at prices that may vary, at market prices prevailing at the time of sale, at prices related to prevailing market prices, or at negotiated prices. Securities may be sold in connection with a remarketing after their purchase by one or more firms including our affiliates, acting as principal for their own accounts or as our agent.

In connection with an underwritten offering of the securities, the underwriters may engage in over-allotment, stabilizing transactions and syndicate covering transactions in accordance with Regulation M under the Securities Exchange Act of 1934. Over-allotment involves sales in excess of the offering size, which creates a short position for the underwriters. The underwriters may enter bids for, and purchase, securities in the open market in order to stabilize the price of the securities. Syndicate covering transactions involve purchases of the securities in the open market after the distribution has been completed in order to cover short positions. In addition, the underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the securities in the offering if the syndicate repurchases previously distributed securities in transactions to cover syndicate short positions, in stabilization transactions, or otherwise. These activities may cause the price of the securities to be higher than it would otherwise be. Those activities, if commenced, may be discontinued at any time.

Ordinarily, each issue of securities will be a new issue, and there will be no established trading market for any security other than our common stock prior to its original issue date. We may not list any particular series of securities on a securities exchange or quotation system. Any underwriters to whom or agents through whom the offered securities are sold for offering and sale may make a market in the offered securities. However, any underwriters or agents that make a market will not be obligated to do so and may stop doing so at any time without notice. We cannot assure you that there will be a liquid trading market for the offered securities.

If we offer securities in a subscription rights offering to our existing security holders, we may enter into a standby underwriting agreement with dealers, acting as standby underwriters. We may pay the standby underwriters a commitment fee for the securities they commit to purchase on a standby basis. If we do not enter into a standby underwriting arrangement, we may retain a dealer-manager to manage a subscription rights offering for us.

Under agreements entered into with us, underwriters and agents may be entitled to indemnification by us against certain civil liabilities, including liabilities under the Securities Act of 1933, or to contribution for payments the underwriters or agents may be required to make.

The offer and sale of any securities by Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates that is a member of the Financial Industry Regulatory Authority, Inc., or "FINRA," will comply with the requirements of Rule 2720 of the NASD Conduct Rules adopted by FINRA regarding a member firm's offer and sale of securities of an affiliate. As required by Rule 2720, any such offer and sale will not be made to any discretionary account without the prior approval of the customer.

The maximum commission or discount to be received by any FINRA member or independent broker-dealer will not be greater than 8% of the initial gross proceeds from the sale of any security being sold.

Although we expect that delivery of securities generally will be made against payment on or about the third business day following the date of any contract for sale, we may specify a longer settlement cycle in the applicable supplement. Under Rule 15c6-1 of the Securities Exchange Act of 1934, trades in the secondary market generally are required to settle in three business days, unless the parties to a trade expressly agree otherwise. Accordingly, if we have specified a longer settlement cycle in the applicable supplement for an offering of securities, purchasers who wish to trade those securities on the date of the contract for sale, or on one or more of the next succeeding business days as we will specify in the applicable supplement, will be required, by virtue of the fact that those securities will settle in more than T+3, to specify an alternative settlement cycle at the time of the trade to prevent a failed settlement and should consult their own advisors in connection with that election.

The underwriters, agents and their affiliates may engage in financial or other business transactions with us and our subsidiaries in the ordinary course of business.

Market-Making Transactions by Affiliates

Following the initial distribution of securities, our affiliates, including Banc of America Securities LLC, Banc of America Securities Limited, and Merrill Lynch, Pierce, Fenner & Smith Incorporated may buy and sell the securities in secondary market transactions as part of their business as broker-dealers. Resales of this kind may occur in the open market or may be privately negotiated, at prevailing market prices at the time of resale or at related or negotiated prices. This prospectus and any related supplements may be used by one or more of our affiliates in connection with these market-making transactions to the extent permitted by applicable law. Our affiliates may act as principal or agent in these transactions.

The aggregate initial offering price specified on the cover of the applicable supplement will relate to the initial offering of securities not yet issued as of the date of this prospectus. This amount does not include any securities to be sold in market-making transactions. The securities to be sold in market-making transactions include securities issued after the date of this prospectus.

Information about the trade and settlement dates, as well as the purchase price, for a market-making transaction will be provided to the purchaser in a separate confirmation of sale.

Unless we or our agent inform you in your confirmation of sale that the security is being purchased in its original offering and sale, you may assume that you are purchasing the security in a market-making transaction.

ERISA CONSIDERATIONS

A fiduciary of a pension, profit-sharing or other employee benefit plan governed by the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), should consider the fiduciary standards of ERISA in the context of the ERISA plan's particular circumstances before authorizing an investment in the offered securities of Bank of America. Among other factors, the fiduciary should consider whether such an investment is in accordance with the documents governing the ERISA plan and whether the investment is appropriate for the ERISA plan in view of its overall investment policy and diversification of its portfolio.

Certain provisions of ERISA and the Internal Revenue Code of 1986, as amended (the "Code"), prohibit employee benefit plans (as defined in Section 3(3) of ERISA) that are subject to Title I of ERISA, plans described in Section 4975(e)(1) of the Code (including, without limitation, retirement accounts and Keogh Plans), and entities whose underlying assets include plan assets by reason of a plan's investment in such entities (including, without limitation, as applicable, insurance company general accounts) (collectively, "plans"), from engaging in certain transactions involving "plan assets" with parties that are "parties in interest" under ERISA or "disqualified persons" under the Code with respect to the plan or entity. Governmental and other plans that are not subject to ERISA or to the Code may be subject to similar restrictions under state, federal or local law. Any employee benefit plan or other entity, to which such provisions of ERISA, the Code or similar law apply, proposing to acquire the offered securities should consult with its legal counsel.

Each of Bank of America and certain of its affiliates may be considered a "party in interest" or a "disqualified person" with respect to many plans. As a result, a prohibited transaction may arise if the securities are acquired by or on behalf of a plan unless those securities are acquired and held pursuant to an available exemption.

The U.S. Department of Labor has issued five prohibited transaction class exemptions ("PTCEs") that may provide exemptive relief for direct or indirect prohibited transactions resulting from the purchase or holding of these securities. Those class exemptions are PTCE 96-23 (for certain transactions determined by in-house asset managers), PTCE 95-60 (for certain transactions involving insurance company general accounts), PTCE 91-38 (for certain transactions involving bank collective investment funds), PTCE 90-1 (for certain transactions involving insurance company separate accounts) and PTCE 84-14 (for certain transactions determined by independent qualified asset managers). In addition, ERISA Section 408(b)(17) and Section 4975(d)(20) of the Code provide an exemption for the purchase and sale of securities and the related lending transactions, provided that neither the issuer of the securities nor any of its affiliates has or exercises any discretionary authority or control or renders any investment advice with respect to the assets of any plan involved in the transaction and provided further that the plan pays no more than adequate consideration in connection with the transaction (the so-called "Service Provider Exemption"). There can be no assurance that any of these class or statutory exemptions will be available with respect to transactions involving these securities.

Accordingly, unless otherwise provided in connection with a particular offering of securities, offered securities may not be purchased, held or disposed of by any plan or any other person investing "plan assets" of any plan that is subject to the prohibited transaction rules of ERISA or Section 4975 of the Code or other similar law, unless one of the following exemptions (or a similar exemption or exception) applies to such purchase, holding, and disposition: the Service Provider Exemption, PTCE 96-23, PTCE 95-60, PTCE 91-38, PTCE 90-1, or PTCE 84-14.

Unless otherwise provided in connection with a particular offering of securities, any purchaser of the offered securities or any interest therein will be deemed to have represented

and warranted to Bank of America on each day including the date of its purchase of the offered securities through and including the date of disposition of such offered securities that either:

- (a) it is not a plan subject to Title I of ERISA or Section 4975 of the Code and is not purchasing such securities or interest therein on behalf of, or with “plan assets” of, any such plan;
- (b) its purchase, holding, and disposition of such securities are not and will not be prohibited because they are exempted by the Service Provider Exemption or one or more of the following prohibited transaction exemptions: PTCE 96-23, 95-60, 91-38, 90-1 or 84-14; or
- (c) it is a governmental plan (as defined in section 3 of ERISA) or other plan that is not subject to the provisions of Title I of ERISA or Section 4975 of the Code and its purchase, holding, and disposition of such securities are not otherwise prohibited.

Due to the complexity of these rules and the penalties imposed upon persons involved in prohibited transactions, it is important that any person considering the purchase of the offered securities with plan assets consult with its counsel regarding the consequences under ERISA and the Code, or other similar law, of the acquisition and ownership of offered securities and the availability of exemptive relief under the class exemptions listed above. The sale of the securities of Bank of America to a plan is in no respect a representation by Bank of America or the underwriters that such an investment meets all relevant legal requirements with respect to investments by plans generally or any particular plan, or that such an investment is appropriate for plans generally or any particular plan.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form S-3 with the SEC covering the securities to be offered and sold using this prospectus. You should refer to this registration statement and its exhibits for additional information about us. This prospectus summarizes material provisions of contracts and other documents that we refer you to. Because the prospectus may not contain all of the information that you may find important, you should review the full text of these documents, which we have included as exhibits to the registration statement.

We file annual, quarterly, and special reports, proxy statements and other information with the SEC. You may read and copy any document that we file with the SEC at the Public Reference Room of the SEC at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. You also may inspect our filings over the Internet at the SEC’s website, www.sec.gov. The reports and other information we file with the SEC also are available at our website, www.bankofamerica.com. We have included the SEC’s web address and our web address as inactive textual references only. Except as specifically incorporated by reference into this prospectus, information on those websites is not part of this prospectus.

You also can inspect reports and other information we file at the offices of The New York Stock Exchange, Inc., 20 Broad Street, 17th Floor, New York, New York 10005.

The SEC allows us to incorporate by reference the information we file with it. This means that:

- incorporated documents are considered part of this prospectus;
- we can disclose important information to you by referring you to those documents; and
- information that we file with the SEC automatically will update and supersede this incorporated information and information in this prospectus.

We incorporate by reference the documents listed below which were filed with the SEC under the Securities Exchange Act of 1934:

- our annual report on Form 10-K for the year ended December 31, 2008;
- our current reports on Form 8-K or Form 8-K/A filed January 2, 2009, January 7, 2009, January 13, 2009, January 16, 2009, January 22, 2009, January 28, 2009, February 3, 2009 (two filings), February 25, 2009, March 3, 2009, March 12, 2009, and April 20, 2009 (two filings) (in each case, other than information that is furnished but deemed not to have been filed); and
- the description of our common stock which is contained in our registration statement filed under Section 12 of the Securities Exchange Act of 1934, as modified by our current report on Form 8-K filed April 20, 2009.

We also incorporate by reference reports that we will file under Sections 13(a), 13(c), 14, and 15(d) of the Securities Exchange Act of 1934 on or after the date of this prospectus, but not any information that we may furnish but that is not deemed to be filed.

You should assume that the information appearing in this prospectus is accurate only as of the date of this prospectus. Our business, financial position, and results of operations may have changed since that date.

You may request a copy of any filings referred to above (excluding exhibits), at no cost, by contacting us at the following address:

Bank of America Corporation
Corporate Treasury Division
NC1-007-07-06
100 North Tryon Street
Charlotte, North Carolina 28255
(704) 386-5681
E-mail: securities.administration@bankofamerica.com

FORWARD-LOOKING STATEMENTS

We have included or incorporated by reference in this prospectus and the accompanying supplements statements that may constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. You may find these statements by looking for words such as “plan,” “believe,” “expect,” “intend,” “anticipate,” “estimate,” “project,” “potential,” “possible,” or other similar expressions, or future or conditional verbs such as “will,” “should,” “would,” and “could.”

All forward-looking statements, by their nature, are subject to risks and uncertainties. Our actual results may differ materially from those set forth in our forward-looking statements. As a large, international financial services company, we face risks that are inherent in the businesses and market places in which we operate. Information regarding important factors that could cause our future financial performance to vary from that described in our forward-looking statements is contained in our annual report on Form 10-K for the year ended December 31, 2008, which is incorporated by reference in this prospectus, under the captions “Item 1A. Risk Factors,” and “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations,” as well as those discussed in our subsequent filings that are incorporated in this prospectus by reference. See “Where You Can Find More Information” above for information about how to obtain a copy of our annual report.

You should not place undue reliance on any forward-looking statements, which speak only as of the dates they are made.

All subsequent written and oral forward-looking statements attributable to us or any person on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Except to the extent required by applicable law or regulation, we undertake no obligation to update these forward-looking statements to reflect events or circumstances after the date of this prospectus or to reflect the occurrence of unanticipated events.

LEGAL MATTERS

The legality of the securities being registered will be passed upon for us by McGuireWoods LLP, Charlotte, North Carolina, and for the underwriters or agents by Morrison & Foerster LLP, New York, New York. McGuireWoods LLP regularly performs legal services for us. Some members of McGuireWoods LLP performing those legal services own shares of our common stock.

EXPERTS

Our consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in the Report of Management on Internal Control Over Financial Reporting) incorporated in this prospectus by reference to our annual report on Form 10-K for the year ended December 31, 2008 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements of Merrill Lynch & Co., Inc. ("Merrill Lynch") incorporated in this prospectus by reference from the Bank of America Corporation current report on Form 8-K, filed with the SEC on February 25, 2009, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated by reference in this prospectus (which report expresses an unqualified opinion on those financial statements and includes explanatory paragraphs regarding the changes in accounting methods in 2007 relating to the adoption of Statement of Financial Accounting Standards No. 157, "*Fair Value Measurements*," Statement of Financial Accounting Standards No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities – Including an amendment of FASB Statement No. 115*," and FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109*" and Merrill Lynch becoming a wholly-owned subsidiary of Bank of America Corporation on January 1, 2009). Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

PROSPECTUS



Junior Subordinated Notes

BAC Capital Trust XVI
BAC Capital Trust XVII
BAC Capital Trust XVIII
BAC Capital Trust XIX
BAC Capital Trust XX

Capital Securities
guaranteed as set forth herein by

Bank of America Corporation

This prospectus describes the Bank of America Corporation junior subordinated notes, and the capital securities of BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX, BAC Capital Trust XX, and similar entities that may be formed in the future.

From time to time, each Trust may:

- sell capital securities representing undivided preferred beneficial interests in the Trust to the public;
- sell common securities representing undivided common beneficial interests in the Trust to Bank of America Corporation;
- use the proceeds from these sales to purchase junior subordinated notes of Bank of America Corporation; and
- regularly distribute the cash payments that the Trust receives on the junior subordinated notes it owns to the holders of its capital and common securities.

Bank of America Corporation will issue its junior subordinated notes to the Trusts. These notes are expected to be the only material assets of each Trust and may be distributed to holders of capital or common securities upon dissolution of a Trust. Bank of America Corporation will guarantee the payments owed by each Trust on the capital securities to the extent described in this prospectus.

This prospectus describes the general terms of the junior subordinated notes of Bank of America Corporation and the capital securities of each Trust and the general manner in which Bank of America Corporation and the Trusts will offer these securities. The specific terms of the junior subordinated notes and the capital securities, including the payment dates, the interest and distribution rates, and the liquidation amount, will be provided in an accompanying prospectus supplement. You should read this prospectus and the applicable prospectus supplement carefully before you invest. This prospectus may be used to offer and sell securities only if accompanied by the prospectus supplement for those securities.

This prospectus may be used in the initial sale of the capital securities. In addition, Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any other affiliate of Bank of America Corporation, may use this prospectus in a market-making transaction in any of the capital securities after their initial sale. Unless you are informed otherwise in the confirmation of sale, this prospectus is being used in a market-making transaction.

Investing in the capital securities involves risks that we describe in the "Risk Factors" section beginning on page 4.

Our junior subordinated notes are unsecured. Our junior subordinated notes and the capital securities are not savings accounts, deposits, or other obligations of a bank, are not guaranteed by Bank of America, N.A. or any other bank, are not insured by the Federal Deposit Insurance Corporation or any other governmental agency, and involve investment risks, including possible loss of principal.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the junior subordinated notes or the capital securities or passed on the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

Prospectus dated April 20, 2009

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that Bank of America Corporation and BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX, and BAC Capital Trust XX filed with the Securities and Exchange Commission, or the “SEC,” utilizing a “shelf” registration process. Under this shelf process, from time to time, a Trust may sell capital securities representing undivided preferred beneficial interests in the Trust to the public and common securities representing undivided common beneficial interests in the Trust to us, in one or more offerings. In turn, the Trust will invest the proceeds from those sales in our junior subordinated notes.

This prospectus provides you with a general description of the securities that we and the Trusts may offer. Each time a Trust sells securities, we will provide a prospectus supplement describing the particular capital securities offering and the specific terms of the securities being offered. The prospectus supplement will include a discussion of any special considerations applicable to those securities. The prospectus supplement also may add, update, or change information contained in this prospectus. In this prospectus, when we refer to the “applicable prospectus supplement” or the “accompanying prospectus supplement,” we mean the prospectus supplement that describes the particular securities being offered to you. If there is any inconsistency between the information in this prospectus and the applicable prospectus supplement, you should rely on the information in the applicable prospectus supplement. To fully understand the securities we and the Trusts may offer, you should read carefully:

- this prospectus, which explains the general terms of the capital securities and junior subordinated notes that may be offered to you;
- the applicable prospectus supplement, which explains the specific terms of the particular series of capital securities and junior subordinated notes being offered, and which may update or change the information in this prospectus; and
- the documents we refer to in “Where You Can Find More Information” below for information about Bank of America Corporation, including our financial statements.

The information in this prospectus is not complete and may be changed. You should rely only on the information provided in or incorporated by reference in this prospectus, the accompanying prospectus supplement, or documents to which we otherwise refer you. Neither we nor the Trusts have authorized anyone else to provide you with different or additional information. Neither we nor the Trusts are making an offer of these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in the prospectus and the accompanying prospectus supplement, as well as information we have filed or will file with the SEC and incorporated by reference in this prospectus, is accurate as of the date of the applicable document or other date referred to in the document. Our business, financial condition, and results of operations may have changed since that date.

Unless we indicate otherwise or unless the context requires otherwise, all references in this prospectus to “Bank of America,” “we,” “us,” or “our,” or similar references are to Bank of America Corporation excluding its consolidated subsidiaries, and all references to a “Trust” or the “Trusts” are to any of the BAC Capital Trusts listed on the cover of this prospectus and to any similar entity that may be formed in the future.

RISK FACTORS

This section summarizes some specific risks and investment considerations with respect to an investment in the capital securities. This summary does not describe all of the risks and investment considerations with respect to an investment in the capital securities, including risks and considerations relating to a prospective investor's particular circumstances. For information regarding risks and uncertainties that may materially affect our business and results, please refer to the information under the captions "Item 1.A. Risk Factors" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in our annual report on Form 10-K for the year ended December 31, 2008, which is incorporated by reference in this prospectus, and the risk factors discussed in other documents that we will file after the date of this prospectus that are so incorporated. Prospective investors should consult their own financial, legal, tax, and other professional advisors as to the risks associated with an investment in the capital securities and the suitability of the investment for the investor. The capital securities are not an appropriate investment for you if you are not knowledgeable about significant elements of the capital securities or financial matters in general.

Risks Associated with the Terms of the Capital Securities and the Junior Subordinated Notes

You are making an investment decision with regard to the junior subordinated notes as well as the capital securities.

Each Trust will rely only on the payments it receives on the corresponding series of junior subordinated notes held by it to make all payments on its capital securities. In addition, a Trust may distribute the corresponding junior subordinated notes to you in exchange for its capital securities upon dissolution and liquidation. Accordingly, you should review carefully the information in this prospectus and the applicable prospectus supplement about both of these securities, as well as the guarantee.

We will pay holders of our Senior Obligations before we pay a Trust as the holder of our junior subordinated notes and before we pay holders of the Trust's capital securities under our guarantee.

Our obligations under the junior subordinated notes will be unsecured and will rank junior in priority of payment to all of our current and future Senior Obligations. We describe Senior Obligations below under the heading "Description of the Junior Subordinated Notes—Subordination." This means that we cannot make any payments on the junior subordinated notes if we default on a payment due on Senior Obligations and we do not cure the default within the applicable grace period or if any of our Senior Obligations becomes immediately due because of a default and has not yet been paid in full. The guarantee will rank senior only to our common stock. In addition, the terms of certain of our outstanding junior subordinated notes prohibit us from making any payment of interest on the junior subordinated notes that relate to the capital securities which you may purchase if there exists an event of default with respect to such outstanding junior subordinated notes or at any time we have deferred interest thereunder. In the event of our bankruptcy or liquidation, our assets must be used to pay our Senior Obligations in full before any payments may be made on the junior subordinated notes or the guarantee.

Neither the indenture governing the junior subordinated notes nor the declaration of trust and the guarantee relating to the capital securities will limit our ability, or that of any of our subsidiaries, to incur additional indebtedness, liabilities and obligations, including indebtedness, liabilities and obligations that rank senior to or equal with the junior subordinated notes and the guarantee.

The junior subordinated notes and the guarantee will be structurally subordinated to the obligations of our subsidiaries.

We are a holding company that conducts substantially all of our operations through subsidiaries. As a result, our ability to make payments on the junior subordinated notes and the guarantee will depend primarily upon the receipt of dividends and other distributions from our subsidiaries. Various legal limitations restrict the extent to which our subsidiaries may extend credit, pay dividends or other funds, or otherwise engage in transactions with us or some of our other subsidiaries. In addition, our right to participate in any distribution of assets from any subsidiary, upon the subsidiary's liquidation or otherwise, is subject to the prior claims of creditors of that subsidiary, except to the extent that we are recognized as a creditor of that subsidiary. As a result, the junior subordinated notes and the guarantees will be structurally subordinated to all existing and future liabilities of our subsidiaries. You should look only to the assets of Bank of America Corporation as the source of payment for the junior subordinated notes and the guarantees.

Federal banking authorities may restrict the ability of a Trust to make distributions on or redeem the capital securities.

Federal banking authorities will have the right to examine the Trust and its activities because it is our subsidiary. Under certain circumstances, including any determination that our relationship to a Trust would result in an unsafe and unsound banking practice, these banking authorities have the authority to issue orders which could restrict the ability of a Trust to make distributions on or to redeem the capital securities.

In addition, on October 2008 and January 2009, we issued preferred stock and warrants to purchase our common stock to the U.S. Treasury under the TARP Capital Purchase Program and targeted investment program. Under the terms of these issuances, for so long as any of such preferred stock remains outstanding, we are prohibited from redeeming or purchasing a Trust's capital securities without the U.S. Treasury's consent until January 2012 or until the U.S. Treasury has transferred all of the preferred stock issued to it to third parties.

You should not rely on receiving distributions from the capital securities through maturity. A Trust may redeem the capital securities prior to their maturity, which would be a taxable event to you. You may not be able to reinvest the proceeds at the same or a higher rate of return.

We may prepay each series of the junior subordinated notes in the circumstances we describe in this prospectus under the heading "Description of the Junior Subordinated Notes—Prepayment," subject to any required prior approval from the Board of Governors of the Federal Reserve System, or the "Federal Reserve Board." If we prepay any junior subordinated notes, then unless we specify otherwise in the applicable prospectus supplement, the applicable Trust will redeem the related capital securities at a redemption price equal to the liquidation amount per capital security, plus accumulated but unpaid distributions to the redemption date. Under current U.S. federal income tax law, the redemption of the capital securities would be a taxable event to you.

If a Trust redeems the capital securities, prevailing market conditions at that time may prevent you from reinvesting the money you receive upon redemption at a rate equal to or higher than the rate of return on the capital securities.

If we do not make payments to a Trust on the junior subordinated notes, the Trust will not be able to pay distributions on the capital securities, and you will not be able to rely on the guarantee for payments.

The ability of a Trust to timely pay distributions on its capital securities and to pay the liquidation amount per capital security will depend solely upon our making the related payments on the corresponding junior subordinated notes when due. If we default on our obligation to pay interest on, or the principal of, the junior subordinated notes, the Trust will not have sufficient funds to pay distributions on, or the liquidation amount of, the capital securities.

In addition, our guarantee applies only to the extent that a Trust has funds available for payment. Therefore, if we default on our interest and other payment obligations on the corresponding junior subordinated notes, the Trust will not have funds available for payment, and you will not be able to rely upon the guarantee for payment.

You may not be able to enforce directly your rights against Bank of America if an event of default occurs. You may have to rely on the property trustee to enforce your rights.

If an event of default under the junior subordinated notes occurs and is continuing, that event also will be an event of default under the related capital securities. In that case, you may have to rely on the property trustee, as the holder of the junior subordinated notes, to enforce your rights against us.

You may bring a legal action against us directly only if an event of default under the applicable declaration of trust occurs, or if we fail to pay, when due, interest on, or the principal of, the junior subordinated notes and, in either case, the property trustee fails to enforce its rights.

We may defer distributions on the capital securities.

Unless we specify otherwise in the applicable prospectus supplement, we may defer interest payments on the junior subordinated notes at any time up to a number of consecutive interest periods as specified in the applicable prospectus supplement, as long as the deferral period does not extend beyond the stated maturity of the junior subordinated notes. If we defer interest payments on the junior subordinated notes, the applicable Trust will defer the related distributions on its capital securities.

You may have to include interest on the capital securities in your taxable income before you receive cash distributions.

If we defer interest payments on the junior subordinated notes and the applicable Trust defers distributions on the related capital securities, during the deferral period you will have to accrue and report as original issue discount for U.S. federal income tax purposes your proportionate share of the deferred interest on the junior subordinated notes held by the Trust. As a result, you will have to include that accrued interest in your gross income for U.S. federal income tax purposes before you receive any cash distributions. You also will not receive payment of the accrued and unpaid interest following the deferral period if you sell the capital securities before the record date for the deferred distributions, even if you held the capital securities on the date that the payments would have been paid but for the deferral payments.

The market price of the capital securities may not reflect unpaid interest, and you may suffer a loss if you sell the capital securities while interest remains unpaid.

Because of our possible right to defer interest payments on the junior subordinated notes, the market price of the capital securities may be more volatile than the market prices of other

securities that are not subject to interest deferrals. If we exercise our right to defer interest payments, the market price of the related capital securities may be adversely affected. Accordingly, the capital securities may trade at a discount to the price that you paid when you purchased them, and if you sell your capital securities during a deferral period, you may not receive the same return on your investment as someone who continues to hold the capital securities.

If you sell your capital securities between record dates for distribution payments, you will have to include accrued but unpaid distributions in your taxable income.

The capital securities may trade at prices that do not fully reflect the value of accrued but unpaid interest on the corresponding junior subordinated notes.

If you sell your capital securities before the record date for a distribution payment, then you will not receive that distribution. However, you will be required to include accrued but unpaid interest on your proportionate share of the junior subordinated notes through the date of your sale as ordinary income for U.S. federal income tax purposes.

When you sell your capital securities, you generally will recognize capital gain or loss equal to the difference between the amount realized on the sale of the capital securities (less an amount attributable to accrued but unpaid interest) and your adjusted tax basis in the capital securities. The amount you receive for your capital securities may not fully reflect the value of any accrued but unpaid interest at the time of the sale. Generally, you may not apply capital losses to offset ordinary income for U.S. federal income tax purposes.

See “U.S. Federal Income Tax Considerations—Consequences to U.S. Holders—Sales of Capital Securities” for more information.

A Trust may distribute the junior subordinated notes to the holders of the capital securities, and the junior subordinated notes may trade at a price that is lower than the price you paid for the capital securities.

We may dissolve a Trust at any time. If we dissolve and liquidate a Trust before the maturity of the corresponding series of junior subordinated notes, the property trustee may distribute the junior subordinated notes to the holders of the Trust’s capital and common securities in liquidation of the Trust.

We cannot predict accurately the market prices for capital securities or the corresponding junior subordinated notes that may be distributed in exchange for the capital securities. Accordingly, the junior subordinated notes that you receive upon a distribution, or the capital securities you hold pending the distribution, may trade at a lower price than the price you paid to purchase the capital securities.

If the capital securities are listed on an exchange, we will use our reasonable efforts to list the corresponding junior subordinated notes on that exchange if they are distributed. However, we cannot assure you that the junior subordinated notes will be approved for listing or that a trading market will develop for the junior subordinated notes. If the capital securities are not listed on an exchange, we will have no obligation to list the corresponding junior subordinated notes so distributed.

Under current U.S. federal income tax law, the distribution of junior subordinated notes upon the termination of a Trust generally will not be taxable to you. However, if the Trust is characterized for U.S. federal income tax purposes as an association taxable as a corporation at the time of the liquidation, the distribution of the junior subordinated notes will be taxable to you.

We may be able to extend the maturity date of the junior subordinated notes, which would delay the mandatory redemption date for the related capital securities.

If we so specify in the applicable prospectus supplement, we may extend the maturity date of a series of junior subordinated notes under certain circumstances. The extension of the maturity date of the junior subordinated notes will correspondingly delay the payment of the liquidation amount to holders of the related capital securities.

We generally will control each Trust, and your voting rights will be very limited. Your interests may not be the same as our interests.

We will hold all of the common securities of each Trust. As a result, we will have substantially all of the voting rights for a Trust, including the right to make certain amendments to its declaration of trust without your consent. The holders of a Trust's capital securities will have no voting rights, except as we describe in this prospectus under the heading "Description of the Capital Securities—Voting Rights" or as otherwise required by law or the applicable declaration of trust.

An active trading market for the capital securities may not develop.

Each series of capital securities will be a new issue of securities with no established trading market. We may apply to list a series of capital securities on the New York Stock Exchange or another exchange, but are not required to do so. If we list a series of capital securities on the New York Stock Exchange, trading generally is expected to commence within 30 days after the initial delivery of the series. However, listing of the capital securities does not guarantee that a trading market for the capital securities will develop or, if a trading market for the capital securities does develop, the depth of that market or the ability of holders to sell their capital securities. Whether or not the capital securities are listed, the number of potential buyers in any secondary market may be limited.

Risks Associated with Currencies

We may issue capital securities and junior subordinated notes denominated in a currency other than U.S. dollars. We refer to these securities as "Non-U.S. Dollar-Denominated Securities." If you intend to invest in any Non- U.S. Dollar-Denominated Securities, you should consult your own financial and legal advisors as to the currency risks related to your investment. The Non-U.S. Dollar-Denominated Securities are not an appropriate investment for you if you are not knowledgeable about the significant terms and conditions of the Non-U.S. Dollar-Denominated Securities or financial matters in general. The information in this prospectus is directed primarily to investors who are U.S. residents. Investors who are not U.S. residents should consult their own financial and legal advisors about currency-related risks arising from their investment.

Non-U.S. Dollar-Denominated Securities have significant risks that are not associated with a similar investment in conventional debt securities that are payable solely in U.S. dollars. These risks include possible significant changes in rates of exchange between the U.S. dollar and the specified currency and the imposition or modification of foreign exchange controls or other conditions by either the United States or non-U.S. governments. These risks generally are influenced by factors over which we have no control, such as economic and political events and the supply of and demand for the relevant currencies in the global markets.

Currency Exchange Rates. Exchange rates between the U.S. dollar and other currencies have been highly volatile. This volatility may continue and could spread to other currencies in the future. Fluctuations in currency exchange rates could affect adversely an investment in the Non-U.S. Dollar-Denominated Securities. Depreciation of the specified currency against the U.S. dollar could result in a decrease in the U.S. dollar-equivalent value of payments on the

Non-U.S. Dollar-Denominated Securities. That in turn could cause the market value of the Non-U.S. Dollar-Denominated Securities to fall.

Changes in Foreign Currency Exchange Rates. Except as described below or in a prospectus supplement, we will not make any adjustment in or change to the terms of the Non-U.S. Dollar-Denominated Securities for changes in the foreign currency exchange rate for the specified currency, including any devaluation, revaluation, or imposition of exchange or other regulatory controls or taxes, or for other developments affecting the specified currency, the U.S. dollar, or any other currency. Consequently, you will bear the risk that your investment may be affected adversely by these types of events.

Government Policy. Foreign currency exchange rates either can float or be fixed by sovereign governments. Governments or governmental bodies, including the European Central Bank, may intervene in their economies to alter the exchange rate or exchange characteristics of their currencies. For example, a central bank may intervene to devalue or revalue a currency or to replace an existing currency. In addition, a government may impose regulatory controls or taxes to affect the exchange rate of its currency. As a result, the yield or payout of a Non-U.S. Dollar-Denominated Security could be affected significantly and unpredictably by governmental actions. Changes in exchange rates could affect the value of the Non-U.S. Dollar-Denominated Securities as participants in the global currency markets move to buy or sell the specified currency or U.S. dollars in reaction to these developments.

If a governmental authority imposes exchange controls or other conditions, such as taxes on the transfer of the specified currency, there may be limited availability of the specified currency for payment on the Non-U.S. Dollar-Denominated Securities at their maturity or on any other payment date. In addition, the ability of a holder to move currency freely out of the country in which payment in the currency is received or to convert the currency at a freely determined market rate could be limited by governmental actions.

Payments in U.S. Dollars. The terms of any Non-U.S. Dollar-Denominated Securities may provide that we may have the right to make a payment in U.S. dollars instead of the specified currency, if at or about the time when the payment on the Non-U.S. Dollar-Denominated Securities comes due, the specified currency is subject to convertibility, transferability, market disruption, or other conditions affecting its availability because of circumstances beyond our control. These circumstances could include the imposition of exchange controls or our inability to obtain the specified currency because of a disruption in the currency markets for the specified currency. The exchange rate used to make payment in U.S. dollars may be based on limited information and would involve significant discretion on the part of our exchange rate agent. As a result, the value of the payment in U.S. dollars may be less than the value of the payment you would have received in the specified currency if the specified currency had been available. The exchange rate agent will generally not have any liability for its determinations.

Court Judgments. Any junior subordinated notes that are Non-U.S. Dollar-Denominated Securities typically will be governed by New York law. Under Section 27 of the New York Judiciary Law, a state court in the State of New York rendering a judgment on the Non-U.S. Dollar-Denominated Securities would be required to render the judgment in the specified currency. In turn, the judgment would be converted into U.S. dollars at the exchange rate prevailing on the date of entry of the judgment. Consequently, in a lawsuit for payment on the Non-U.S. Dollar-Denominated Securities, you would bear currency exchange risk until judgment is entered, which could be a long time.

In courts outside of New York, you may not be able to obtain judgment in a specified currency other than U.S. dollars. For example, a judgment for money in an action based on Non-U.S. Dollar-Denominated Securities in many other U.S. federal or state courts ordinarily would be enforced in the United States only in U.S. dollars. The date used to determine the rate

of conversion of the specified currency into U.S. dollars will depend on various factors, including which court renders the judgment.

Information About Foreign Currency Exchange Rates. If we issue a Non-U.S. Dollar-Denominated Security, we may include in the applicable supplement information about historical exchange rates for the relevant non-U.S. dollar currency or currencies. Any information about exchange rates that we may provide will be furnished as a matter of information only, and you should not regard the information as indicative of the range of, or trends in, fluctuations in currency exchange rates that may occur in the future.

BANK OF AMERICA CORPORATION

General

Bank of America Corporation is a Delaware corporation, a bank holding company, and a financial holding company under the Gramm-Leach-Bliley Act. Our principal executive offices are located in the Bank of America Corporate Center, 100 North Tryon Street, Charlotte, North Carolina 28255 and our telephone number is (704)-386-5681.

Acquisitions and Sales

As part of our operations, we regularly evaluate the potential acquisition of, and hold discussions with, various financial institutions and other businesses of a type eligible for financial holding company ownership or control. In addition, we regularly analyze the values of, and submit bids for, the acquisition of customer-based funds and other liabilities and assets of such financial institutions and other businesses. We also regularly consider the potential disposition of certain of our assets, branches, subsidiaries, or lines of businesses. As a general rule, we publicly announce any material acquisitions or dispositions when a definitive agreement has been reached.

On January 1, 2009, we completed the acquisition of Merrill Lynch & Co., Inc. through its merger with one of our subsidiaries. On July 1, 2008, we completed the acquisition of Countrywide Financial Corporation through its merger with one of our subsidiaries.

THE TRUSTS

Each Trust is a statutory trust formed under Delaware law under a declaration of trust, executed by us as sponsor of the Trust and the trustees of the Trust, and the filing of a certificate of trust with the Secretary of State of the State of Delaware. Before a Trust issues capital securities, its declaration of trust will be amended and restated in its entirety, substantially in the form filed as an exhibit to our registration statement. See “Where You Can Find More Information” below for information on how to obtain a copy of the amended and restated declaration of trust. When we refer to the “declaration of trust” for a particular Trust in this prospectus and any accompanying prospectus supplement, we are referring to the amended and restated declaration of trust for that Trust. The declaration of trust for each Trust will be qualified as an indenture under the Trust Indenture Act of 1939, as amended.

Each Trust exists exclusively to:

- issue capital securities and common securities, referred to together as “trust securities,” representing undivided beneficial interests in the assets of the Trust;
- invest the proceeds from the sale of its trust securities in a corresponding series of junior subordinated notes of Bank of America; and
- engage only in those other activities necessary or incidental to these activities.

A Trust may not undertake any activity that would cause it to be classified as other than a grantor trust for U.S. federal income tax purposes.

When a Trust issues and sells its trust securities, it will use the proceeds from the sale to buy a series of our junior subordinated notes. We refer to these as the “corresponding junior subordinated notes” for those trust securities. The payment terms of the series of corresponding junior subordinated notes will be substantially the same as the terms of the Trust’s capital securities, which we refer to as the “related capital securities.”

Each Trust will own only the applicable series of corresponding junior subordinated notes. The only source of funds for a Trust will be the payments it receives from us on the corresponding junior subordinated notes. A Trust will use these funds to make any cash payments due to holders of its capital securities.

We will own, directly or indirectly, all of the common securities of each Trust. The common securities of a Trust generally will rank equally with the capital securities of the Trust, and the Trust generally will make payment on its trust securities on a pro rata basis. However, upon the occurrence of an event of default under the Trust’s declaration of trust, our rights, as holder of the Trust’s common securities, to payment in respect of distributions and payments upon liquidation, redemption and otherwise will be subordinated to the rights of the holders of the capital securities of the Trust. We describe these subordination provisions below under the heading “Description of the Capital Securities—Subordination of Common Securities.”

The trustees of each Trust will conduct that Trust’s business and affairs. Initially, there are four trustees for each Trust:

- two regular trustees, who are employees or officers of or who are individuals affiliated with us;
- a property trustee, which is a financial institution that is unaffiliated with us and is the indenture trustee under the applicable declaration of trust for purposes of complying with the Trust Indenture Act; and
- the Delaware trustee, which is an entity that maintains its principal place of business in the State of Delaware.

The property trustee will hold title to the series of corresponding junior subordinated notes for the benefit of the holders of the Trust's trust securities. In that capacity, the property trustee will have the power to exercise all rights, power and privileges as a holder under the indenture under which the corresponding junior subordinated notes are issued. In addition, the property trustee has exclusive control of the Trust's property account, a segregated non-interest bearing bank account holding all payments on the corresponding junior subordinated notes for the benefit of the holders of the Trust's trust securities. The property trustee will make payments of distributions and payments on liquidation, redemption and otherwise to the holders of its trust securities out of funds in the Trust's property account.

Initially, The Bank of New York Mellon Trust Company, N.A., a New York banking association, will act as property trustee of each Trust, and its affiliate, BNY Mellon Trust of Delaware, will act as the Delaware trustee of each Trust. As the holder, directly or indirectly, of all the common securities of each Trust, we have the right to appoint, remove, or replace the trustees of a Trust and to increase or decrease the number of trustees, provided that at least one trustee is a Delaware trustee, at least one trustee is a property trustee, and at least one trustee is a regular trustee.

The Bank of New York Mellon Trust Company, N.A. also acts as trustee under the guarantees described in this prospectus and as trustee under the junior subordinated indenture. The guarantee trustee holds the guarantee for the benefit of the holders of a Trust's capital securities. See "Description of the Junior Subordinated Notes" and "Description of Guarantee" below.

The rights of the holders of the capital and common securities of a Trust, including economic rights, rights to information and voting rights, are as set forth in the Trust's declaration of trust and the Delaware Statutory Trust Act. We summarize these rights below under the heading "Description of the Capital Securities."

Unless otherwise set forth in the applicable prospectus supplement, each of the Trusts has a term of approximately 55 years, from January 1, 2006. Each Trust may terminate earlier as provided in its declaration of trust.

We will pay all costs and expenses related to the organization and operation of each Trust and the offering of the trust securities.

The principal executive office of each Trust is c/o Bank of America Corporation, Corporate Treasury, Bank of America Corporate Center, 100 North Tryon Street, NC1-007-07-06, Charlotte, North Carolina 28255, telephone number 1-704-386-5681. The office of the Delaware trustee for each Trust in the State of Delaware is BNY Mellon Trust of Delaware, 100 White Clay Center Drive, Newark, Delaware 19711, telephone number (302) 283-8905.

USE OF PROCEEDS

Each Trust will use the gross proceeds received from the sale of its securities to purchase junior subordinated notes from us. Unless we describe a different use in the applicable prospectus supplement, we will use the net proceeds from the sale of the junior subordinated notes to a Trust for general corporate purposes. General corporate purposes include:

- our working capital needs;
- investments in, or extensions of credit to, our banking and nonbanking subsidiaries;
- the possible acquisitions of other financial institutions or their assets;
- the possible acquisitions of, or investments in, other businesses of a type we are permitted to acquire under applicable law;
- the possible reduction of outstanding indebtedness; and
- the possible repurchase of our outstanding equity securities.

Until we designate the use of these net proceeds, we will invest them temporarily. From time to time, we may engage in additional financings as we determine appropriate based on our needs and prevailing market conditions. These additional financings may include the sale of other securities.

DESCRIPTION OF THE CAPITAL SECURITIES

Capital securities will be issued by a Trust under its declaration of trust. The terms of the capital securities will include those stated in the declaration of trust and those made part of the declaration of trust by the Trust Indenture Act. This section of the prospectus summarizes the material terms of the capital securities of each Trust. We will describe the financial and other specific terms of a particular Trust's series of capital securities being offered in the applicable prospectus supplement. The following summary is not intended to be complete and is subject to, and qualified in its entirety by reference to, the applicable declaration of trust, the Delaware Statutory Trust Act and the Trust Indenture Act.

General

The declaration of trust of each Trust authorizes the regular trustees of the Trust to issue capital securities and common securities on behalf of the Trust. These trust securities represent undivided beneficial interests in the assets of the Trust. The capital securities will be sold to the public in each offering. All of the common securities will be owned, directly or indirectly, by us. The common securities of a Trust generally will rank equally with the capital securities of the Trust and the Trust will make payments on its trust securities on a pro rata basis, except as we describe below under the heading "—Subordination of Common Securities."

Each Trust may issue only one series of capital securities and one series of common securities. A Trust's capital securities will be issued in the amount, at the price and on the terms described in the prospectus supplement relating to the offering of those capital securities. These terms will be substantially identical to the terms of the series of corresponding junior subordinated notes that we will issue and sell to the Trust, as set forth in the applicable prospectus supplement.

No declaration of trust will limit the aggregate amount of capital securities that may be issued by the other Trusts or the aggregate amount of any series of capital securities issued by any other Trust. We and the Trusts may issue capital securities and other securities at any time without your consent and without notifying you.

The declarations of trust and the capital securities do not limit our ability to incur indebtedness or to issue other securities. In addition, except as we describe below under the heading "Description of the Junior Subordinated Notes—Certain Covenants of Bank of America," we are not subject to financial or similar restrictions by the terms of the capital securities.

In the future, we may form additional trusts or other entities similar to the Trusts and those other entities could issue securities similar to the trust securities described in this section. In that event, we may issue junior subordinated notes under the junior subordinated indenture to those other entities and guarantees under a guarantee agreement with respect to the securities they issue. The junior subordinated notes and guarantees we issue in those cases could be similar to those described in this prospectus.

The property trustee will hold title to the series of corresponding junior subordinated notes purchased by a Trust for the benefit of the holders of the Trust's trust securities. To the extent described below under the heading "Description of Guarantee," we will guarantee the payment of distributions on the capital securities, and payments upon redemption of the capital securities or liquidation of the Trust, out of money held by the Trust. However, the guarantee will not cover payment of distributions or amounts payable on redemption or liquidation when the Trust does not have available funds on hand to make those payments. In the event of any non-payment by the Trust, holders of the capital securities have the remedies described below under the heading "—Events of Default, Payment Failures, Waiver, and Notice."

Each Trust will describe the specific terms of the capital securities it is offering in the applicable prospectus supplement, including:

- the specific designation, liquidation amount, purchase price, and number of capital securities to be issued by the Trust;
- the currency or currency units in which distributions and other payments will or may be payable;
- the distribution rates (or the method by which the rates will be determined), if any;
- the dates on which any distributions will be payable and the scheduled maturity date of the corresponding junior subordinated notes;
- any provisions relating to deferral of distribution payments and/or extension of the maturity date of the corresponding junior subordinated notes;
- the places where distributions and other amounts payable on the capital securities will be payable;
- any repayment, redemption, prepayment, or sinking fund provisions;
- any conversion or exchange provisions;
- the terms and conditions, if any, upon which the assets of the Trust may be distributed to holders of the capital securities;
- any additional U.S. federal income tax consequences; and
- any other specific terms of the capital securities.

TARP Program

In addition, on October 2008 and January 2009, we issued preferred stock and warrants to purchase our common stock to the U.S. Treasury under the TARP Capital Purchase Program and targeted investment program. Under the terms of these issuances, for so long as any of such preferred stock remains outstanding, we are prohibited from redeeming or purchasing a Trust's capital securities without the U.S. Treasury's consent until January 2012 or until the U.S. Treasury has transferred all of the preferred stock issued to it to third parties.

Distributions

Distributions on each series of capital securities:

- will be cumulative;
- will accumulate from the date of original issuance, unless we specify otherwise in the applicable prospectus supplement; and
- will be payable at the rates and on dates specified in the applicable prospectus supplement.

The distribution rate and the distribution payment dates and other payment dates for a series of capital securities will be the same as the interest rate and interest payment dates and other payment dates on the corresponding junior subordinated notes. When this prospectus and any accompanying prospectus supplement refer to any payment of distributions, the term "distribution" includes any interest payable on unpaid distributions unless we specify otherwise.

Unless we specify otherwise in the applicable prospectus supplement, the amount of distributions payable for any period will be computed on the basis of a 360-day year of twelve 30-day months, and the amount of distributions payable for any period shorter than a full

distribution period will be computed on the basis of the actual number of days elapsed in a 360-day year of twelve 30-day months.

The Trusts may issue capital securities that pay distributions at one or more fixed distribution rates or that pay distributions at a floating distribution rate determined by reference to one or more distribution rate bases, or by reference to one or more distribution rate formulae, in each case as specified in the applicable prospectus supplement.

Payments

Distributions on the capital securities will be made to the extent that the applicable Trust has funds available in the Trust's property account to pay the distributions. The sole source of funds available for distributions to holders of capital securities are our payments on the corresponding junior subordinated notes. If we do not make interest payments on the corresponding junior subordinated notes, the property trustee will not have funds available to pay distributions on the related capital securities. To the extent the Trust has funds legally available for the payment of those distributions and cash sufficient to make those payments, we will guarantee the payment of distributions on the basis set forth below under the heading "Description of Guarantee."

Distributions on capital securities are payable to the holders of those securities as they appear on the register of the applicable Trust on the relevant record dates. As long as the capital securities remain in book-entry only form, the record date is one business day before the distribution payment date. Unless any applicable laws and regulations and the provisions of the declaration of trust state otherwise, each payment of a distribution will be made as described below under the heading "—Book-Entry Only Issuance."

If any capital securities are not issued in book-entry form initially, we will specify the record dates in the applicable prospectus supplement. If a distribution payment date is not a business day, then payment of the distribution will be made on the next succeeding business day, and no interest or any other payment will accrue as a result of that postponement. However, if the next succeeding business day is in the next calendar year, payment of the distribution will be made on the immediately preceding business day. Unless we specify otherwise in the applicable prospectus supplement, a "business day" is any day other than a day on which federal or state banking institutions in New York, New York or Charlotte, North Carolina are authorized or required by law or executive order or regulation to remain closed.

Payment of Additional Amounts

If we so specify in the applicable prospectus supplement with respect to a series of capital securities, at all times that the property trustee is the holder of the corresponding junior subordinated notes, we will pay additional interest on those junior subordinated notes to ensure that the property trustee will have sufficient funds to ensure that every net payment on a capital security will be not less, due the payment of U.S. withholding tax, than the amount then otherwise due and payable. We describe these additional payments, and the related exceptions from our obligation to pay them, below under the heading "Description of Junior Subordinated Notes—Payment of Additional Amounts." However, unless we specify otherwise in the applicable prospectus supplement, the obligation to pay such additional amounts will constitute a "tax event" (as defined below) and will allow for the prepayment of the corresponding junior subordinated notes as described herein.

Deferral of Distributions

Under the applicable supplemental indenture, we may have the right, which we may exercise from time to time, to defer interest payments on the applicable series of junior subordinated notes for up to the number of consecutive interest payment periods that we will

specify in the applicable prospectus supplement. Unless we specify otherwise in the applicable prospectus supplement, the total interest deferral period will be equal to five years. As a consequence of the deferral of interest payments, distributions on the related capital securities would be deferred by the applicable Trust during the same period. During a deferral period, the amount of distributions due to you will continue to accumulate and, to the extent permitted by law, those deferred distributions will themselves also accrue interest compounded at the applicable distribution rate. Any deferred distributions and the interest accrued on those distributions will be paid on the distribution payment date that follows the end of the deferral period to the holders of capital securities on the record date for that distribution payment date. If we exercise our right to defer interest on the corresponding junior subordinated notes, we will be subject to restrictions with respect to payments related to our capital stock and our indebtedness that is equal to or junior to the junior subordinated notes. We describe our right to defer interest payments on the junior subordinated notes and the restrictions on our ability to make payments on capital stock and indebtedness in more detail below under the headings “Description of the Junior Subordinated Notes—Option to Extend Interest Payment Period” and “—Certain Covenants of Bank of America.”

Redemption

A Trust will redeem its trust securities upon the maturity of the corresponding junior subordinated notes. The applicable prospectus supplement may prescribe a method for extending the maturity date of a series of junior subordinated notes which would, in turn, extend the redemption date of the related trust securities.

A Trust also will redeem its trust securities upon the prepayment of the corresponding junior subordinated notes. Once we receive any required prior approval, including the approval of the Federal Reserve Board, we may have the right to prepay any series of junior subordinated notes if and to the extent described in the applicable prospectus supplement:

- on or after a date specified in the applicable prospectus supplement, in whole or in part, on one or more occasions, at any time at our election; or
- in whole, but not in part, at any time within 90 days after the occurrence and continuance of a tax event, an investment company event, or a capital treatment event (each as described below under the heading “—Special Event Redemption”).

We describe our right to prepay junior subordinated notes below under the heading “Description of the Junior Subordinated Notes—Prepayment.”

When we pay a series of junior subordinated notes at maturity, the property trustee will apply the proceeds from that payment to redeem all outstanding related trust securities at the redemption price. When we prepay a series of junior subordinated notes, whether in whole or in part, the property trustee will apply the proceeds from that payment to redeem related trust securities having an aggregate liquidation amount equal to that portion of the principal amount of junior subordinated notes being prepaid, at the applicable redemption price. The redemption price of the trust securities will equal the aggregate liquidation amount of those trust securities, plus accumulated but unpaid distributions to the redemption date and the related amount of the premium, if any, paid by us upon the concurrent payment or prepayment of the corresponding junior subordinated notes.

Redemption Procedures

A Trust may redeem capital securities only to the extent it has funds on hand and legally available to pay the redemption price. In addition, a Trust may redeem less than all of its outstanding capital securities only if all accrued and unpaid distributions have been paid on all capital securities for all distribution periods terminating on or prior to the redemption date.

Unless we specify otherwise in the applicable prospectus supplement, a Trust must give notice of the redemption of capital securities to the registered holders of the capital securities at least 15 but not more than 60 days before the date fixed for redemption. If the Trust gives a redemption notice, and if the funds are available for payment, then on the redemption date, the property trustee will, for capital securities held in book-entry only form:

- irrevocably deposit with the depository funds sufficient to pay the applicable redemption price; and
- give the depository irrevocable instructions and authority to pay the redemption price to the holders of the capital securities.

If the capital securities are no longer in book-entry only form, and the funds are available for payment, the property trustee will pay the redemption price by check mailed to the addresses of the holders of those capital securities as they appear in the register.

Once a Trust has given a redemption notice and deposited the required funds, then distributions on the capital securities being redeemed will cease to accrue, and all rights of the holders of the capital securities being redeemed will cease, except the right to receive the redemption price, but without any interest for any delay in receiving it.

If any date fixed for redemption is not a business day, then payment of the redemption price will be made on the next day that is a business day, without any interest or other payment for the delay. However, if the next succeeding business day is in the next calendar year, the Trust will make payment on the immediately preceding business day.

If payment of the redemption price for the capital securities called for redemption is improperly withheld or refused and not paid either by the applicable Trust or by us under the guarantee described below under the heading "Description of Guarantee," then distributions on those capital securities will continue to accrue at the then-applicable rate from the original redemption date to the actual payment date. In this case, the actual payment date will be the redemption date for purposes of calculating the redemption price.

If less than all of a Trust's capital and common securities are to be redeemed, then the aggregate liquidation amount of the capital and common securities to be redeemed normally will be allocated to the common securities and to the capital securities proportionately. However, if an event of default under the applicable declaration of trust has occurred and is continuing, holders of the capital securities will be paid in full before any payments are made to holders of the common securities. We describe this subordination of common securities below under the heading "—Subordination of Common Securities."

If less than all of a series of capital securities are to be redeemed, then the property trustee will select the particular capital securities to be redeemed on the pro rata basis described above by any method the property trustee deems fair and appropriate or, if the capital securities are then held in book-entry form, in accordance with the depository's procedures, as described below under the heading "—Book-Entry Only Issuance."

We may purchase at any time and from time to time, through a subsidiary or affiliate of ours, outstanding capital securities by tender, in the open market, or by private agreement.

Special Event Redemption

Unless we specify otherwise in the applicable prospectus supplement, if a tax event, an investment company event, or a capital treatment event occurs and continues, and we obtain any required regulatory approval, we may prepay the junior subordinated notes, in whole but not in part, in cash within 90 days following the occurrence of that event. This would cause a mandatory redemption of the related trust securities in whole, but not in part, as described above.

“Tax event” means that:

- we have received an opinion of a nationally recognized independent tax counsel experienced in tax matters which states that, as a result of any
 - (a) amendment to, or change (including any announced prospective change) in, the laws or associated regulations of the United States or any political subdivision or taxing authority of the United States, or
 - (b) official administrative pronouncement or judicial decision interpreting or applying those laws or regulations, which amendment or change is effective or the pronouncement, or decision is announced on or after the date of original issuance of the capital securities,there is more than an insubstantial risk that interest payable on the junior subordinated notes held by a Trust is not, or within 90 days of the date of the amendment, change, pronouncement, or decision, will not be, deductible, in whole or in part, by us for U.S. federal income tax purposes; or
- the regular trustees of a Trust have been informed by a nationally recognized independent tax counsel experienced in tax matters that it cannot deliver an opinion that states that the holders of the trust securities will not recognize any gain or loss for U.S. federal income tax purposes as a result of the dissolution of the Trust and the distribution of the corresponding junior subordinated notes.

In addition, if, with respect to a series of capital securities, we are obligated to pay additional amounts, as described above under the heading “—Payment of Additional Amounts,” then unless we specify otherwise in the applicable prospectus supplement, a “tax event” shall also be deemed to have occurred if we have or will become obligated to pay additional amounts as to the capital securities or the corresponding junior subordinated notes as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United States having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of original issuance of the capital securities. Unless we specify otherwise in the applicable prospectus supplement, to the extent a tax event occurs as a result of the requirement to pay additional amounts, the requirement to act within 90 days, as described above under the heading “—Redemption,” will not apply and the corresponding junior subordinated notes may be prepaid at any time while such tax event is continuing.

“Investment company event” means that a Trust has received an opinion of counsel experienced in investment company matters which states that, as a result of the occurrence of a change in law or regulation or a change in interpretation or application of law or regulation by any legislative body, court, governmental agency, or regulatory authority, which change is in either case effective on or after the date the Trust’s capital securities are issued, the Trust is or will be considered an investment company that is required to be registered under the Investment Company Act of 1940, as amended.

“Capital treatment event” means our reasonable determination that, as a result of

- any amendment to, or change (including any announced prospective change) in, the laws or associated regulations of the United States or any political subdivision of the United States, which is effective on or after the date the capital securities are issued, or
- any official or administrative pronouncement or action or judicial decision interpreting or applying those laws or regulations that is announced on or after the date the capital securities are issued,

there is more than an insubstantial risk that we will not be able to treat the capital securities as Tier 1 capital for purposes of the capital adequacy guidelines of the Federal Reserve Board.

Repurchase and Redemption

We or one of our affiliates may acquire outstanding capital securities from time to time. Following such an acquisition, we may elect to exchange those capital securities for the corresponding principal amount of the applicable series of junior subordinated notes. Unless otherwise set forth in the applicable prospectus supplement, a proportionate amount of the common securities that we hold will also be exchanged for the corresponding principal amount of such junior subordinated notes. Following such exchanges, we may cancel and retire the applicable principal amount of the junior subordinated notes that we have received.

Subordination of Common Securities

Payment of distributions on, the redemption price of, and the liquidation distribution in respect of, capital securities and common securities ordinarily are made pro rata based on the aggregate liquidation amount of those capital securities and common securities. However, upon any event of default under the applicable declaration of trust, the rights of the holders of the common securities to receive payment of periodic distributions and payments upon liquidation and redemption and other payments are subordinated to the rights to payment of the holders of the capital securities.

In the case of any event of default under a declaration of trust, we, as the holder of the Trust's common securities, will be deemed to have waived those events of default under the declaration of trust until those events of default with respect to the Trust's capital securities have been cured, waived, or otherwise eliminated. Until all events of default with respect to the capital securities have been so cured, waived, or otherwise eliminated, the property trustee will act solely on behalf of the holders of those capital securities and not on our behalf, and only the holders of the capital securities will have the right to direct the property trustee to act on their behalf.

Liquidation Distribution Upon Dissolution

We can at any time dissolve and liquidate a Trust. The amount payable on the trust securities in the event of any liquidation of the Trust is the liquidation amount per security, as specified in the applicable prospectus supplement, plus accrued and unpaid distributions, subject to certain exceptions. The amount payable upon liquidation may be paid in the form of a distribution of the corresponding principal amount of junior subordinated notes to the holders of the trust securities.

Each declaration of trust states that a Trust will terminate on the expiration of its term or will dissolve earlier:

- upon the bankruptcy of Bank of America;
- upon the filing of a certificate of dissolution or its equivalent with respect to Bank of America;
- upon the consent of the holders of at least a majority in aggregate liquidation amount of the trust securities voting together as a single class to dissolve the Trust;
- upon the revocation of the charter of Bank of America and the expiration of 90 days after the date of revocation without a reinstatement thereof;
- at the election of Bank of America at any time and upon the distribution of the junior subordinated notes held by the Trust to the holders of the trust securities;

- upon the entry of a decree of judicial dissolution of the holder of the common securities, Bank of America, or the Trust; or
- upon the redemption of all of the Trust's trust securities.

If a Trust dissolves as described above, after the Trust pays all amounts owed to creditors, holders of its trust securities will be entitled to receive:

- corresponding junior subordinated notes having a principal amount equal to the liquidation amount of the trust securities of the holders; or
- a cash amount equal to the aggregate liquidation amount plus accrued and unpaid distributions to the date of payment.

The holders of a Trust's common securities will be entitled to receive distributions upon any liquidation on a proportionate basis with the holders of the Trust's capital securities, except that in an event of default under the applicable declaration of trust has occurred and is continuing, the Trust will pay the total amounts due on the capital securities before making any distribution on the common securities. If the Trust cannot pay the full amount due on the capital and common securities because it has insufficient assets for payment, then the amounts the Trust owes on the capital securities will be allocated proportionately. We describe this subordination of common securities above under the heading "—Subordination of Common Securities."

After the distribution date of a series of junior subordinated notes and dissolution of the related Trust:

- the trust securities of the Trust will no longer be deemed to be outstanding;
- the depository or its nominee, as the record holder of the capital securities, will receive a registered global certificate or certificates representing the corresponding junior subordinated notes to be delivered upon the distribution; and
- any certificates representing capital securities not held by the depository or its nominee will be deemed to represent the corresponding junior subordinated notes having an aggregate principal amount equal to the aggregate stated liquidation amount of, with an interest rate or interest vote formula identical to the distribution rate of, those capital securities, and bearing accrued and unpaid interest in an amount equal to the accrued and unpaid distributions on those capital securities, until those certificates are surrendered for transfer or reissuance.

Events of Default, Payment Failures, Waiver, and Notice

An event of default under a Trust's declaration of trust occurs when there is an event of default under the junior subordinated indenture. We describe these events of default below under the heading "Description of the Junior Subordinated Notes—Events of Default, Waiver, and Notice." If an event of default occurs and continues, then under the declaration of trust, the rights of the holders of the common securities will be subordinate to the rights of the holders of the capital securities to the extent described above under the heading "—Subordination of Common Securities."

The holders of capital securities do not have any specific rights under the declaration of trust upon the occurrence of an event of default. The property trustee under the applicable Trust will hold the corresponding series of junior subordinated notes issued under the junior subordinated indenture, and if an event of default occurs and continues, the property trustee, as the sole holder of the notes, will have the right under the junior subordinated indenture to declare the principal of and interest on the junior subordinated notes to be immediately due and payable.

If the property trustee fails to enforce its rights upon an event of default under the junior subordinated indenture, a holder of capital securities may institute a legal proceeding directly against us to enforce the property trustee's rights as holder of the junior subordinated notes without first instituting a legal proceeding against the property trustee or any other person or entity. We describe the rights of holders of junior subordinated notes (including the property trustee, as a holder), and in certain circumstances the holders of the capital securities, upon an event of default below under the heading "Description of the Junior Subordinated Notes—Events of Default, Waiver, and Notice."

A default by us in payment obligations with respect to the junior subordinated notes does not constitute an event of default for purposes of the junior subordinated indenture and, therefore, does not constitute an event of default under the applicable declaration of trust. However, if we fail to pay the principal of, or premium, if any, or interest on, a series of junior subordinated notes on the date that interest, principal, or premium is otherwise payable (or in the case of redemption, the redemption date) and the failure continues (referred to as a "payment failure"), a holder of the related capital securities may bring a legal action against us directly for enforcement of payment of amounts owed on these junior subordinated notes. In connection with a direct action, the holders of the common securities will be subrogated to the rights of the holders of the capital securities to the extent we make any payments. This means that if a holder of capital securities already had received payment of a distribution that was the basis of the direct action, then we, as holder of the common securities, will be entitled to payment of that amount. The holders of capital securities will not be able to exercise directly any other remedy available to holders of the junior subordinated notes.

Under each declaration of trust, the holders of a majority in liquidation amount of capital securities may waive events of default with respect to the capital securities. However, if the underlying event of default under the junior subordinated indenture may not be waived, then the event of default under the declaration of trust may not be waived. Furthermore, if the waiver of the underlying event of default under the junior subordinated indenture requires the consent or vote of more than a majority in principal amount of the corresponding junior subordinated notes (referred to as a "super majority"), then only the same super majority of holders of the capital securities may waive the event of default under the declaration of trust.

A waiver of an event of default under the junior subordinated indenture by the property trustee, as holder of the junior subordinated notes, constitutes a waiver of the corresponding event of default under the declaration of trust. In addition, a waiver of an event of default with respect to capital securities under the declaration of trust waives the event of default with respect to the common securities for all purposes under the declaration of trust. Furthermore, the holders of common securities are deemed to have waived events of default to the extent described above under the heading "—Subordination of Common Securities."

Following the occurrence and during the continuance of an event of default, we are subject to restrictions with respect to payments related to our capital stock and our indebtedness that ranks equally with or junior to the junior subordinated notes. We describe these restrictions below under the heading "Description of the Junior Subordinated Notes—Certain Covenants of Bank of America."

The property trustee is required to notify all holders of the capital securities of any events of default or payment failures.

We and the regular trustees of a Trust are required to file annually with the property trustee an officers' certificate as to our respective compliance with all conditions and covenants under the applicable declaration of trust.

Voting Rights

The holders of the capital securities have no voting rights, except as described below and except as provided below under the heading “Description of Guarantee—Amendment and Assignment” and as otherwise required by law and the declaration of trust.

Unless we specify otherwise in the applicable prospectus supplement, the holders of a majority in aggregate liquidation amount of the capital securities have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the property trustee or exercising any trust or power of the property trustee under the applicable declaration of trust, including the right to direct the property trustee, as holder of the corresponding series of junior subordinated notes, to:

- exercise the remedies available to it under the junior subordinated indenture as the holder of the junior subordinated notes;
- waive any past event of default that is waivable under the junior subordinated indenture;
- exercise any right to rescind or annul a declaration that the principal of all the corresponding series of junior subordinated notes will be due and payable; or
- consent to any amendment, modification, or termination of the junior subordinated indenture where that consent is required.

Except for directing the time, method, and place of conducting a proceeding for a remedy available to the property trustee, the property trustee will not take any action at the direction of the holders of related capital securities unless the property trustee receives an opinion of tax counsel that states that the Trust will not be classified as other than a grantor trust for U.S. federal income tax purposes as a result of that action.

Where a consent or action under the junior subordinated indenture requires the consent or act of holders of a super majority of the junior subordinated notes, then only the same super majority of holders of the capital securities may direct the property trustee to give that consent or take that action.

If the property trustee’s consent is required under the junior subordinated indenture for any amendment, modification, or termination of the junior subordinated indenture or the corresponding series of junior subordinated notes, the property trustee is required to request the written direction of the holders of the trust securities, and the property trustee will vote as directed by a majority in liquidation amount of the trust securities, voting together as a single class. The property trustee is not required to take any action of this kind in accordance with the directions of the holders of the trust securities unless the property trustee has obtained a tax opinion to the effect described above.

The holders of the capital securities are entitled to vote on some types of modifications or amendments to the declaration of trust. We describe these rights below under the heading “—Modification of the Declaration of Trust.”

Any required approval or direction of holders of capital securities may be given at a separate meeting of holders of capital securities convened for that purpose, at a meeting of all of the holders of trust securities, or by written consent. The regular trustees will mail to each holder of record of capital securities a notice of any meeting at which those holders are entitled to vote, or of any matter upon which action by written consent of those holders is to be taken. Each notice will include the following information:

- the date of the meeting or the date by which the action is to be taken;
- a description of any resolution proposed for adoption or for which written consent is sought; and
- instructions for the delivery of proxies or consents.

No vote or consent of the holders of capital securities is required for a Trust to redeem and cancel capital securities or distribute the corresponding junior subordinated notes in accordance with the Trust's declaration of trust.

Despite the fact that holders of capital securities are entitled to vote or consent under the circumstances described above, any of the capital securities that are owned by us or any entity directly or indirectly controlling or controlled by us, or under direct or indirect common control with us, will not be entitled to vote or consent. Instead, these capital securities will be treated for that purpose as if they were not outstanding.

The procedures by which holders of capital securities held in book-entry only form may exercise their voting rights are described below under the heading "—Book-Entry Only Issuance."

Modification of the Declaration of Trust

A declaration of trust may be modified and amended if approved by a majority of the regular trustees and, in certain circumstances, the property trustee and the Delaware trustee. If, however, any proposed amendment provides for, or the regular trustees otherwise propose to effect:

- any action that would adversely affect the powers, preferences, or special rights of the trust securities, whether by way of amendment to the declaration of trust or otherwise, or
- the dissolution, winding-up, or termination of the Trust other than according to the terms of the declaration of trust,

then the holders of the trust securities voting together as a single class will be entitled to vote on the amendment or proposal. The amendment or proposal will not be effective except with the approval of holders of at least a majority in liquidation amount of the trust securities affected. If, however, any amendment or proposal referred to in the first bullet above would adversely affect only the capital securities or only the common securities, then only holders of the affected class will be entitled to vote on the amendment or proposal, and the amendment or proposal will not be effective except with the approval of holders of a majority in liquidation amount of that class of trust securities.

Notwithstanding the prior paragraph, no amendment or modification may be made to the declaration of trust if that amendment or modification would:

- cause the Trust to be classified for U.S. federal income tax purposes as other than a grantor trust;
- reduce or otherwise adversely affect the powers of the property trustee in contravention of the Trust Indenture Act; or
- cause the Trust to be deemed an "investment company" required to be registered under the Investment Company Act.

Mergers or Consolidations of the Trusts

A Trust may not consolidate, amalgamate, or merge with or into, or be replaced by, or convey, transfer, or lease its properties and assets substantially as an entirety, to us or any other person, except as described below. A Trust may, with the consent of the regular trustees but without the consent of the holders of the applicable trust securities, the property trustee, or the

Delaware trustee, consolidate, amalgamate, or merge with or into, or be replaced by, a trust organized under the laws of any state if:

- the successor entity, if not the Trust, either:
 - expressly assumes all of the obligations of the Trust with respect to the trust securities, or
 - substitutes for the trust securities other securities having substantially the same terms as the trust securities, so long as the successor securities rank the same as the trust securities in priority with respect to distributions and payments upon liquidation, redemption, and otherwise;
- we, as issuer of the junior subordinated notes, expressly acknowledge a trustee of the successor entity possessing the same powers and duties as the property trustee as the holder of the corresponding junior subordinated notes;
- the capital securities or any successor securities are listed, or any successor securities will be listed upon notification of issuance, on any national or international securities exchange or with another organization, if any, on which the capital securities are then listed or quoted;
- the merger, consolidation, amalgamation, or replacement does not cause the capital securities, including any successor securities, to be downgraded by any nationally recognized statistical rating organization;
- the merger, consolidation, amalgamation, or replacement does not adversely affect the rights, preferences, and privileges of the holders of the trust securities, including any successor securities, in any material respect, other than in connection with any dilution of the holders' interest in the new entity;
- the successor entity has a purpose identical to that of the Trust;
- prior to the merger, consolidation, amalgamation, or replacement, we have received an opinion of counsel to the Trust to the effect that:
 - the merger, consolidation, amalgamation, or replacement does not adversely affect the rights, preferences, and privileges of the holders of the trust securities, including any successor securities, in any material respect, other than in connection with any dilution of the holders' interest in the new entity;
 - following the merger, consolidation, amalgamation, or replacement, neither the Trust nor the successor entity will be required to register as an investment company under the Investment Company Act; and
 - following the merger, consolidation, amalgamation, or replacement, the Trust or the successor entity will continue to be classified as a grantor trust for U.S. federal income tax purposes; and
- we guarantee the obligations of the successor entity under the successor securities at least to the extent provided by the guarantees of the trust securities.

A Trust may not, except with the consent of holders of 100% in liquidation amount of its trust securities, consolidate, amalgamate, merge with or into, or be replaced by any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it if that consolidation, merger, amalgamation, or replacement would cause the Trust or the successor entity to be classified as other than a grantor trust for U.S. federal income tax purposes.

Form of and Denomination of Capital Securities

The capital securities will be issued in fully registered form, and the liquidation amount of a Trust's capital securities will be equal to the denominations of the corresponding junior subordinated notes.

The liquidation amount of the capital securities may be denominated, and cash payments with respect to the capital securities may be made, in U.S. dollars or in another currency, as specified in the applicable prospectus supplement. Unless we specify otherwise in the applicable prospectus supplement, the liquidation amount of the capital securities will be denominated, and cash payments with respect to the capital securities will be made, in U.S. dollars. If the liquidation amount of any of the capital securities is denominated, or if cash payments with respect to any capital securities are payable, in a foreign currency, the specified currency, as well as any additional investment considerations, risk factors, tax consequences, specific terms, and other information relating to that issue of capital securities and the specified currency may be described in the applicable prospectus supplement. We describe some of those investment considerations relating to securities denominated or payable in a currency other than U.S. dollars above under the heading "Risk Factors—Risks Associated with Currencies."

Registration and Settlement

Unless we specify otherwise in the applicable prospectus supplement, the capital securities will be issued in registered, and not bearer, form. This means that a Trust's obligation runs to the holder of the capital security named on the face of the capital security. Each capital security issued in registered form will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of capital securities.

We refer to those persons who have capital securities registered in their own names, on the books that the Trust or its agent maintains for this purpose, as the "holders" of those capital securities. These persons are the legal holders of the capital securities. We refer to those who, indirectly through others, own beneficial interests in capital securities that are not registered in their own names as indirect owners of those capital securities. As we discuss below, indirect owners are not legal holders, and investors in securities issued in global, or book-entry, form or in street name will be indirect owners.

Book-Entry Only Issuance. Unless we specify otherwise in the applicable prospectus supplement, the capital securities will be issued in global, or book-entry, form. This means that the Trusts will not issue actual certificates to each purchaser of capital securities. Instead, a Trust will issue global securities in registered form representing the entire issuance of capital securities. Each global security will be registered in the name of a financial institution or clearing system that holds the global security as depository on behalf of other financial institutions that participate in that depository's book-entry system. These participating institutions, in turn, hold beneficial interests in the global securities on behalf of themselves or their customers.

Because securities issued in global form are registered in the name of the depository, only the depository will be recognized as the holder of the capital securities. This means that all payments on the capital securities, including deliveries of any property other than cash, will be made to the depository. The depository passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depository and its participants are not obligated to pass these payments along under the terms of the capital securities. Instead, they do so under agreements they have made with one another or with their customers.

As a result, investors will not own capital securities issued in book-entry form directly. Instead, they will own beneficial interests in a global security, through a bank, broker, or other financial institution that participates in the depository's book-entry system or holds an interest through a participant in the depository's book-entry system. As long as the capital securities are issued in global form, investors will be indirect owners, and not holders, of the capital securities. The depository will not have knowledge of the actual beneficial owners of the capital securities.

Certificates in Registered Form. The actual purchaser of the capital securities generally will not be entitled to have the capital securities represented by the global securities registered in its name and will not be considered the holder under the applicable declaration of trust. In the future, we may cancel a global security or we may issue capital securities initially in non-global, or certificated, form. We do not expect to exchange global securities for actual certificates registered in the names of the beneficial owners of the capital securities represented by the global securities, unless:

- the depository notifies us that it is unwilling or unable to continue as depository for the global securities, or we become aware that the depository has ceased to be a clearing agency registered under the Securities Exchange Act of 1934, and in any case we fail to appoint a successor to the depository within 60 calendar days; or
- the applicable Trust, with our consent, makes a decision to permit the capital securities to be issued in certificated form.

Street Name Owners. When actual certificates are registered in the names of the beneficial owners of the capital securities, investors may choose to hold their capital securities in their own names or in street name. Capital securities held by an investor in street name would be registered in the name of a bank, broker, or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those capital securities through an account that he or she maintains at that institution.

For capital securities held in street name, only the intermediary banks, brokers, and other financial institutions in whose names the capital securities are registered will be recognized as the holders of those capital securities, and all payments on those capital securities, including deliveries of any property other than cash, will be made to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold capital securities in street name will be indirect owners, not holders, of those capital securities.

Legal Holders. A Trust's obligations run only to the holders of the capital securities. The Trust does not have obligations to investors who hold beneficial interests in global capital securities, who hold the capital securities in street name, or who hold the capital securities by any other indirect means. This will be the case whether an investor chooses to be an indirect owner of a capital security or has no choice because the capital securities are issued only in global form. For example, once a payment is made or a notice is given to the holder, the Trust has no further responsibility for that payment or notice even if that holder is required, under agreements with depository participants or customers or by law, to pass it along to the indirect owners, but does not do so. Similarly, if a Trust wants to obtain the approval of the holders for any purpose, such as to amend its declaration of trust, the Trust would seek the approval only from the holders, and not the indirect owners, of the capital securities. Whether and how the holders contact the indirect owners is up to the holders.

When we refer to "you" in this prospectus, we mean those who invest in the capital securities being offered by this prospectus, whether they are the holders or only indirect owners of those capital securities. When we refer to "your capital securities" in this prospectus, we mean the capital securities in which you will hold a direct or indirect interest.

Special Considerations for Indirect Owners. If you hold capital securities through a bank, broker, or other financial institution, either in book-entry form or in street name, you should check with your own institution to find out:

- how it handles payments on your capital securities and notices;
- whether you can provide contact information to the registrar to receive copies of notices directly;
- whether it imposes fees or charges;
- how it would handle a request for the holders' consent, if required;
- whether and how you can instruct it to send you the capital securities registered in your own name so you can be a holder, if that is permitted at any time;
- how it would exercise rights under the capital securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the capital securities are in book-entry form, how the depository's rules and procedures will affect these matters.

Depositories for Global Securities. Each capital security issued in book-entry form will be represented by a global security that is deposited with and registered in the name of one or more financial institutions or clearing systems, or their nominees, which we will select. A financial institution or clearing system that we select for this purpose is called the "depository" for that capital security. A capital security usually will have only one depository, but it may have more. Each series of capital securities will have one or more of the following as the depositories:

- The Depository Trust Company, New York, New York, which is known as "DTC";
- a financial institution holding the securities on behalf of Euroclear Bank SA/NV, which is known as "Euroclear";
- a financial institution holding the securities on behalf of Clearstream Banking, société anonyme, Luxembourg, which is known as "Clearstream, Luxembourg"; and
- any other clearing system or financial institution that we identify in the applicable prospectus supplement.

The depositories named above also may be participants in one another's clearing systems. For example, if DTC is the depository for a global security, investors may hold beneficial interests in that security through Euroclear or Clearstream, Luxembourg as DTC participants.

We will name the depository or depositories for your capital securities in the applicable prospectus supplement. If no depository is named, the depository will be DTC.

The Depository Trust Company

The following is based on information furnished to us by DTC:

DTC will act as securities depository for the capital securities. The capital securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee), or any other name as may be requested by an authorized representative of DTC. One fully registered global security will be issued for each series of the capital securities, each in the aggregate liquidation amount of such series, and will be deposited with DTC. If, however, the aggregate liquidation amount of any series exceeds \$500 million, one certificate will be issued with respect to each \$500 million in liquidation amount, and an additional certificate will be issued with respect to any remaining liquidation amount of that series.

DTC, the world's largest securities depository, is a limited purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered under Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues and money market instruments from over 100 countries that its direct participants deposit with DTC. DTC also facilitates the post-trade settlement among direct participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between direct participants' accounts. This eliminates the need for physical movement of certificates representing securities. Direct participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others, such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a direct participant, either directly or indirectly ("indirect participants"). DTC has Standard & Poor's highest rating: AAA. The DTC rules applicable to its participants are on file with the SEC. More information about DTC can be found at www.dtcc.com and www.dtc.org.

Purchases of the capital securities under the DTC system must be made by or through direct participants, which will receive a credit for the capital securities on DTC's records. The ownership interest of each actual purchaser of each capital security ("beneficial owner") is in turn to be recorded on the direct and indirect participants' records. Beneficial owners will not receive written confirmation from DTC of their purchase. A beneficial owner, however, is expected to receive written confirmations providing details of the transaction, as well as periodic statements of its holdings, from the direct or indirect participant through which the beneficial owner entered into the transaction. Transfers of ownership interests in the capital securities are to be accomplished by entries made on the books of direct and indirect participants acting on behalf of beneficial owners. Beneficial owners will not receive certificates representing their ownership interests in the capital securities, except if the use of the book-entry system for the capital securities is discontinued.

To facilitate subsequent transfers, all capital securities deposited by direct participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of capital securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual beneficial owners of the capital securities; DTC's records reflect only the identity of the direct participants to whose accounts such capital securities are credited, which may or may not be the beneficial owners. The direct and indirect participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to direct participants, by direct participants to indirect participants and by direct and indirect participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial owners of capital securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the capital securities, such as redemptions, defaults, and proposed amendments to the declaration of trust. For example, a beneficial owner of capital

securities may wish to ascertain that the direct or indirect participant holding the capital securities for its benefit has agreed to obtain and transmit notices to beneficial owners. In the alternative, a beneficial owner may wish to provide its name and address to the registrar and request that copies of notices be provided directly to it.

None of DTC, Cede & Co., or any other DTC nominee will consent or vote with respect to the capital securities unless authorized by a direct participant in accordance with DTC's Money Market Instrument ("MMI") procedures. Under its usual procedures, DTC mails an omnibus proxy to us as soon as possible after the regular record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those direct participants to whose accounts the capital securities are credited on the regular record date. These participants are identified in a listing attached to the omnibus proxy.

Distributions on the capital securities will be paid in immediately available funds directly to Cede & Co., or any other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit direct participants' accounts upon DTC's receipt of funds and corresponding detail information from us, on the applicable payment date in accordance with their respective holdings shown on DTC's records. Payments by participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name." These payments will be the responsibility of these participants and not of DTC or its nominee, us, the Trust, or any other party, subject to any statutory or regulatory requirements that may be in effect from time to time. Payment of any distributions to Cede & Co. (or any other nominee as may be requested by an authorized representative of DTC) is our responsibility, disbursement of those payments to direct participants is the responsibility of DTC, and disbursement of those payments to the beneficial owners is the responsibility of the direct and indirect participants.

Any redemption notices shall be sent to DTC. If less than all of the capital securities of a series are being redeemed, DTC's practice is to determine by lot the amount of the ownership interest of each direct participant in the series to be redeemed.

DTC may discontinue providing its services as depository for the capital securities at any time by giving us reasonable notice. Under those circumstances, if a successor securities depository is not obtained, we will print and deliver certificated capital securities.

We may decide to discontinue use of the system of book-entry only transfers through DTC or a successor securities depository. In that event, we will print and delivery certificated securities to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for its accuracy.

Euroclear and Clearstream, Luxembourg

Euroclear and Clearstream, Luxembourg each hold securities for their customers and facilitate the clearance and settlement of securities transactions by electronic book-entry transfer between their respective account holders (each such account holder, a "participant" and collectively, the "participants"). Euroclear and Clearstream, Luxembourg provide various services including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Euroclear and Clearstream, Luxembourg also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream, Luxembourg have established an electronic bridge between their two systems across which their respective participants may settle trades with each other. Euroclear is incorporated under

the laws of Belgium and Clearstream, Luxembourg is incorporated under the laws of Luxembourg.

Euroclear and Clearstream, Luxembourg customers are world-wide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies, and clearing corporations. Indirect access to Euroclear and Clearstream, Luxembourg is available to other institutions that clear through or maintain a custodial relationship with a participant of either system.

The address of Euroclear is Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855, Luxembourg.

Euroclear and Clearstream, Luxembourg may be depositories for a global security sold or traded outside the United States. In addition, if DTC is the depository for a global security, Euroclear and Clearstream, Luxembourg may hold interests in the global security as participants in DTC. As long as any global security is held by Euroclear or Clearstream, Luxembourg as depository, you may hold an interest in the global security only through an organization that participates, directly or indirectly, in Euroclear or Clearstream, Luxembourg. If Euroclear or Clearstream, Luxembourg is the depository for a global security and there is no depository in the United States, you will not be able to hold interests in that global security through any securities clearing system in the United States.

Payments, deliveries, transfers, exchanges, notices and other matters relating to the capital securities made through Euroclear or Clearstream, Luxembourg must comply with the rules and procedures of those clearing systems. Those clearing systems could change their rules and procedures at any time. We have no control over those clearing systems or their participants, and we take no responsibility for their activities. Transactions between participants in Euroclear or Clearstream, Luxembourg, on one hand, and participants in DTC, on the other hand, when DTC is the depository, also would be subject to DTC's rules and procedures.

Investors will be able to make and receive through Euroclear and Clearstream, Luxembourg payments, deliveries, transfers, exchanges, notices and other transactions involving any capital securities held through those clearing systems only on days when those clearing systems are open for business. Those clearing systems may not be open for business on days when banks, brokers and other institutions are open for business in the United States. In addition, because of time-zone differences, U.S. investors who hold their interests in the capital securities through these clearing systems and wish to transfer their interests, or to receive or make a payment or delivery or exercise any other right with respect to their interests, on a particular day may find that the transaction will not be effected until the next business day in Brussels or Luxembourg, as applicable. Thus, investors who wish to exercise rights that expire on a particular day may need to act before the expiration date. In addition, investors who hold their interests through both DTC and Euroclear or Clearstream, Luxembourg may need to make special arrangements to finance any purchases or sales of their interests between the United States and European clearing systems, and those transactions may settle later than would be the case for transactions within one clearing system.

Special Considerations for Global Securities. As an indirect owner, an investor's rights relating to a global security will be governed by the account rules of the depository and those of the investor's financial institution or other intermediary through which it holds its interest (e.g., Euroclear or Clearstream, Luxembourg, if DTC is the depository), as well as general laws relating to securities transfers. We do not recognize this type of investor or any intermediary as a holder of capital securities. Instead, we deal only with the depository that holds the global security.

If capital securities are issued only in the form of a global security, an investor should be aware of the following:

- an investor cannot cause the capital securities to be registered in his or her own name, and cannot obtain physical certificates for his or her interest in the capital securities, except in the special situations described above;
- an investor will be an indirect holder and must look to his or her own bank or broker for payments on the capital securities and protection of his or her legal rights relating to the capital securities, as we describe above under “—Legal Holders”;
- under existing industry practices, if we or the applicable trustee request any action of owners of beneficial interests in any global security or if an owner of a beneficial interest in any global security desires to give instructions or take any action that a holder of an interest in a global security is entitled to give or take under the applicable declaration of trust or indenture, Euroclear or Clearstream, Luxembourg, as the case may be, would authorize the participants owning the relevant beneficial interests to give instructions or take such action, and such participants would authorize indirect holders to give or take such action or would otherwise act upon the instructions of such indirect holders;
- an investor may not be able to sell interests in the capital securities to some insurance companies and other institutions that are required by law to own their securities in certificated form;
- an investor may not be able to pledge his or her interest in a global security in circumstances where certificates representing the capital securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective; furthermore, as Euroclear and Clearstream, Luxembourg act on behalf of their respective participants only, who in turn may act on behalf of their respective clients, the ability of beneficial owners who are not participants with Euroclear or Clearstream, Luxembourg to pledge interests in any global security to persons or entities that are not participants with Euroclear or Clearstream, Luxembourg or otherwise take action in respect of interests in any global security, may be limited;
- the depository’s policies will govern payments, deliveries, transfers, exchanges, notices and other matters relating to an investor’s interest in a global security, and those policies may change from time to time;
- we, the applicable Trust, the applicable trustees, and any other agents will not be responsible for any aspect of the depository’s policies, actions, or records of ownership interests in a global security;
- we, the applicable Trust, the applicable trustees, and any other agents do not supervise the depository in any way;
- the depository will require that those who purchase and sell interests in a global security within its book-entry system use immediately available funds, and your broker or bank may require you to do so as well; and
- financial institutions that participate in the depository’s book-entry system and through which an investor holds his or her interest in the global securities, directly or indirectly, also may have their own policies affecting payments, deliveries, transfers, exchanges, notices, and other matters relating to the securities. Those policies may change from time to time. For example, if you hold an interest in a global security through Euroclear or Clearstream, Luxembourg, when DTC is the depository, Euroclear or Clearstream, Luxembourg, as applicable, will require those who purchase and sell interests in that security through them to use immediately available funds and comply with other policies and procedures, including deadlines for giving instructions as to transactions that are to be effected on a particular day. There may be more than one financial intermediary in the

chain of ownership for an investor. We do not monitor and are not responsible for the policies or actions or records of ownership interests of any of those intermediaries.

Registration, Transfer, and Payment of Certificated Securities. If capital securities are ever issued in certificated form, those capital securities may be presented for registration of transfer at the office of the registrar or at the office of any transfer agent we designate and maintain. Unless we specify otherwise in the applicable prospectus supplement, The Bank of New York Mellon Trust Company, N.A. will act as registrar, transfer agent, and paying agent for the capital securities.

Registration of transfers of capital securities will be effected without charge by or on behalf of the applicable Trust, but upon payment of, and the giving of any indemnity as the Trust or we may require with respect to, any tax or other governmental charges that may be imposed in connection with any transfer or exchange. A Trust may not register or cause to be registered the transfer of its capital securities after those capital securities have been called for redemption.

Information Concerning the Property Trustee

Other than during the occurrence and continuance of an event of default under a declaration of trust, the property trustee is required to perform only the duties that are specifically set forth in the applicable declaration of trust. Following the occurrence and during the continuance of an event of default, the property trustee must exercise the same degree of care and skill in the exercise of its rights and powers as a prudent person would exercise in the conduct of his or her own affairs under the circumstances. Subject to this provision, the property trustee is under no obligation to exercise any of the rights or powers vested in it by the applicable declaration of trust at the request of any holder of capital securities unless that holder offers indemnity reasonably satisfactory to the property trustee against the costs, expenses, and liabilities that might be incurred. However, the holders of the capital securities will not be required to offer any indemnity if those holders, by exercising their voting rights, direct the property trustee to take any action following an event of default under the declaration of trust.

We and certain of our affiliates have from time to time maintained deposit accounts and conducted other banking transactions with the property trustee and its affiliates in the ordinary course of business. We expect to continue those business transactions. The property trustee also serves as trustee for a number of series of our outstanding indebtedness under other indentures.

Governing Law

The declarations of trust will be governed by and construed in accordance with the laws of the State of Delaware.

DESCRIPTION OF THE JUNIOR SUBORDINATED NOTES

When a Trust issues its trust securities, the Trust will invest the proceeds in a corresponding series of our junior subordinated notes. The corresponding junior subordinated notes may be issued from time to time in one or more series under a base indenture between us and The Bank of New York Mellon Trust Company, N.A., as indenture trustee, as supplemented in the form of a supplemental indenture or a resolution of our Board of Directors or of a special committee formed by our Board of Directors. With respect to any particular series of corresponding junior subordinated notes, the term “indenture” or “junior subordinated indenture” used in this prospectus is deemed to include any supplement to the base indenture with respect to that series. The terms of the junior subordinated notes will include those set forth in the junior subordinated indenture and those made part of the indenture by reference to the Trust Indenture Act.

This section of the prospectus summarizes the material terms of the indenture and the junior subordinated notes. We will describe the financial and other specific terms of a series of corresponding junior subordinated notes in the prospectus supplement for the related capital securities. The following summary is not intended to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the junior subordinated indenture and the Trust Indenture Act. The base indenture and the form of supplemental indenture are filed as exhibits to our registration statement, and they are incorporated in this prospectus by reference. See “Where You Can Find More Information” below for information on how to obtain copies of the base indenture and the form of supplemental indenture. Whenever we refer to the defined terms of the junior subordinated indenture in this prospectus or in a prospectus supplement without defining them, the terms have the meanings given to them in the junior subordinated indenture.

General

Concurrently with the issuance of a Trust’s capital securities, the Trust will invest the proceeds from the sale of the capital securities and the consideration we pay for the Trust’s common securities in the series of corresponding junior subordinated notes issued by us to the Trust. Only one series of junior subordinated notes will be issued to the property trustee of a Trust in connection with the issuance of trust securities by the Trust. Each series of corresponding junior subordinated notes will be in the principal amount equal to the aggregate stated liquidation amount of the related capital securities and the common securities of the Trust and will rank equally with all other series of junior subordinated notes we issue, unless we provide otherwise in the applicable prospectus supplement. The junior subordinated notes are our direct unsecured obligations and are subordinated as described below under the heading “—Subordination.”

Neither the junior subordinated indenture nor any other agreement limits the principal amount of junior subordinated notes or other indebtedness that we may issue.

In addition, the junior subordinated indenture does not contain provisions protecting holders of the junior subordinated notes against a decline in our credit quality resulting from takeovers, recapitalizations, the incurrence of additional indebtedness, or restructuring. If our credit quality declines as a result of an event of this type, or otherwise, the ratings of any junior subordinated notes then outstanding, as well as any ratings on the related capital securities, may be withdrawn or downgraded.

Under circumstances involving the dissolution of a Trust, the corresponding junior subordinated notes held by the Trust may be distributed to the holders of the related trust securities in liquidation of the Trust, provided that any required regulatory approval is obtained.

When we use the term “holder” in this prospectus with respect to a junior subordinated note, we mean the person in whose name the note is registered in the security register. Each series of junior subordinated notes will be issued to and initially held by the property trustee of the applicable Trust, in certificated, or non-book-entry, form. Unless and until the junior subordinated notes are distributed to the holders of the related capital securities in exchange for those capital securities, as described below, the property trustee of the applicable Trust will be the sole holder of those junior subordinated notes for all purposes under the indenture, and the holders of the related capital securities will not have any ownership rights, direct or indirect, with respect to those junior subordinated notes.

The prospectus supplement relating to the offering of a Trust’s capital securities will include specific terms relating to the offering and the series of corresponding junior subordinated notes. These terms will include some or all of the following:

- the title and type of the notes;
- the aggregate principal amount of the notes of that series;
- the percentage of their principal amount at which the notes will be issued;
- the date or dates the notes mature and the method for determining a maturity date, as well as any right to shorten or extend any maturity date;
- the currency in which payments on the notes will be made, if other than U.S. dollars;
- with respect to interest:
 - the interest rate or rates on the notes, which may be fixed or variable, or the method used to calculate that interest;
 - the date interest will begin to accrue;
 - the record and interest payment dates for the notes; and
 - the right to extend the interest payment periods and the duration of that extension;
- the place or places where:
 - we can make payments on the notes;
 - the notes can be surrendered for registration of transfer or exchange; and
 - notices and demands can be given to us relating to the notes and under the junior subordinated indenture;
- any optional redemption provisions that would permit us or the holders of notes to elect redemption of the notes before their final maturity, and the formula or formulae in which the applicable redemption price will be calculated;
- any provisions for a sinking fund or similar provision;
- the form of the notes and the terms and provisions relating to that form; and
- any other specific terms of the notes.

Subordination

The junior subordinated notes are subordinate to all of our existing and future Senior Obligations, as defined below. This means that no payment of principal (including redemption payments), premium, if any, or interest on the junior subordinated notes may be made if:

- any principal, premium, interest, or any other payment due on any of our Senior Obligations has not been paid when due and that default continues; or
- the maturity of any of our Senior Obligations has been accelerated because of a default.

Upon any distribution of our assets to creditors upon any dissolution, winding-up, liquidation, or reorganization of Bank of America, whether voluntary or involuntary or in bankruptcy, insolvency, receivership, or similar proceedings, all amounts due on all Senior

Obligations must be paid in full before the holders of junior subordinated notes are entitled to receive or retain any payment.

If we make a payment to holders of the junior subordinated notes in violation of the provisions described above, then the holders of the junior subordinated notes will be deemed to have received the payments or distributions in trust for the benefit of, and will have to pay or transfer the payments to, the holders of the Senior Obligations outstanding at the time.

Because of this subordination, if we become insolvent, holders of Senior Obligations may receive more, ratably, and holders of the junior subordinated notes having a claim under those notes may receive less, ratably, than our other creditors. This type of subordination will not prevent an event of default from occurring under the junior subordinated indenture in connection with the junior subordinated notes.

The rights of the holders of the junior subordinated notes are subrogated to the rights of holders of our Senior Obligations to receive payments or distributions until the Senior Obligations are paid in full. Those Senior Obligations will continue to be Senior Obligations and be entitled to the benefits of the subordination provisions regardless of any amendment, modification, or waiver of any term of those Senior Obligations.

Except as described below, the term "Senior Obligations" means, with respect to Bank of America:

(1) the principal, any premium and interest with respect to:

- indebtedness of Bank of America for money borrowed or purchased and similar obligations (whether or not that indebtedness is denominated as senior or subordinated); and
- indebtedness evidenced by securities, debentures, bonds, or other similar instruments (whether or not denominated as senior or subordinated) issued by Bank of America;

(2) all capital lease obligations of Bank of America;

(3) all obligations of Bank of America issued or assumed as the deferred purchase price of property, all conditional sale obligations of Bank of America and all obligations of Bank of America under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business);

(4) all obligations of Bank of America for the reimbursement on any letter of credit, banker's acceptance, or similar credit transaction;

(5) all obligations of Bank of America arising from off-balance sheet guarantees by Bank of America and direct credit substitutes and obligations of Bank of America associated with derivative products, such as interest and foreign exchange rate contracts, commodity contracts, swap agreements (including interest rate and foreign exchange swap agreements), cap agreements, floor agreements, collar agreements, interest rate agreements, foreign exchange rate agreements, options, commodity futures contracts and commodity option contracts;

(6) all obligations and financial instruments of the type referred to in clauses (1)-(5) above of other persons for the payment of which Bank of America is responsible or liable as obligor, guarantor, or otherwise; and

(7) all obligations of the type referred to in clauses (1)-(6) above of other persons secured by any lien on any property or asset of Bank of America (whether or not that obligation is assumed by Bank of America).

However, the term “Senior Obligations” does not include:

- any indebtedness that by its terms is subordinated to or ranks equally with the junior subordinated notes, including any such indebtedness that the Federal Reserve Board authorizes for inclusion in Tier 1 capital, all limited to the extent that the classification of such indebtedness as ranking subordinated to or equally with the junior subordinated notes is authorized under the capital rules of the Federal Reserve Board; and
- any indebtedness between or among Bank of America or our affiliates, including all other debt securities and guarantees in respect of those debt securities, issued to (a) any Trust or a trustee of that Trust or (b) any other trust, or a trustee of that trust, partnership, or other entity affiliated with Bank of America or its predecessor entities that is a financing vehicle of Bank of America or its predecessor entities (a “financing entity”) in connection with the issuance by that financing entity of capital securities or other securities that rank equally with, or junior to, the capital securities.

Additional Interest

If, at any time while the property trustee is the holder of a series of junior subordinated notes, a Trust is required to pay any taxes, duties, assessments, or governmental charges of whatever nature, other than withholding taxes, imposed by the United States or any other domestic taxing authority, then we will be required to pay additional interest on the junior subordinated notes. The amount of any additional interest will be an amount sufficient so that the net amounts received and retained by the Trust and the property trustee after paying any of those taxes, duties, assessments, or other governmental charges will be equal to the amounts that the Trust would have received and retained had those taxes, duties, assessments, or other governmental charges not been imposed. This means that the Trust will be in the same position it would have been in if it did not have to pay those taxes, duties, assessments, or other charges.

Payment of Additional Amounts

If we so specify in the applicable prospectus supplement, and subject to the exceptions and limitations set forth below, we will pay additional amounts on a series of junior subordinated notes with respect to any beneficial owner of the related capital securities (or the corresponding junior subordinated notes, following any liquidation of the applicable Trust) that is a “non-U.S. person” to ensure that each net payment to that non-U.S. person on such capital securities (or corresponding junior subordinated notes, following such a liquidation) that it beneficially owns will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. In any such case, we will not be obligated to make additional payments that exceed the amount required to do so. For this purpose, a “net payment” on a capital security or a junior subordinated note means a payment by the applicable Trust, us, or any paying agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States other than a territory or possession. These additional amounts will constitute additional interest on the junior subordinated notes. At all times that the property trustee is the holder of the junior subordinated notes, the applicable Trust will pay these additional amounts to the holders of the related capital securities such that every net payment on a capital security will not be less due to the payment of U.S. withholding tax than the amount otherwise due and payable, as described above under the heading “Description of the Capital Securities—Payment of Additional Amounts.” For this purpose, U.S. withholding tax means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding our obligation, if so specified, to pay additional amounts, we will not be required to pay additional amounts in any of the circumstances described in items (1) through (13) below, unless we specify otherwise in the applicable prospectus supplement.

(1) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner:

- having a relationship with the United States as a citizen, resident, or otherwise;
- having had such a relationship in the past; or
- being considered as having had such a relationship.

(2) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner:

- being treated as present in or engaged in a trade or business in the United States;
- being treated as having been present in or engaged in a trade or business in the United States in the past;
- having or having had a permanent establishment in the United States; or
- having or having had a qualified business unit which has the U.S. dollar as its functional currency.

(3) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner being or having been a:

- personal holding company;
- foreign personal holding company;
- private foundation or other tax-exempt organization;
- passive foreign investment company;
- controlled foreign corporation; or
- corporation which has accumulated earnings to avoid U.S. federal income tax.

(4) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of our stock entitled to vote.

(5) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner being a bank extending credit under a loan agreement entered into in the ordinary course of business.

For purposes of items (1) through (5) above, "beneficial owner" includes, without limitation, the holder and a fiduciary, settlor, partner, member, shareholder, or beneficiary of the holder if the holder is an estate, trust, partnership, limited liability company, corporation,

or other entity, or a person holding a power over an estate or trust administered by a fiduciary holder.

(6) Additional amounts will not be payable to any beneficial owner of a capital security or the corresponding junior subordinated notes, as applicable, that is:

- a fiduciary;
- a partnership;
- a limited liability company;
- another fiscally transparent entity; or
- not the sole beneficial owner of the debt security, or any portion of the debt security.

However, this exception to the obligation to pay additional amounts will apply only to the extent that a beneficiary or settlor in relation to the fiduciary, or a beneficial owner, partner, or member of the partnership, limited liability company, or other fiscally transparent entity, would not have been entitled to the payment of an additional amount had the beneficiary, settlor, beneficial owner, partner, or member received directly its beneficial or distributive share of the payment.

(7) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay additional amounts will apply only if compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.

(8) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on the applicable security by the applicable Trust, us or any paying agent.

(9) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

(10) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.

(11) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any:

- estate tax;
- inheritance tax;
- gift tax;
- sales tax;
- excise tax;

- transfer tax;
- wealth tax;
- personal property tax; or
- any similar tax, assessment, or other governmental charge.

(12) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any paying agent from a payment on the applicable security if such payment can be made without such withholding by any other paying agent.

(13) Additional amounts will not be payable if a payment on a capital security or the corresponding junior subordinated notes, as applicable, is reduced as a result of any combination of items (1) through (12) above.

Except as specifically provided in this section, we will not be required to make any payment of any tax, assessment, or other governmental charge imposed by any government, political subdivision, or taxing authority of that government. In addition, unless we specify otherwise in the applicable prospectus supplement, the obligation to pay additional amounts will constitute a tax event and will allow for the prepayment of the corresponding junior subordinated notes upon the terms described in this prospectus and the applicable prospectus supplement.

For purposes of determining whether the payment of additional amounts is required, the term "U.S. person" means any individual who is a citizen or resident of the United States; any corporation, partnership, or other entity created or organized in or under the laws of the United States; any estate if the income of such estate falls within the federal income tax jurisdiction of the United States regardless of the source of that income; and any trust if a U.S. court is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of the substantial decisions of the trust. Additionally, for this purpose, "non-U.S. person" means a person who is not a U.S. person, and "United States" means the United States of America, including each state of the United States and the District of Columbia, its territories, its possessions and other areas within its jurisdiction.

Form, Exchange, Transfer, and Payment

Each series of junior subordinated notes, which will be held by the property trustee of the applicable trust, initially will be issued in certificated, or non-book-entry, form. We will identify in the applicable prospectus supplement the denominations in which the junior subordinated notes will be issued. No service charge will be made for any transfer or exchange of the junior subordinated notes. However, either we or the indenture trustee may require payment of a sum sufficient to cover any tax, fee, or other government charge that is payable in connection with any transfer or exchange.

Unless we specify otherwise in the applicable prospectus supplement, principal, premium, if any, or any interest will be payable, and the junior subordinated notes may be surrendered for transfer or exchange, at the offices of The Bank of New York Mellon Trust Company, N.A., as paying and authenticating agent. However, at our option we may pay interest by check mailed to the person entitled to that interest at that person's address as it appears on the security register. As long as the property trustee is the holder of junior subordinated notes, we will pay principal and interest on the notes to the account designated by the property trustee.

If a series of junior subordinated notes is distributed to the holders of the related capital securities in liquidation of a Trust, as described above under the heading "Description of the Capital Securities—Liquidation Distribution Upon Dissolution," the junior subordinated notes

initially will be issued in the form of one or more global securities, as we describe below under the heading “—Book-Entry and Settlement.”

Option to Extend Interest Payment Period

Unless we specify otherwise in the applicable prospectus supplement, we have the right under the junior subordinated indenture, at any time and from time to time, to defer interest payments on any series of junior subordinated notes by deferring the interest payment period for up to a number of consecutive interest payment periods that we will specify in the applicable prospectus supplement. We refer to this period as a “deferral period.” No deferral period may extend beyond the stated maturity of a series of junior subordinated notes. During a deferral period, interest will continue to accrue for U.S. federal income tax purposes. See “U.S. Federal Income Tax Considerations—Consequences to U.S. Holders—Interest Income and OID” below. On the interest payment date following the last day of any deferral period, we will pay all interest then accrued and unpaid, including any additional interest described above under the heading “—Additional Interest,” together with compounded interest to the extent permitted by law, at the rate specified for the series of junior subordinated notes.

Unless we specify otherwise in the applicable prospectus supplement, if we exercise our deferral right, then during any deferral period, we will be subject to restrictions with respect to payments related to our capital stock and our indebtedness that is equal or junior to the junior subordinated notes. We describe these restrictions below under the heading “—Certain Covenants of Bank of America.”

We may extend a deferral period prior to the end of that deferral period, so long as the period, as extended, does not exceed the maximum number of consecutive interest payment periods specified in the applicable prospectus supplement and does not extend beyond the maturity date of that series of junior subordinated notes. After the termination of any deferral period and the payment of all amounts due, we may begin a new deferral period, which must comply with the above requirements. Interest will not be payable during a deferral period; instead, interest will be payable only at the end of that period. However, we may prepay at any time all or any portion of the interest accrued during a deferral period.

If the junior subordinated notes are registered in the name of the property trustee, we will give the property trustee, the Delaware trustee, and the regular trustees written notice of our election of a deferral period at least one business day before the earlier of:

- the next succeeding date on which distributions on the related capital securities are payable; and
- the date the Trust is required to give notice the any exchange on which the capital securities are listed or any other applicable self-regulatory organization, if any, of the record or payment date for the related distribution (however, in no event shall notice be required more than 15 business days prior to an interest payment date).

The property trustee will give notice of our election of a deferral period to the holders of the capital securities.

If the junior subordinated notes are not registered in the name of the property trustee, we will give the holders of the junior subordinated notes and the indenture trustee written notice of our election of a deferral period at least 10 business days before the earlier of the next succeeding interest payment date or the date we are required to give notice of the record date or payment date of such interest payment to any exchange on which the junior subordinated notes are listed or any other applicable self-regulatory organization, or to the holders of the junior subordinated notes (however, in no event shall notice be required more than 15 business days prior to the interest payment date).

Prepayment

Unless we specify otherwise in the applicable prospectus supplement, the junior subordinated notes are not subject to any sinking fund and are not redeemable at the option of the holder. Unless we specify otherwise in the applicable prospectus supplement, we have the right, subject to any required prior approval from the Federal Reserve Board, to prepay a series of junior subordinated notes of any series in whole at any time or in part from time to time. If the junior subordinated notes of any series may be prepaid only on or after a specified date or upon the satisfaction of additional conditions, we will specify that date or describe those conditions in the applicable prospectus supplement. Except as we specify otherwise in the applicable prospectus supplement, the prepayment price for any junior subordinated note so prepaid will equal 100% of the principal amount of that junior subordinated note plus accrued and unpaid interest to the prepayment date.

Except as we specify otherwise in the applicable prospectus supplement, we also have the right, subject to any required prior approval from the Federal Reserve Board, to prepay a series of junior subordinated notes in whole, but not in part, at any time within 90 days after the occurrence and continuance of a tax event, an investment company event, or a capital treatment event, each as described above under the heading “Description of Capital Securities—Special Event Redemption.” Unless we specify otherwise in the applicable prospectus supplement, the prepayment price will be equal to 100% of the principal amount of the junior subordinated notes then outstanding plus accrued and unpaid interest to the prepayment date.

Unless we specify otherwise in the applicable prospectus supplement, notice of any prepayment will be mailed at least 15 days, but not more than 60 days, before the redemption date to each holder of junior subordinated notes to be prepaid as it appears in the security register. Unless we default in payment of the prepayment price, on and after the prepayment date, interest will cease to accrue on those junior subordinated notes or the portions of those notes called for prepayment.

Certain Covenants of Bank of America

If (1) we exercise our right to defer payments of interest on a series of junior subordinated notes, as described above under the heading “—Option to Extend Interest Payment Period,” or (2) junior subordinated notes of a series are held by a Trust and remain outstanding and either (a) there occurs and is continuing an event of default under the junior subordinated indenture, or any payment failure, or (b) we are in default relating to our payment of any obligations under the guarantees relating to that Trust, then we will not:

- declare or pay any dividend on, make any distributions with respect to, or redeem, purchase, acquire, or make a liquidation payment with respect to, any shares of our capital stock or make any guarantee payment with respect to the foregoing (other than (1) purchases or acquisitions of our shares of common stock in connection with the satisfaction of our obligations under any employee benefit plans, (2) as a result of a reclassification of our capital stock or the exchange or conversion of one class or series of our capital stock for another class or series of our capital stock, or (3) the purchase of fractional interests in shares of our capital stock in connection with an acquisition or the conversion or exchange provisions of our capital stock or the security being converted or exchanged); or
- make any payment of interest, principal, or premium, if any, on or repay, repurchase, or redeem any debt securities (including guarantees) issued by us that rank equally with or junior to the junior subordinated notes.

In addition, if junior subordinated notes are issued to a Trust or a trustee of the Trust in connection with the issuance of the Trust's trust securities, then as long as those trust securities remain outstanding, we will:

- maintain 100% direct or indirect ownership of the common securities of that Trust, unless a permitted successor of Bank of America succeeds to our ownership of those common securities;
- use our reasonable efforts to cause that Trust to:
 - remain a statutory trust, except in connection with the distribution of corresponding junior subordinated notes to the holders of the trust securities in liquidation of the Trust, the redemption of all of the trust securities of the Trust, or certain mergers, consolidations, or amalgamations, each as permitted by the Trust's declaration of trust; and
 - otherwise continue not to be treated as an association taxable as a corporation or partnership for U.S. federal income tax purposes; and
- use our reasonable efforts to cause each holder of those trust securities to be treated as owning an undivided beneficial interest in the corresponding junior subordinated notes.

Limitation on Mergers and Sales of Assets

The junior subordinated indenture generally permits a consolidation or merger between us and another entity. It also permits the sale or transfer by us of all or substantially all of our assets. These transactions are permitted if:

- the resulting or acquiring entity, if other than us, is organized and existing under the laws of the United States or any state or the District of Columbia and expressly assumes all of our obligations under the junior subordinated indenture; and
- immediately after the transaction, we, or any successor company, are not in default in the performance of any covenant or condition.

Upon any consolidation, merger, or transfer of this kind, the resulting or acquiring entity will be substituted for us in the junior subordinated indenture with the same effect as if it had been an original party to the indenture. As a result, the successor entity may exercise our rights and powers under the junior subordinated indenture, and we will be released from further liabilities and obligations under the indenture and under the junior subordinated notes.

Events of Default, Waiver, and Notice

The junior subordinated indenture provides that the following events, if they have occurred and are continuing, are events of default relating to a series of junior subordinated notes:

- certain events involving the bankruptcy, insolvency, or reorganization of Bank of America; or
- as long as the series of junior subordinated notes are held by a Trust or a trustee of the Trust, the voluntary or involuntary dissolution, winding up, or other termination of that Trust, except in connection with the (1) distribution of those junior subordinated notes to the holders of the Trust's trust securities in liquidation of their interests in the Trust, (2) the redemption of all of the outstanding trust securities of the Trust, or (3) certain mergers, consolidations, or amalgamations, each as permitted by the Trust's declaration of trust.

Our default in payment obligations with respect to the junior subordinated notes or under the related guarantees does not constitute an event of default for purposes of the junior

subordinated indenture. If there is a payment failure on a series of junior subordinated notes, and the property trustee fails to enforce its rights as holder of the junior subordinated notes, then a registered holder of the related capital securities may bring a legal action against us directly for enforcement of payment of amounts owed on those junior subordinated notes (a "direct action"). We can set-off against payments then due under the junior subordinated notes any corresponding payments we make to holders of related capital securities under the guarantee in connection with a direct action. We describe these rights above under the heading "Description of the Capital Securities—Events of Default, Payment Failures, Waiver, and Notice."

If an event of default under the junior subordinated indenture occurs and continues with respect to a series of junior subordinated notes, either the indenture trustee or the holders of at least 25% in aggregate principal amount of the outstanding junior subordinated notes of that series may declare the principal of and all accrued but unpaid interest on that series of junior subordinated notes to be due and payable immediately. The holders of a majority in aggregate outstanding principal amount of that series of junior subordinated notes (or all series, as applicable) may annul that declaration in certain circumstances and waive the default. As long as the series of junior subordinated notes is held by the property trustee of the Trust for the benefit of the Trust's trust securities, the property trustee, as sole holder of the notes, will have the right to exercise these rights and may be directed in the exercise by the holders of the related capital securities. See "Description of the Capital Securities—Events of Default, Payment Failures, Waiver, and Notice" and "—Voting Rights."

Prior to a declaration of acceleration, the holders of a majority in aggregate principal amount of a series of junior subordinated notes generally may waive on behalf of the holders of all of that series of notes any default or event of default under the junior subordinated indenture other than:

- a default in the payment of principal of, premium, if any, or interest on those junior subordinated notes;
- a default in respect of covenants that cannot be modified or amended without the consent of each holder of the junior subordinated notes affected; or
- a default in respect of certain other covenants described above under the heading "—Certain Covenants of Bank of America."

However, as long as the junior subordinated notes are held by a property trustee under a Trust for the benefit of the holders of the Trust's trust securities, any waiver or modification of this kind requires the consent of the holders of at least a majority in liquidation preference (or, if the waiver or modification requires the consent of each holder of junior subordinated notes, then each holder) of the related trust securities.

The holders of a majority in aggregate principal amount of the outstanding junior subordinated notes of any and all series affected generally will have the right to direct the time, method and place of conducting any proceeding for any remedy available to or exercising any power of the indenture trustee. However, the holders of those notes must offer to the indenture trustee reasonable indemnity against expenses and liabilities. As long as a series of junior subordinated notes is held by the property trustee of the Trust for the benefit of the Trust's trust securities, the property trustee, as sole holder of those notes, will have the right to exercise these rights and may be directed in that exercise by the holders of the related capital securities. See "Description of the Capital Securities—Voting Rights."

Subject to the subordination provisions, described above under the heading "—Subordination," the right of any holder of junior subordinated notes (including the property trustee) to receive payment of the principal of and premium, if any, and interest on junior subordinated notes on or after the due dates therefor, or to institute suit for the enforcement of

any of these payment provisions, will not be impaired or affected without the consent of that holder.

An event of default under the junior subordinated indenture is an event of default under the related declaration of trust, and the waiver of an event of default under the junior subordinated indenture is a waiver under the related declaration of trust. We describe these provisions above under the heading "Description of the Capital Securities—Events of Default, Payment Failures, Waiver, and Notice."

Following the occurrence and during the continuance of an event of default, we are subject to restrictions with respect to payments related to our capital stock and our indebtedness that ranks equally with or junior to the junior subordinated notes. We describe these restrictions above under the heading "—Certain Covenants of Bank of America."

The indenture trustee is required to notify all holders of the junior subordinated notes of any events of default or note payment failures.

We are required to file an officers' certificate with the indenture trustee each year that states, to the knowledge of the certifying officer, whether or not any defaults exist under the terms of the junior subordinated indenture.

Modification of Junior Subordinated Indenture

Under the junior subordinated indenture, our rights and obligations and the rights of holders of the junior subordinated notes may be modified or amended with the consent of the holders of at least a majority in aggregate principal amount of the outstanding junior subordinated notes of all series affected by the modification or amendment, acting as one class. However, no modification or amendment may, without the consent of the holder of each junior subordinated note affected:

- extend the fixed maturity of any junior subordinated note, except as set forth in the terms of the particular series of junior subordinated notes;
- reduce the rate or extend the time of payment of interest on that junior subordinated note;
- reduce the principal amount of or any premium on any junior subordinated note;
- reduce any amount payable on redemption of any junior subordinated note;
- make the principal of, or interest or premium on, the junior subordinated notes payable in any currency other than that provided in the junior subordinated notes;
- impair or affect the right of any holder of those junior subordinated notes to institute suit for the payment of those notes or the right of repayment, if any, at the option of the holder; or
- reduce the percentage of outstanding junior subordinated notes required to consent to a modification or amendment of the junior subordinated indenture.

As long as the junior subordinated notes are held by the property trustee of a Trust, no modification of the junior subordinated indenture will be effective until the holders of a majority in liquidation preference of the Trust's trust securities have consented to the modification. If the consent of the holder of each outstanding junior subordinated note is required for the modification, the modification will not be effective until each holder of related trust securities has consented to the modification.

We and the indenture trustee may enter into, without the consent of any holder of junior subordinated notes, any supplemental indenture under the junior subordinated indenture, to create any new series of junior subordinated notes or make any change in the indenture that

generally does not materially adversely affect the rights of any holder of junior subordinated notes.

Discharge and Defeasance

We may discharge most of our obligations under the junior subordinated indenture if the junior subordinated notes have already been delivered to the indenture trustee for cancellation or the junior subordinated notes have either become due and payable or are by their terms due and payable within one year, or are to be called for redemption within one year. We discharge our obligations by depositing with the indenture trustee an amount sufficient to pay when due the principal of and premium, if any, and interest on all outstanding junior subordinated notes.

The junior subordinated indenture also provides that, if no event of default under the indenture has occurred and is continuing, we will be discharged from our obligations with respect to a series of junior subordinated notes if we deposit with the indenture trustee, in trust, money or U.S. government obligations sufficient to pay all of the principal of, and premium, if any, and any interest on, the notes of that series, on the dates the payments are due under the junior subordinated indenture and the terms of those notes.

To exercise this option, we are required to deliver to the indenture trustee an opinion of counsel that states that:

- the deposit and related defeasance would not cause the holders of the junior subordinated notes of that series to recognize income, gain, or loss for U.S. federal income tax purposes; and
- if the junior subordinated notes of that series are listed on any national securities exchange, the notes will not be delisted as a result of the deposit and related defeasance.

The obligations under the junior subordinated indenture to register the transfer or exchange of junior subordinated notes, to replace stolen, lost, or mutilated junior subordinated notes and to maintain paying agents and hold monies for payment in trust will continue, even if we exercise our defeasance and discharge option.

Book-Entry and Settlement

If a series of junior subordinated notes is distributed to holders of related capital securities in liquidation of those holders' interests in a Trust, we anticipate that the notes previously registered in the name of the property trustee on behalf of the Trust will be re-registered in the form of one or more global certificates in the name of the depository or its nominee. Each global certificate is referred to as a "global security."

Except in limited circumstances, owners of beneficial interests in a global security will not be entitled to receive physical delivery of junior subordinated notes in certificated form and will not be considered the holders, as defined in the junior subordinated indenture, of that global security for any purpose under the junior subordinated indenture. A global security representing junior subordinated notes is only exchangeable for another global security of like denomination to be registered in the name of the depository or its nominee or to a successor depository or its nominee. The global securities may not be transferred except by the depository to a nominee of the depository or by a nominee of the depository to the depository or another nominee of the depository or to a successor depository or its nominee. This means that each beneficial owner of a junior subordinated note must rely on the procedures of the depository, or if that beneficial owner is not a participant, on the procedures of the participant through which the person owns its interest, to exercise any rights of a holder under the junior subordinated indenture.

As of the date of this prospectus, the description in this prospectus of the book-entry systems and practices of DTC, Euroclear, and Clearstream, Luxembourg as they relate to purchases,

transfers, notices, and payments relating to the capital securities apply in all material respects to any debt obligations, such as the junior subordinated notes, represented by one or more global securities held by the depository. We may appoint a successor to the depository or any successor depository in the event the depository or the successor depository is unable or unwilling to continue as a depository for the global securities. For a description of the depositories and the specific terms of the depository arrangements, see “Description of the Capital Securities—Book-Entry Only Issuance.”

Governing Law

The junior subordinated indenture and the junior subordinated notes will be governed by, and construed in accordance with, the laws of the State of New York.

The Indenture Trustee

Under the junior subordinated indenture, we may remove the indenture trustee and appoint a successor trustee in certain circumstances relating to the indenture trustee’s conflicts of interest or eligibility or ability to continue as indenture trustee. In addition, the holders of a majority in principal amount of a series of junior subordinated notes may remove the indenture trustee with respect to that series and nominate a successor trustee.

We and certain of our affiliates have from time to time maintained deposit accounts and conducted other banking transactions with the indenture trustee and its affiliates in the ordinary course of business. We expect to continue those business transactions. The indenture trustee also serves as trustee for a number of series of our outstanding indebtedness under other indentures.

Miscellaneous

Bank of America will pay all costs and expenses in connection with the transactions described in this prospectus, including those related to:

- the offering, sale and issuance of trust securities and the corresponding junior subordinated notes, including any underwriting commissions;
- the organization, maintenance, dissolution, and operation of each Trust;
- the retention of the indenture trustee and the trustees under each declaration of trust;
- indemnification obligations under each declaration of trust; and
- all taxes (other than U.S. withholding taxes relating to a Trust).

We have the right at all times to assign any of our respective rights or obligations under the junior subordinated indenture to any of our direct or indirect wholly owned subsidiaries. If we assign any of our rights or obligations, however, we will remain liable for all of their respective obligations. Subject to this right of assignment, the junior subordinated indenture will be binding upon and inure to the benefit of the parties to the indenture and their respective successors and assigns. The parties to the junior subordinated indenture may not otherwise assign the indenture.

DESCRIPTION OF GUARANTEE

When a Trust issues its trust securities, we will execute and deliver a guarantee for the benefit of the holders of the Trust's capital securities. Each guarantee will be qualified as an indenture under the Trust Indenture Act, and The Bank of New York Mellon Trust Company, N.A. will act as the guarantee trustee. The terms of the guarantee will include those set forth in the guarantee and those made part of the guarantee by the Trust Indenture Act. The guarantee trustee will hold the guarantee for the benefit of the holders of the related capital securities.

This section of the prospectus summarizes the material terms of the guarantee. The following summary is not intended to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the guarantee and the Trust Indenture Act. The guarantee will be substantially in the form of guarantee filed as an exhibit to our registration statement, and is incorporated in this prospectus by reference. See "Where You Can Find More Information" below for information on how to obtain a copy of the guarantee.

General

A guarantee is held by the guarantee trustee for the benefit of the holders of a Trust's capital securities. Under each guarantee, if the series of capital securities is not fully paid, we will irrevocably and unconditionally agree to pay, when due, to the holders of the capital securities issued by the Trust, the following payments or distributions, which are referred to as "guarantee payments," without duplication, on a junior subordinated basis:

- any accrued and unpaid distributions that are required to be paid on the capital securities, to the extent the Trust has funds available for distributions;
- the redemption price, plus all accrued and unpaid distributions, relating to any capital securities called for redemption by the Trust, to the extent the Trust has funds available for redemptions; and
- upon a voluntary or involuntary dissolution, winding-up, or termination of the Trust, other than in connection with the distribution of junior subordinated notes held by the Trust to the holders of the related capital securities, the lesser of:
 - the aggregate of the liquidation amount and all accrued and unpaid distributions on the capital securities to the date of payment, to the extent the Trust has funds available to make the payment; and
 - the amount of assets of the Trust remaining available for distribution to holders of the capital securities in liquidation of the Trust.

The redemption price and liquidation amount will be fixed at the time a series of capital securities is issued and will be described in the applicable prospectus supplement relating to the offering of those capital securities.

We may satisfy our obligation to make a guarantee payment by direct payment of the required amounts to the holders of capital securities or by causing the applicable Trust to pay those amounts to the holders.

A guarantee will not apply to any payment of distributions except to the extent the related Trust has funds available for those payments. If we do not make interest payments on the corresponding junior subordinated notes held by a Trust, the Trust will not pay distributions on its capital securities and will not have funds available for those payments. In that case, holders of the Trust's capital securities would not be able to rely on the related guarantee for payment of these amounts.

A guarantee, when taken together with our obligations under the corresponding junior subordinated notes held by a Trust, the junior subordinated indenture and the declaration of

trust, including our obligations to pay costs, expenses, debts, and liabilities of that Trust (other than those relating to trust securities), will provide a full and unconditional guarantee on a subordinated basis of payments due on the Trust's capital securities.

Unless we specify otherwise in the applicable prospectus supplement, we also will agree separately to irrevocably and unconditionally guarantee the obligations of each Trust with respect to the common securities issued by that Trust to the same extent as the capital securities guarantee. However, if an event of default under the junior subordinated indenture has occurred and is continuing, holders of capital securities will have priority over holders of common securities with respect to payments under the respective guarantees. We describe these provisions below under the heading "—Status of the Guarantee."

Amendment and Assignment

A guarantee may be amended only with the prior approval of the holders of at least a majority in liquidation amount of the outstanding capital securities of the applicable Trust. No vote will be required, however, for any changes that do not adversely affect the rights of holders of those capital securities.

Termination of the Guarantee

A guarantee will terminate as to the capital securities of the applicable Trust upon:

- full payment of the redemption price of all those capital securities;
- the distribution of the corresponding junior subordinated notes to the holders of those capital securities; or
- full payment of the amounts payable in accordance with the applicable declaration of trust upon liquidation or dissolution of the Trust.

However, the guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any holder of related capital securities must restore payment of any sums paid under the related capital securities or the guarantee.

Events of Default

An event of default under a guarantee will occur if we fail to perform any payment obligation or other obligation under the guarantee. The holders of a majority in liquidation amount of the related capital securities may waive, on behalf of all holders of those capital securities, any past event of default.

The holders of a majority in liquidation amount of the related capital securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the guarantee trustee in respect of the applicable guarantee or to direct the exercise of any trust or power conferred upon the guarantee trustee under the guarantee. If the guarantee trustee fails to enforce its rights under a guarantee, any holder of related capital securities may institute a legal proceeding directly against us to enforce the guarantee trustee's rights and our obligations under the applicable guarantee, without first instituting a legal proceeding against the applicable Trust, the guarantee trustee, or any other person or entity.

Following the occurrence and during the continuance of an event of default under the guarantee, we are subject to restrictions with respect to payments related to our capital stock and our indebtedness that ranks equally with or junior to the junior subordinated notes. We describe these restrictions above under the heading "Description of the Junior Subordinated Notes—Certain Covenants of Bank of America."

Status of the Guarantee

A guarantee will constitute an unsecured obligation of Bank of America and will rank:

- subordinate and junior in right of payment to all our other liabilities, including contingent liabilities;
- equally with the most senior preferred or preference stock now or hereafter issued by us and with any guarantee now or hereafter entered into by us with respect to (a) any preferred or preference stock of any of our affiliates, and (b) any affiliate's trust preferred or similar capital securities; and
- senior to our common stock.

The terms of each series of capital securities will provide that each holder of those capital securities by acceptance of those securities agrees to the subordination provisions and other terms of the related guarantee.

A guarantee will constitute a guarantee of payment and not of collection. This means that the beneficiary of the guarantee may sue us, as guarantor, to enforce its rights under the guarantee without suing any other person or entity.

Information Concerning the Guarantee Trustee

Other than during the occurrence and continuance of an event of default under a guarantee, the guarantee trustee is required to perform only the duties that are specifically set forth in that guarantee. Following the occurrence and during the continuance of an event of default, the guarantee trustee must exercise the same degree of care and skill in the exercise of its rights and powers as a prudent person would exercise in the conduct of his or her own affairs under the circumstances. Subject to this provision, the guarantee trustee is under no obligation to exercise any of the rights or powers vested in it by the guarantee, unless offered reasonable indemnity against the costs, expenses, and liabilities which might be incurred.

Under the guarantee, unless an event of default has occurred and is continuing, we may remove the guarantee trustee at any time and appoint a successor trustee.

We and certain of our affiliates have from time to time maintained deposit accounts and conducted other banking transactions with the guarantee trustee and its affiliates in the ordinary course of business. We expect to continue those business transactions. The guarantee trustee also serves as trustee for a number of series of our outstanding indebtedness under other indentures.

Governing Law

Each guarantee will be governed by and construed in accordance with the laws of the State of New York.

**RELATIONSHIP AMONG THE CAPITAL SECURITIES,
THE JUNIOR SUBORDINATED NOTES, AND THE GUARANTEE**

The sole purpose of a Trust is to issue trust securities and to invest the proceeds in the corresponding junior subordinated notes. A principal difference between the rights of a holder of a capital security and a holder of the corresponding junior subordinated notes is that a holder of a junior subordinated note is entitled to receive from us the principal amount of and interest accrued on corresponding junior subordinated notes held, while a holder of capital securities is entitled to receive distributions from the Trust (or from us under the guarantee) if and to the extent the Trust has funds available for the payment of such distributions.

Full and Unconditional Guarantee

We will guarantee distribution, redemption and liquidation payments due on the Trust's capital securities to the extent the Trust has funds available for those payments, as described under "Description of Guarantee" above. No single document executed by us will provide for the full, irrevocable and unconditional guarantee of any of the capital securities. It is only the combined operation of the guarantee, the declaration of trust and the junior subordinated indenture that has the effect of providing a full, irrevocable, and unconditional guarantee on a junior subordinated basis of a Trust's obligations under the capital securities.

Sufficiency of Payments

As long as we pay interest and other payments when due on the series of junior subordinated notes held by the Trust, those payments will be sufficient to cover distributions and redemption and liquidation payments due on the related trust securities, because:

- the aggregate principal amount of a series of junior subordinated notes will be equal to the sum of the aggregate liquidation amount of the related trust securities;
- the interest rate and the interest and other payment dates on a series of junior subordinated notes will be the same as the distribution rate and the distribution and other payment dates for the related trust securities;
- under the junior subordinated indenture, we will pay any and all costs, expenses, and liabilities of the applicable Trust, except withholding taxes and the Trust's obligations to holders of the related trust securities; and
- the applicable declaration of trust provides that the Trust will not engage in any activity that is not consistent with the limited purposes of the Trust.

Enforcement Rights of Holders of Capital Securities

A holder of capital securities may institute a direct action against us if we fail to make interest or other payments on the corresponding junior subordinated notes when due, taking account of any deferral period. A direct action may be brought without first:

- directing the property trustee to enforce the terms of the corresponding junior subordinated notes; or
- suing us to enforce the property trustee's rights under the corresponding junior subordinated notes.

In connection with a direct action of this kind, we will be subrogated to the rights of each holder of the related capital securities under the applicable declaration of trust to the extent of any payment made by us to that holder of capital securities. Consequently, we will be entitled to payment of amounts that a holder of capital securities receives in respect of an unpaid

distribution to the extent that the holder has already received payment relating to that unpaid distribution from the Trust.

The guarantee trustee will enforce the capital securities guarantee on behalf of the holders of the related capital securities. If we fail to make payments under the guarantee, the holders of the related capital securities may direct the guarantee trustee to enforce its rights under the guarantee. If the guarantee trustee fails to enforce the guarantee, any holder of related capital securities may directly sue us to enforce the guarantee trustee's rights under the guarantee. The holder is not required to first sue the applicable Trust, the guarantee trustee, or any other person or entity. A holder of capital securities may also directly sue us to enforce the right to receive payment under the guarantee.

Rights Upon Dissolution

The holders of capital securities will be entitled to receive, out of assets of the related Trust, a cash distribution upon any voluntary or involuntary dissolution, winding-up, or liquidation of the Trust that does not involve the distribution of the corresponding junior subordinated notes, after the Trust has paid the liabilities owed to its creditors as required by applicable law. We describe these rights above under the heading "Description of the Capital Securities—Liquidation Distribution Upon Dissolution."

In the event of any voluntary or involuntary liquidation or bankruptcy of Bank of America, a Trust, as the registered holder of the corresponding junior subordinated notes, would be a subordinated creditor of Bank of America, subordinated and junior in right of payment to all of our Senior Obligations, as defined above under the heading "Description of the Junior Subordinated Notes—Subordination," but entitled to receive payment in full of all amounts payable with respect to the junior subordinated notes before any of our common stockholders receive payments or distributions. Since we are the guarantor under the guarantee and have agreed to pay for all costs, expenses, and liabilities of a Trust (other than withholding taxes and the Trust's obligations to the holders of its trust securities), the positions of a holder of capital securities and a holder of the corresponding junior subordinated notes relative to other creditors and to our stockholders in the event of liquidation or bankruptcy are expected to be substantially the same.

U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following summary of the material U.S. federal income tax considerations of the acquisition, ownership, and disposition of certain of the capital securities that we are offering, is based upon the advice of Morrison & Foerster LLP, our tax counsel. The following discussion is not exhaustive of all possible tax considerations. This summary is based upon the Internal Revenue Code of 1986, as amended (the "Code"), regulations promulgated under the Code by the U.S. Treasury Department (including proposed and temporary regulations), rulings, current administrative interpretations and official pronouncements of the Internal Revenue Service (the "IRS"), and judicial decisions, all as currently in effect and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below.

This summary is for general information only and does not purport to discuss all aspects of U.S. federal income taxation that may be important to a particular holder in light of its investment or tax circumstances or to holders subject to special tax rules, such as: partnerships, subchapter S corporations or other pass-through entities, any government (or instrumentality or agency thereof), banks, financial institutions, tax-exempt entities, insurance companies, regulated investment companies, real estate investment trusts, trusts and estates, dealers in securities or currencies, traders in securities that have elected to use the mark-to-market method of accounting for their securities, persons holding the capital securities as part of an integrated investment, including a "straddle," "hedge," "constructive sale," or "conversion transaction," persons (other than Non-U.S. Holders) whose functional currency for tax purposes is not the U.S. dollar, and persons subject to the alternative minimum tax provisions of the Code. This summary does not include any description of the tax laws of any state or local governments, or of any foreign government, that may be applicable to a particular holder. This summary also may not apply to all forms of capital securities that we may issue. If the tax consequences associated with a particular form of capital security are different than those described below, they will be described in the applicable prospectus supplement.

This summary is directed solely to holders that, except as otherwise specifically noted, will purchase the capital securities offered in this prospectus upon original issuance at the issue price, which generally is the first offering price to the public at which a substantial amount of the issue was sold (ignoring sales to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers), and will hold such securities as capital assets within the meaning of Section 1221 of the Code, which generally means as property held for investment.

You should consult your own tax advisor concerning the U.S. federal income tax consequences to you of acquiring, owning, and disposing of capital securities, as well as any tax consequences arising under the laws of any state, local, foreign, or other tax jurisdiction and the possible effects of changes in U.S. federal or other tax laws.

As used in this prospectus, the term "U.S. Holder" means a beneficial owner of the capital securities offered in this prospectus that is for U.S. federal income tax purposes:

- a citizen or resident of the United States;
- a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or of any state of the United States or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or

- any trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust.

Notwithstanding the preceding paragraph, to the extent provided in Treasury regulations, some trusts in existence on August 20, 1996, and treated as United States persons prior to that date, that elect to continue to be treated as United States persons also will be U.S. Holders. As used in this prospectus, the term “Non-U.S. Holder” is a holder that is not a U.S. Holder.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds the capital securities offered in this prospectus, the U.S. federal income tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership and accordingly, this summary does not apply to partnerships. A partner of a partnership holding the capital securities should consult its own tax advisor regarding the U.S. federal income tax consequences to the partner of the acquisition, ownership, and disposition by the partnership of the capital securities.

Classification of the Junior Subordinated Notes

In connection with the issuance of each series of junior subordinated notes, Morrison & Foerster LLP, tax counsel to Bank of America and the Trusts, will render its opinion generally to the effect that, under then current law and assuming full compliance with the terms of the junior subordinated indenture substantially in the form included as an exhibit to the registration statement of which this prospectus constitutes a part, and other relevant documents, and based on certain facts and assumptions, the junior subordinated notes held by a Trust will be classified for U.S. federal income tax purposes as our indebtedness.

Classification of the Trusts

In connection with the issuance of each series of capital securities, Morrison & Foerster LLP will render its opinion generally to the effect that, under then current law and assuming full compliance with the terms of the applicable declaration of trust substantially in the form included as an exhibit to the registration statement of which this prospectus constitutes a part, the junior subordinated indenture, and other relevant documents, and based on certain facts and assumptions, the Trust will be classified for U.S. federal income tax purposes as a grantor trust and not as an association taxable as a corporation. Accordingly, for U.S. federal income tax purposes, each holder of capital securities of a Trust generally will be considered the owner of an undivided interest in the corresponding junior subordinated notes owned by the Trust, and each holder will be required to include in its gross income in accordance with its regular method of accounting for U.S. federal income tax purposes, all interest income, including original issue discount, paid or accrued on the junior subordinated notes, and any gain or loss recognized with respect to its allocable share of the junior subordinated notes, whether or not the Trust actually distributes cash to the holder.

Consequences to U.S. Holders

The following is a summary of certain U.S. federal income tax consequences that will generally apply to U.S. Holders of the capital securities.

Interest Income and OID

Under applicable Treasury regulations, a “remote” contingency that stated interest will not be timely paid will be ignored in determining whether a debt instrument is issued with original issue discount (“OID”). As of the date of this prospectus, because of certain limitations on payments of dividends and payments on debt securities that will apply if we defer payments of interest on the junior subordinated notes by extending the interest payment period, we believe,

and this discussion assumes, that the likelihood that we will exercise our option to defer interest payments is remote within the meaning of the Treasury regulations. Accordingly, the junior subordinated notes will not be treated as having been issued with OID and each U.S. Holder of capital securities should include in its gross income as interest income its allocable share of interest on the junior subordinated notes at the time it is accrued or is received in accordance with the U.S. Holder's method of accounting for U.S. federal income tax purposes. It should be noted, however, that no ruling or other guidance has been issued by the IRS addressing the meaning of the term "remote" as used in these Treasury regulations. Thus, it is possible that the IRS could take a position contrary to the interpretation described above.

In contrast, if our option to defer any payment of interest was determined not to be "remote," or if we exercised our option to defer interest, the junior subordinated notes would be treated as issued with OID. In that case, all stated interest (or remaining stated interest, if the deferral option was exercised) on the junior subordinated notes would be treated as OID and would have to be included in a U.S. Holder's income on an economic accrual basis without regard to whether any cash payments were received and without regard to the U.S. Holder's regular method of accounting for U.S. federal income tax purposes. Consequently, during a deferral period, a U.S. Holder of capital securities would be required to include OID in gross income even though we would not make any actual cash payments. Special rules apply to floating-rate instruments in this regard. U.S. Holders should consult with their own tax advisors as to the application of the OID rules to floating-rate notes.

We also have the ability to issue junior subordinated notes with terms that cause them to have OID for U.S. federal income tax purposes. However, the actual issuance of notes with OID is highly unlikely. If we issue junior subordinated notes with OID, the applicable prospectus supplement will discuss the associated tax consequences. The junior subordinated notes may be issued with de minimis OID, as determined under the Code. References herein to OID do not include de minimis OID, unless the junior subordinated notes would otherwise be treated as issued with OID. De minimis OID which is not treated as OID generally is treated as gain recognized upon receipt of the payment of principal. Eligible holders may elect to include this discount in gross income as it accrues. Holders should consult their own tax advisors before making such election.

Because payments on the capital securities generally will constitute interest, corporate U.S. Holders of capital securities are not entitled to a dividends-received deduction for any income received or accrued with respect to such payments. In addition, because payments on the capital securities generally will constitute interest, the receipt or accrual of any income with respect to such payments by individual U.S. Holders will not constitute "qualified dividend income" and will not be entitled to the maximum preferential tax rate of 15% applicable to net long-term capital gains which generally is applicable for taxable years beginning before January 1, 2011.

In the remainder of this discussion, we assume that unless and until we exercise our option to defer any payment of interest, the junior subordinated notes will not be treated as issued with OID.

Receipt of Junior Subordinated Notes or Cash in Exchange for Capital Securities

Under certain circumstances, junior subordinated notes may be distributed to U.S. Holders in exchange for the related capital securities upon the liquidation of a Trust, in proportion to their share of the junior subordinated notes previously held indirectly through the Trust, as described above under the heading "Description of the Capital Securities—Liquidation Distribution Upon Dissolution." Under current law, U.S. Holders will not be subject to U.S. federal income tax on the distribution, and each U.S. Holder would receive an aggregate tax basis in the junior subordinated notes received that is equal to that holder's aggregate tax basis.

in the capital securities exchanged. In addition, a U.S. Holder's holding period in the junior subordinated notes received in liquidation of a Trust would include the period during which the capital securities were held by that holder.

Under some circumstances, the junior subordinated notes may be prepaid for cash and the proceeds of the prepayment distributed by a Trust to holders in redemption of their related capital securities. Under current law, a redemption of this kind would, for U.S. federal income tax purposes, constitute a taxable disposition of the redeemed capital securities. Accordingly, a U.S. Holder could recognize gain or loss as if it had sold the redeemed capital securities for cash. See "—Sales of Capital Securities" below and "Description of the Capital Securities—Redemption" above.

Sales of Capital Securities

A U.S. Holder that sells capital securities will be considered to have disposed of all or part of its ratable share of the corresponding junior subordinated notes, and will recognize gain or loss equal to the difference between the amount realized on the sale of the capital securities (less an amount equal to any accrued and unpaid interest relating to the U.S. Holder's ratable share of the corresponding junior subordinated notes not previously included in income, which will be treated as a payment of interest for U.S. federal income tax purposes) and its adjusted tax basis in the capital securities. Assuming that we do not exercise our option to defer payment of interest on the junior subordinated notes and that the junior subordinated notes are not deemed to be issued with OID, a U.S. Holder's adjusted tax basis in the related capital securities generally will be its initial purchase price. If the junior subordinated notes are deemed to be issued with OID, a U.S. Holder's adjusted tax basis in the related capital securities generally will be its initial purchase price, increased by any OID previously included in the U.S. Holder's income with respect to the capital securities on the date of disposition, and decreased by the amount of any distributions or other payment received in respect of the capital securities since and including the date that the corresponding junior subordinated notes were deemed to be issued with OID. In addition, a U.S. Holder's adjusted tax basis in the related capital securities generally will be increased by any market discount, de minimis OID, or de minimis market discount previously included in income, and decreased by the amount of any premium previously amortized to reduce interest on the capital security. Except as discussed below with respect to market discount, or as discussed below with respect to Non-U.S. Dollar Denominated Capital Securities, the gain or loss recognized by a U.S. Holder generally will be a capital gain or loss, and generally will be a long-term capital gain or loss if the capital securities have been held for more than one year. Net long-term capital gain recognized by an individual U.S. Holder before January 1, 2011 is generally subject to tax at a maximum rate of 15%.

If we exercise our option to defer payment of interest on the junior subordinated notes, the related capital securities may trade at a price that does not fully reflect the accrued but unpaid interest relating to the corresponding junior subordinated notes. In the event of a deferral of this kind, a U.S. Holder that disposes of its capital securities between record dates for payments of distributions will be required to include in income accrued but unpaid interest on the corresponding junior subordinated notes to the date of disposition as ordinary income for U.S. federal income tax purposes and to add that amount to the adjusted tax basis of its capital securities. To the extent the selling price is less than the U.S. Holder's adjusted tax basis, the holder will recognize a capital loss. The ability of U.S. Holders to deduct capital losses is subject to limitations under the Code.

Amortizable Bond Premium and Market Discount

If a U.S. Holder purchases a capital security for an amount in excess of the sum of all amounts payable on the junior subordinated notes, other than the interest payable on the notes, such holder will be considered to have purchased such capital security with "amortizable bond

premium” equal in amount to such excess. A U.S. Holder may elect to amortize such premium as an offset to interest income using a constant yield method over the remaining term of the debt security based on the U.S. Holder’s yield to maturity with respect to the debt security.

A U.S. Holder generally may use the amortizable bond premium allocable to an accrual period to offset interest required to be included in the U.S. Holder’s income under its regular method of accounting with respect to the capital security in that accrual period. If the amortizable bond premium allocable to an accrual period exceeds the amount of interest allocable to such accrual period, such excess would be allowed as a deduction for such accrual period, but only to the extent of the U.S. Holder’s prior interest inclusions on the capital security that have not been offset previously by bond premium. Any excess generally is carried forward and allocable to the next accrual period.

If a capital security may be redeemed by us prior to its maturity date, the amount of amortizable bond premium will be based on the amount payable at the applicable redemption date, but only if use of the redemption date (in lieu of the stated maturity date) results in a smaller amortizable bond premium for the period ending on the redemption date. A U.S. Holder that elects to amortize bond premium will be required to reduce its tax basis in the capital security by the amount of the premium amortized during its holding period.

An election to amortize bond premium applies to all taxable debt obligations held by the U.S. Holder at the beginning of the first taxable year to which the election applies and thereafter acquired by the U.S. Holder and may be revoked only with the consent of the IRS.

If a U.S. Holder does not elect to amortize bond premium, the amount of bond premium will be included in its tax basis in the capital security. Therefore, if a U.S. Holder does not elect to amortize bond premium and it holds the capital security to maturity, the premium generally will be treated as capital loss when the capital security matures or is sold.

If a U.S. Holder purchases a capital security for an amount that is less than its stated redemption price at maturity, as defined in the Code, such holder will be considered to have purchased the capital security with “market discount.” Any payment, other than qualified stated interest, or any gain on the sale, exchange, retirement, or other disposition of a capital security with market discount generally will be treated as ordinary interest income to the extent of the market discount not previously included in income that accrued on the capital security during such holder’s holding period. In general, market discount is treated as accruing on a straight-line basis over the term of the junior subordinated note unless an election is made to accrue the market discount under a constant yield method. In addition, a U.S. Holder may be required to defer, until the maturity of the capital security or its earlier disposition in a taxable transaction, the deduction of a portion of the interest paid on any indebtedness incurred or maintained to purchase or carry the capital security in an amount not exceeding the accrued market discount on the capital security.

A U.S. Holder may elect to include market discount in income currently as it accrues (on either a straight-line or constant yield basis), in lieu of treating a portion of any gain realized on a sale, exchange, retirement, or other disposition of the capital security as ordinary income. If an election is made to include market discount on a current basis, the interest deduction deferral rule described above will not apply. If a U.S. Holder makes such an election, it will apply to all market discount debt instruments acquired by such holder on or after the first day of the first taxable year to which the election applies. The election may not be revoked without the consent of the IRS. U.S. Holders should consult with their own tax advisors before making this election.

If the difference between the stated redemption price at maturity of a capital security and the amount paid for the capital security is less than $\frac{1}{4}$ of 1% of the capital security’s stated redemption price at maturity, multiplied by the number of remaining complete years to the

junior subordinated note's maturity ("de minimis market discount"), the capital security is not treated as issued with market discount.

Additional considerations may apply to purchasers who purchase their capital securities at other than the issue price. U.S. Holders who acquire capital securities at other than the issue price, including capital securities that are treated as issued with OID, should consult their own tax advisors regarding the tax consequences of the acquisition, ownership and disposition of such capital securities and any elections that may be applicable.

Non-U.S. Dollar Denominated Capital Securities

Additional considerations will apply if the capital securities and the junior subordinated notes are payable in a currency other than U.S. dollars ("foreign currency"). We refer to these securities as Non-U.S. Dollar Denominated Capital Securities. The following section sets forth certain U.S. federal income tax considerations of the acquisition, ownership and disposition that apply if the capital securities and junior subordinated notes are payable in a foreign currency.

As set forth above, for U.S. federal income tax purposes, each holder of capital securities generally will be considered the owner of an undivided interest in the junior subordinated notes, and each holder generally will be required to include in its gross income, in accordance with its method of accounting for U.S. federal income tax purposes, all interest earned with respect to its allocable share of the junior subordinated notes. In the case of payments of interest, U.S. Holders using the cash method of accounting for U.S. federal income tax purposes will be required to include in income the U.S. dollar value of the foreign currency payment on a Non-U.S. Dollar Denominated Capital Security (other than OID or market discount) when the payment of interest is received. The U.S. dollar value of the foreign currency payment is determined by translating the foreign currency received at the spot rate for such foreign currency on the date the payment is received, regardless of whether the payment is in fact converted to U.S. dollars at that time. The U.S. dollar value will be the U.S. Holder's tax basis in the foreign currency received. A U.S. Holder will not recognize foreign currency exchange gain or loss with respect to the receipt of such payment.

U.S. Holders using the accrual method of accounting for U.S. federal income tax purposes will be required to include in income the U.S. dollar value of the amount of interest income that has accrued and is otherwise required to be taken into account with respect to a Non-U.S. Dollar Denominated Capital Security during an accrual period. The U.S. dollar value of the accrued income will be determined by translating the income at the average rate of exchange for the accrual period or, with respect to an accrual period that spans two taxable years, at the average rate for the partial period within the taxable year. A U.S. Holder may elect, however, to translate the accrued interest income using the exchange rate on the last day of the accrual period or, with respect to an accrual period that spans two taxable years, using the exchange rate on the last day of the taxable year. If the last day of an accrual period is within five business days of the date of receipt of the accrued interest, a U.S. Holder may translate the interest using the exchange rate on the date of receipt. The above election will apply to all other debt obligations held by the U.S. Holder and may not be changed without the consent of the IRS. U.S. Holders should consult their own tax advisors before making the above election. Upon receipt of an interest payment (including, upon the sale of the capital security, the receipt of proceeds which include amounts attributable to accrued interest previously included in income), the holder will recognize foreign currency exchange gain or loss in an amount equal to the difference between the U.S. dollar value of such payment (determined by translating the foreign currency received at the spot rate for such foreign currency on the date such payment is received) and the U.S. dollar value of the interest income previously included in income with respect to such payment. This gain or loss will be treated as ordinary income or loss.

If a U.S. Holder purchases a Non-U.S. Dollar Denominated Capital Security with previously owned foreign currency, foreign currency exchange gain or loss (which will be treated as ordinary income or loss) will be recognized in an amount equal to the difference, if any, between the tax basis in the foreign currency and the U.S. dollar fair market value of the foreign currency used to purchase the Non-U.S. Dollar Denominated Capital Security, determined on the date of purchase.

Upon the sale, exchange, retirement, or other taxable disposition of a Non-U.S. Dollar Denominated Capital Security, a U.S. Holder will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement, or other disposition (less an amount equal to any accrued and unpaid interest not previously included in income, which will be treated as a payment of interest for U.S. federal income tax purposes) and the adjusted tax basis in the Non-U.S. Dollar Denominated Capital Security. A U.S. Holder's adjusted tax basis in the related Non-U.S. Dollar Denominated Capital Security generally will be determined as set forth above under the heading "—Sales of Capital Securities." The amount of any payment in or adjustments measured by foreign currency will be equal to the U.S. dollar value of the foreign currency on the date of the purchase or adjustment. The amount realized will be based on the U.S. dollar value of the foreign currency on the date the payment is received or the Non-U.S. Dollar Denominated Capital Security is disposed of. If, however, the Non-U.S. Dollar Denominated Capital Security is traded on an established securities market and the U.S. Holder uses the cash basis method of tax accounting, the U.S. dollar value of the purchase price and amount realized will be determined by translating the foreign currency payment at the spot rate of exchange on the settlement date of the purchase or sale. A U.S. Holder that uses the accrual basis method of tax accounting may elect the same treatment with respect to the purchase and sale of Non-U.S. Dollar Denominated Capital Security traded on an established securities market, provided that the election is applied consistently.

Except with respect to market discount and subject to the foreign currency rules discussed below, gain or loss recognized upon the sale, exchange, retirement, or other taxable disposition of a Non-U.S. Dollar Denominated Capital Security will be capital gain or loss and will be long-term capital gain or loss if at the time of sale, exchange, retirement, or other disposition, the Non-U.S. Dollar Denominated Capital Security has been held for more than one year. Net long-term capital gain recognized by an individual U.S. Holder before January 1, 2011 generally is subject to tax at the maximum rate of 15%. The ability of U.S. Holders to deduct capital losses is subject to limitations under the Code.

A portion of the gain or loss with respect to the principal amount of a Non-U.S. Dollar Denominated Capital Security may be treated as foreign currency exchange gain or loss. Foreign currency exchange gain or loss will be treated as ordinary income or loss. For these purposes, the principal amount of the Non-U.S. Dollar Denominated Capital Security is the purchase price for the non-U.S. Dollar Denominated Capital Security calculated in the foreign currency on the date of purchase, and the amount of exchange gain or loss recognized is equal to the difference between (i) the U.S. dollar value of the principal amount determined on the date of the sale, exchange, retirement, or other disposition of the Non-U.S. Dollar Denominated Capital Security, and (ii) the U.S. dollar value of the principal amount determined on the date the Non-U.S. Dollar Denominated Capital Security was purchased. The amount of foreign currency exchange gain or loss will be limited to the amount of overall gain or loss realized on the disposition of the Non-U.S. Dollar Denominated Capital Security.

The tax basis in foreign currency received as interest on a Non-U.S. Dollar Denominated Capital Security will be the U.S. dollar value of the foreign currency determined at the spot rate in effect on the date the foreign currency is received. The tax basis in foreign currency received on the sale, exchange, retirement, or other disposition of a Non-U.S. Dollar Denominated Capital Security will be equal to the U.S. dollar value of the foreign currency, determined at the time of the sale, exchange, retirement, or other disposition. As discussed above, if the Non-U.S. Dollar Denominated Capital Securities are traded on an established securities market, a cash basis

U.S. Holder (or, upon election, an accrual basis U.S. Holder) will determine the U.S. dollar value of the foreign currency by translating the foreign currency received at the spot rate of exchange on the settlement date of the sale, exchange, retirement, or other disposition. Accordingly, in such case, no foreign currency exchange gain or loss will result from currency fluctuations between the trade date and settlement date of a sale, exchange, retirement, or other disposition. Any gain or loss recognized on a sale, exchange, retirement, or other disposition of foreign currency (including its exchange for U.S. dollars or its use to purchase capital securities) will be ordinary income or loss.

As set forth above, this summary does not apply to U.S. Holders who have a functional currency other than the U.S. dollar. Such holders should consult their own tax advisors.

Additional considerations may apply to Non-U.S. Dollar-Denominated Capital Securities that have been purchased with market discount, at a premium, or are treated as having OID. U.S. Holders who acquire Non-U.S. Dollar-Denominated Capital Securities with market discount, at a premium, or having OID should consult their own tax advisors regarding the tax consequences of the acquisition, ownership, and disposition of such Non-U.S. Dollar-Denominated Capital Securities.

Consequences to Non-U.S. Holders

Under current U.S. federal income tax law and subject to the discussion below concerning backup withholding, principal and interest payments on a capital security, including any OID, that are received from a Trust, us, or an agent of a Trust or of us and that are not effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, generally will not be subject to U.S. federal income or withholding tax except as provided below. Interest, including any OID, may be subject to a 30% withholding tax (or less under an applicable treaty, if any) if:

- a Non-U.S. Holder actually or constructively owns 10% or more of the total combined voting power of all classes of our stock entitled to vote;
- a Non-U.S. Holder is a “controlled foreign corporation” for U.S. federal income tax purposes that is related to us (directly or indirectly) through stock ownership;
- a Non-U.S. Holder that is a bank extending credit under a loan agreement in the ordinary course of its trade or business;
- the interest payments on the capital security are determined by reference to the income, profits, changes in the value of property or other attributes of us or a related party (other than payments that are based on the value of a security or index of securities that are, and will continue to be, actively traded within the meaning of Section 1092(d) of the Code, and that are not nor will be a “United States real property interest” as described in Section 897(c)(1) or 897(g) of the Code); or
- the Non-U.S. Holder does not satisfy the certification requirements described below.

A Non-U.S. Holder generally will satisfy the certification requirements if either (a) the Non-U.S. Holder certifies to us or our agent, under penalties of perjury, that it is a non-United States person and provides its name and address (which certification may generally be made on an IRS Form W-8BEN, or a successor form), or (b) a securities clearing organization, bank, or other financial institution that holds customer securities in the ordinary course of its trade or business (a “financial institution”) and holds the capital security certifies to us or our agent under penalties of perjury that either it or another financial institution has received the required statement from the Non-U.S. Holder certifying that it is a non-United States person and furnishes us with a copy of the statement.

Payments not meeting the requirements set forth above and thus subject to withholding of U.S. federal income tax may nevertheless be exempt from withholding (or subject to withholding at a reduced rate) if the Non-U.S. Holder provides us with a properly executed IRS Form W-8BEN (or successor form) claiming an exemption from, or reduction in, withholding under the benefit of a tax treaty, or IRS Form W-8ECI (or other applicable form) stating that interest paid on the capital securities is not subject to withholding tax because it is effectively connected with the conduct of a trade or business within the United States as discussed below. To claim benefits under an income tax treaty, a Non-U.S. Holder must obtain a taxpayer identification number and certify as to its eligibility under the appropriate treaty's limitations on benefits article. In addition, special rules may apply to claims for treaty benefits made by Non-U.S. Holders that are entities rather than individuals. A Non-U.S. Holder that is eligible for a reduced rate of U.S. federal withholding tax pursuant to an income tax treaty may obtain a refund of any excess amounts withheld by filing an appropriate claim for refund with the IRS.

A Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on any capital gain or market discount realized on the sale, exchange, retirement, or other disposition of capital securities, provided that: (a) the gain is not effectively connected with the conduct of a trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, (b) in the case of a Non-U.S. Holder that is an individual, the Non-U.S. Holder is not present in the United States for 183 days or more in the taxable year of the sale, exchange, or other disposition of the capital security, and (c) the Non-U.S. Holder is not subject to tax pursuant to certain provisions of U.S. federal income tax law applicable to certain expatriates. An individual Non-U.S. Holder who is present in the United States for 183 days or more in the taxable year of sale, exchange, or other taxable disposition of a capital security, and if certain other conditions are met, will be subject to U.S. federal income tax at a rate of 30% on the gain realized on the sale, exchange, or other disposition of such capital security.

If a Non-U.S. Holder of a capital security is engaged in the conduct of a trade or business within the United States and if interest (including any OID) on the capital security, or gain realized on the sale, exchange, or other disposition of the capital security, is effectively connected with the conduct of such trade or business (and, if certain tax treaties apply, is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States), the Non-U.S. Holder, although exempt from U.S. federal withholding tax (provided that the certification requirements discussed above are satisfied), generally will be subject to U.S. federal income tax on such interest (including any OID) or gain on a net income basis in the same manner as if it were a U.S. Holder. Non-U.S. holders should read the material under the heading "—Consequences to U.S. Holders" above for a description of the U.S. federal income tax consequences of acquiring, owning, and disposing of capital securities. In addition, if such Non-U.S. Holder is a foreign corporation, it may also be subject to a branch profits tax equal to 30% (or such lower rate provided by an applicable U.S. income tax treaty) of a portion of its earnings and profits for the taxable year that are effectively connected with its conduct of a trade or business in the United States, subject to certain adjustments.

Backup Withholding and Information Reporting

Unless set forth in an applicable pricing supplement, the Trusts will be widely held fixed investment trusts ("WHFIT") for U.S. federal income tax purposes. Bank of America Corporation, Corporate Treasury—Securities Administration, NC1-007-07-06, 100 North Tryon Street, Charlotte, North Carolina, telephone number 1-704-386-5681, will be the representative of the Trusts that will provide tax information in accordance with applicable regulations governing the information reporting obligations of WHFITs. In accordance with the applicable Treasury regulations, with respect to each calendar year, a holder of capital securities will receive IRS

Form 1099 reporting income on the capital securities for that year. Copies of IRS Forms 1099 will be provided to the IRS.

In general, in the case of a U.S. Holder, other than certain exempt holders, we, the Trusts and other payors are required to report to the IRS all payments of principal and interest, and the accrual of OID, on the capital securities. In addition, we, the Trusts and other payors generally are required to report to the IRS any payment of proceeds of the sale of capital securities. Additionally, backup withholding generally will apply to any payments, including payments of OID, if a U.S. Holder fails to provide an accurate taxpayer identification number and certify that the taxpayer identification number is correct, the U.S. Holder is notified by the IRS that it has failed to report all interest and dividends required to be shown on its U.S. federal income tax returns, or the U.S. Holder does not certify that it has not underreported its interest and dividend income.

In the case of a Non-U.S. Holder, backup withholding and information reporting will not apply to payments made if the Non-U.S. Holder provides the required certification that it is not a United States person, or the Non-U.S. Holder otherwise establishes an exemption, provided that the payor or withholding agent does not have actual knowledge that the holder is a United States person, or that the conditions of any exemption are not satisfied.

In addition, payments of the proceeds from the sale of a capital security to or through a foreign office of a broker or the foreign office of a custodian, nominee, or other dealer acting on behalf of a holder generally will not be subject to information reporting or backup withholding. However, if the broker, custodian, nominee, or other dealer is a United States person, the government of the United States or the government of any state or political subdivision of any state, or any agency or instrumentality of any of these governmental units, a controlled foreign corporation for U.S. federal income tax purposes, a foreign partnership that is either engaged in a trade or business within the United States or whose United States partners in the aggregate hold more than 50% of the income or capital interest in the partnership, a foreign person 50% or more of whose gross income for a certain period is effectively connected with a trade or business within the United States, or a United States branch of a foreign bank or insurance company, information reporting (but not backup withholding) generally will be required with respect to payments made to a holder unless the broker, custodian, nominee, or other dealer has documentation of the holder's foreign status and the broker, custodian, nominee, or other dealer has no actual knowledge to the contrary.

Payment of the proceeds from a sale of a capital security to or through the United States office of a broker is subject to information reporting and backup withholding, unless the holder certifies as to its non-United States person status or otherwise establishes an exemption from information reporting and backup withholding.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a holder's U.S. federal income tax liability provided the required information is furnished to the IRS.

Reportable Transactions

Applicable Treasury regulations require taxpayers that participate in "reportable transactions" to disclose their participation to the IRS by attaching IRS Form 8886 to their U.S. federal tax returns and to retain a copy of all documents and records related to the transaction. In addition, "material advisors" with respect to such a transaction may be required to file returns and maintain records, including lists identifying investors in the transactions, and to furnish those records to the IRS upon demand. A transaction may be a "reportable transaction" based on any of several criteria, one or more of which may be present with respect to an investment in the capital securities. Whether an investment in the capital securities constitutes a "reportable transaction" for any investor depends on that investor's particular

circumstances. The Treasury regulations provide that, in addition to certain other transactions, a “loss transaction” constitutes a “reportable transaction.” A “loss transaction” is any transaction resulting in the taxpayer claiming a loss under Section 165 of the Code, in an amount equal to or in excess of certain threshold amounts, subject to certain exceptions. The Treasury regulations specifically provide that a loss resulting from a “Section 988 transaction” will constitute a Section 165 loss, and certain exceptions will not be available if the loss from sale or exchange is treated as ordinary under Section 988. In general, a Non-U.S. Denominated Capital Security will be subject to the rules governing foreign currency exchange gain or loss. Therefore, losses realized with respect to such a capital security may constitute a Section 988 transaction, and a holder of such a capital security that recognizes exchange loss in an amount that exceeds the loss threshold amount applicable to that holder may be required to file IRS Form 8886. Investors should consult their own tax advisors concerning any possible disclosure obligation they may have with respect to their investment in the capital securities and should be aware that, should any “material advisor” determine that the return filing or investor list maintenance requirements apply to such a transaction, they would be required to comply with these requirements.

Other U.S. Federal Income Tax Considerations

The applicable prospectus supplement will contain a discussion of any special U.S. federal income tax considerations, if any, with respect to the capital securities offered in this prospectus. In particular, the above summary does not apply if the junior subordinated notes or capital securities:

- are issued with more than a de minimis amount of OID;
- mature one year or less than or more than 49 years after the issue date;
- pay principal, premium, if any, or interest based on an index or indices;
- allow for deferral of interest for more than five years’ worth of consecutive interest periods;
- are issued in bearer form;
- contain any obligation or right of us or a holder to convert or exchange the junior subordinated notes into our other securities or properties;
- contain any obligation or right of us to redeem, purchase, or repay the junior subordinated notes (other than a redemption of the outstanding junior subordinated notes at a price equal to (1) 100% of the principal amount of the junior subordinated notes being redeemed, plus (2) accrued but unpaid interest, plus (3) if applicable, a premium or make-whole amount determined by a quotation agent, equal to the sum of the present value of scheduled payments of principal and interest from the issue date of the junior subordinated notes to their redemption date, discounted at a rate equal to a U.S. Treasury rate plus some fixed amount or amounts); or
- contain any other material provision described only in the applicable prospectus supplement.

The material U.S. federal income tax consequences of the purchase, ownership, and disposition of capital securities in a Trust owning the underlying junior subordinated notes that contain the terms above will be described in the applicable prospectus supplement.

Each holder should consult its own tax advisor with respect to the particular consequences to the holder of the acquisition, ownership, and disposition of capital securities.

EU DIRECTIVE ON THE TAXATION OF SAVINGS INCOME

On July 1, 2005, a directive adopted by the European Union Council of Economic and Finance Ministers regarding the taxation of savings income payments came into effect. The directive obliges a member state of the European Union, ("EU"), to provide to the tax authorities of another EU member state details of payments of interest or other similar income payments made by a person (such as an issuer or paying agent) within its jurisdiction for the immediate benefit of an individual in that other EU member state (including certain payments secured for their benefit). However, Austria, Belgium, and Luxembourg have opted out of the above reporting requirements and are instead applying a special withholding tax for a transitional period in relation to such payments of interest. The withholding tax will be imposed at the rate of 20% for payments from July 1, 2008 to June 30, 2011, and at the rate of 35% from July 1, 2011 onwards. Withholding tax is not applied if the individual presents a certificate in the required form from the tax authority of his or her EU member state of residence that confirms that the applicable tax authority is aware of the investment made abroad. This transitional period will terminate at the end of the first fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments.

Also with effect from July 1, 2005, a number of non-EU countries and certain dependent or associated territories of EU member states have adopted similar measures (either provision of information or transitional withholding) in relation to payments of interest or other similar income payments made by a person in that jurisdiction for the immediate benefit of an individual or to certain non-corporate entities in any EU member state. The EU member states have entered into reciprocal provision of information or transactional special withholding tax arrangements with certain of those dependent or associated territories. These apply in the same way as payments by persons in any EU member state to individuals of another EU member state.

On November 13, 2008, the European Commission proposed changes to the EU savings directive which extended its scope so that it applies to interest payments to certain intermediate persons or structures interposed between the person making the payment and the individual who is the beneficial owner of the interest. It is proposed that an EU member state intermediary that receives an interest payment be treated as a person making payment, so as to subject it to the exchange of information or withholding obligation in the EU savings directive. Further, it is proposed that an interest payment made to an intermediary established outside the EU be treated as a payment made directly to the individual beneficiary if the person making the payment knows that the individual beneficiary is EU resident.

PLAN OF DISTRIBUTION

We and the Trusts may sell the securities offered under this prospectus:

- through underwriters;
- through dealers;
- through agents; or
- directly to purchasers.

The underwriters, dealers, or agents may include Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates.

Each prospectus supplement relating to an offering of capital securities will state the terms of the offering, including:

- the names of any underwriters, dealers, or agents;
- the public offering or purchase price of the offered securities and the net proceeds that will be received by the applicable Trust from the sale;
- any underwriting discounts and commissions or other items constituting underwriters' compensation;
- any discounts, commissions, or fees allowed or paid to dealers or agents; and
- any securities exchange on which the offered securities may be listed.

Distribution Through Underwriters

We and the Trusts may offer and sell securities from time to time to one or more underwriters who would purchase the securities as principal for resale to the public, either on a firm commitment or best efforts basis. If the securities are sold to underwriters, we and the applicable Trust will execute an underwriting agreement with them at the time of the sale and we will name them in the applicable prospectus supplement. In connection with these sales, the underwriters will receive compensation in the form of underwriting commissions, which will be paid by Bank of America. The underwriters also may receive commissions from purchasers of securities for whom they may act as agent. Unless we specify otherwise in the applicable prospectus supplement, the underwriters will not be obligated to purchase the securities unless the conditions set forth in the underwriting agreement are satisfied, and if the underwriters purchase any of the securities, they will be required to purchase all of the offered securities. The underwriters may acquire the securities for their own account and may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or varying prices determined at the time of sale. The underwriters may sell the offered securities to or through dealers, and those dealers may receive discounts, concessions, or commissions from the underwriters as well as from the purchasers for whom they may act as agent. Any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers may be changed from time to time.

Distribution Through Dealers

We and the Trusts may offer and sell securities from time to time to one or more dealers who would purchase the securities as principal. The dealers then may resell the offered securities to the public at fixed or varying prices to be determined by the dealers at the time of resale. We will set forth the names of the dealers and the terms of the transaction in the applicable prospectus supplement.

Distribution Through Agents

We and the Trusts may offer and sell securities on a continuous basis through agents that become parties to an underwriting or distribution agreement. We will name any agent involved in the offer and sale and describe any commissions payable by us in the applicable prospectus supplement. Unless we specify otherwise in the applicable prospectus supplement, the agent will be acting on a best efforts basis during the appointment period.

Direct Sales

We and the Trusts may sell directly to, and solicit offers from, institutional investors or others who may be deemed to be underwriters, as defined in the Securities Act of 1933, for any resale of the securities. We will describe the terms of any sales of this kind in the applicable prospectus supplement.

General Information

Underwriters, dealers, or agents participating in an offering of capital securities may be deemed to be underwriters, and any discounts and commissions received by them from us or a Trust and any profit realized by them on resale of the offered securities for whom they act as agent, may be deemed to be underwriting discounts and commissions under the Securities Act of 1933.

We and the Trusts may offer to sell securities either at a fixed price or at prices that may vary, at market prices prevailing at the time of sale, at prices related to prevailing market prices, or at negotiated prices. Securities may be sold in connection with a remarketing after their purchase by one or more firms including our affiliates, acting as principal for their accounts or as our agent, or as agent of a Trust.

In connection with an underwritten offering of the capital securities, the underwriters may engage in over-allotment, stabilizing transactions and syndicate covering transactions in accordance with Regulation M under the Securities Exchange Act of 1934. Over-allotment involves sales in excess of the offering size, which creates a short position for the underwriters. The underwriters may enter bids for, and purchase, capital securities in the open market in order to stabilize the price of the capital securities. Syndicate covering transactions involve purchases of the capital securities in the open market after the distribution has been completed in order to cover short positions. In addition, the underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the capital securities in the offering if the syndicate repurchases previously distributed capital securities in transactions to cover syndicate short positions, in stabilization transactions, or otherwise. These activities may cause the price of the capital securities to be higher than it would otherwise be. Those activities, if commenced, may be discontinued at any time.

Ordinarily, each issue of capital securities will be a new issue, and there will be no established trading market for the capital securities prior to their original issue date. We may or may not list any particular series of capital securities on a securities exchange or quotation system. Any underwriters to whom the offered capital securities are sold for offering and sale may make a market in the capital securities. However, any underwriters that make a market will not be obligated to do so and may stop doing so at any time without notice. We cannot assure you that there will be a liquid trading market for the capital securities.

Under agreements entered into with us or a Trust, underwriters and agents may be entitled to indemnification by us or a Trust against certain civil liabilities, including liabilities under the Securities Act of 1933, or to contribution for payments the underwriters or agents may be required to make.

The offer and sale of any capital securities by Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates that is a member of the Financial Industry Regulatory Authority, Inc., or "FINRA," will comply with the requirements of Rule 2720 of the NASD Conduct Rules adopted by FINRA regarding a member firm's offer and sale of securities of an affiliate. As required by Rule 2720, any such offer and sale will not be made to any discretionary account without the prior approval of the customer. In addition, the offering of capital securities must be conducted in compliance with Rule 2810 of the NASD Conduct Rules adopted by FINRA.

The maximum commission or discount to be received by any FINRA member or independent broker-dealer will not be greater than 8% of the initial gross proceeds from the sale of any security being sold.

Although we expect that delivery of securities generally will be made against payment on the third business day following the date of any contract for sale, we may specify a longer settlement cycle in the applicable prospectus supplement. Under Rule 15c6-1 of the Securities Exchange Act of 1934, trades in the secondary market generally are required to settle in three business days, unless the parties to a trade expressly agree otherwise. Accordingly, if we have specified a longer settlement cycle in the applicable prospectus supplement for an offering of securities, purchasers who wish to trade those securities on the date of the contract for sale, or on one or more of the next succeeding business days as we will specify in the applicable prospectus supplement, will be required, by virtue of the fact that those securities will settle in more than T+3, to specify an alternative settlement cycle at the time of the trade to prevent a failed settlement and should consult their own advisors in connection with that election.

The underwriters, agents, and their affiliates may engage in financial or other business transactions with us and our subsidiaries in the ordinary course of business.

Market-Making Transactions by Affiliates

Following the initial distribution of capital securities, our affiliates, including Banc of America Securities LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, may buy and sell the capital securities in secondary market transactions as part of their business as broker-dealers. Resales of this kind may occur in the open market or may be privately negotiated, at prevailing market prices at the time of resale or at related or negotiated prices. This prospectus and any related prospectus supplements may be used by one or more of our affiliates in connection with these market-making transactions to the extent permitted by applicable law. Our affiliates may act as principal or agent in these transactions.

The aggregate initial offering price specified on the cover of the accompanying prospectus supplement will relate to the initial offering of the capital securities not yet issued as of the date of this prospectus. This amount does not include the capital securities to be sold in market-making transactions. The capital securities to be sold in market-making transactions include capital securities issued after the date of this prospectus.

Information about the trade and settlement dates, as well as the purchase price, for a market-making transaction will be provided to the purchaser in a separate confirmation of sale.

Unless we or our agent inform you in your confirmation of sale that the security is being purchased in its original offering and sale, you may assume that you are purchasing the security in a market-making transaction.

ERISA CONSIDERATIONS

A fiduciary of a pension, profit-sharing or other employee benefit plan governed by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), should consider the fiduciary standards of ERISA in the context of the ERISA plan’s particular circumstances before authorizing an investment in the capital securities of the Trusts. Among other factors, the fiduciary should consider whether such an investment is in accordance with the documents governing the ERISA plan and whether the investment is appropriate for the ERISA plan in view of its overall investment policy and diversification of its portfolio.

Certain provisions of ERISA and the Internal Revenue Code of 1986, as amended (the “Code”), prohibit employee benefit plans (as defined in Section 3(3) of ERISA) that are subject to Title I of ERISA, plans described in Section 4975(e)(1) of the Code (including, without limitation, retirement accounts and Keogh Plans), and entities whose underlying assets include plan assets by reason of a plan’s investment in such entities (including, without limitation, as applicable, insurance company general accounts) (collectively, “plans”) from engaging in certain transactions involving “plan assets” with parties that are “parties in interest” under ERISA or “disqualified persons” under the Code with respect to the plan or entity. Governmental and other plans that are not subject to ERISA or to the Code may be subject to similar restrictions under state, federal or local law. Any employee benefit plan or other entity, to which such provisions of ERISA, the Code or similar law apply, proposing to acquire the offered securities should consult with its legal counsel.

The U.S. Department of Labor has issued a regulation with regard to whether the underlying assets of an entity in which employee benefit plans acquire equity interests are deemed to be plan assets (as modified by Section 3(42) of ERISA, the “Plan Asset Regulation”). Under the Plan Asset Regulation, for purposes of ERISA and Section 4975 of the Code, the assets of the Trusts would be deemed to be “plan assets” of a plan whose assets were used to purchase capital securities of the Trusts if the capital securities of the Trusts were considered to be equity interests in the Trusts and no exception to plan asset status were applicable under such regulation.

The Plan Asset Regulation defines an “equity interest” as any interest in an entity other than an instrument that is treated as indebtedness under applicable local law and which has no substantial equity features. Although it is not free from doubt, capital securities of the Trusts offered hereby would likely be treated as “equity interests” for purposes of the Plan Asset Regulation. One exception to plan asset status under the Plan Asset Regulation applies to a class of “equity” interests that are (i) widely held (*i.e.*, held by 100 or more investors who are independent of the issuer and each other), (ii) freely transferable, and (iii) either (a) part of a class of securities registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934 (the “34 Act”), or (b) sold as part of an offering of securities to the public pursuant to an effective registration statement under the Securities Act of 1933 and such class is registered under the 34 Act within 120 days after the end of the fiscal year of the issuer during which the offering of such securities to the public occurred (the “Publicly Offered Securities Exception”). We will specify in the applicable prospectus supplement if the underwriters in that offering expect the series of capital securities to meet the criteria of the Publicly Offered Securities Exemption. However, we can give no assurance in that regard.

If, however, the assets of the Trusts were deemed to be plan assets of plans that are holders of the capital securities of the Trusts, a plan’s investment in the capital securities of the Trusts might be deemed to constitute a delegation under ERISA of the duty to manage plan assets by a fiduciary investing in capital securities of the Trusts. Also, Bank of America might be considered a “party in interest” or “disqualified person” relating to plans whose assets were used to purchase capital securities of the Trusts. If this were the case, an investment in capital securities of the Trusts by a plan might constitute, or in the course of the operation of the Trusts give rise to, one

or more prohibited transactions under ERISA or the Code. In particular, it is likely that under such circumstances a prohibited extension of credit to Bank of America would be considered to occur under ERISA and the Code.

In addition, Bank of America might be considered a "party in interest" or "disqualified person" for certain plans for reasons unrelated to the operation of the Trusts, e.g., because of the provision of services by Bank of America or its affiliates to the plan. A purchase of capital securities of the Trusts by any such plan would be likely to result in a prohibited extension of credit to Bank of America, without regard to whether the assets of the Trusts constituted plan assets.

The U.S. Department of Labor has issued five prohibited transaction class exemptions ("PTCEs") that may provide exemptive relief for direct or indirect prohibited transactions resulting from the purchase or holding of these securities. Those class exemptions are PTCE 96-23 (for certain transactions determined by in-house asset managers), PTCE 95-60 (for certain transactions involving insurance company general accounts), PTCE 91-38 (for certain transactions involving bank collective investment funds), PTCE 90-1 (for certain transactions involving insurance company separate accounts) and PTCE 84-14 (for certain transactions determined by independent qualified asset managers). In addition, ERISA Section 408(b)(17) and Section 4975(d)(20) of the Code provide an exemption for the purchase and sale of securities and the related lending transactions, provided that neither the issuer of the securities nor any of its affiliates has or exercises any discretionary authority or control or renders any investment advice with respect to the assets of any plan involved in the transaction and provided further that the plan pays no more than adequate consideration in connection with the transaction (the so-called "Service Provider Exemption"). There can be no assurance that any of these class or statutory exemptions will be available with respect to transactions involving these securities.

Accordingly, the capital securities of the Trusts may be not purchased, held or disposed by any plan or any person investing "plan assets" of any plan that is subject to the prohibited transaction rules of ERISA or Section 4975 of the Code or other similar law, unless one of the following exemptions (or a similar exemption or exception) applies to such purchase, holding and disposition: the Service Provider Exemption, PTCE 96-23, PTCE 95-60, PTCE 91-38, PTCE 90-1, or PTCE 84-14.

Any purchaser of the capital securities of the Trusts or any interest therein will also be deemed to have represented and warranted to the Trusts on each day from and including the date of its purchase of such capital securities through and including the date of disposition of such capital securities that either:

- (a) it is not a plan subject to Title I of ERISA or Section 4975 of the Code and is not purchasing such securities or interest therein on behalf of, or with "plan assets" of, any such plan;
- (b) its purchase, holding and disposition of the capital securities are not and will not be prohibited because they are exempted by the Service Provider Exemption or one or more of the following prohibited transaction exemptions: PTCE 96-23, 95-60, 91-38, 90-1 or 84-14; or
- (c) it is a governmental plan (as defined in section 3 of ERISA) or other plan that is not subject to the provisions of Title I of ERISA or Section 4975 of the Code and its purchase, holding, and disposition of capital securities are not otherwise prohibited.

The discussion set forth above is general in nature and is not intended to be complete. Due to the complexity of these rules and the penalties imposed upon persons involved in prohibited transactions, it is important that any person considering the purchase of capital securities of the Trusts with plan assets consult with its counsel regarding the consequences under ERISA and the Code, or other similar law, of the acquisition and ownership of capital securities of the Trusts

and the availability of exemptive relief under the class exemptions listed above. The sale of the capital securities of the Trusts to a plan is in no respect a representation by the Trusts or the underwriters that such an investment meets all relevant legal requirements with respect to investments by plans generally or any particular plan, or that such an investment is appropriate for plans generally or any particular plan.

WHERE YOU CAN FIND MORE INFORMATION

We and the Trusts have filed a registration statement on Form S-3 with the SEC covering the securities to be offered and sold using this prospectus. You should refer to this registration statement and its exhibits for additional information about us and the Trusts. This prospectus summarizes material provisions of contracts and other documents that we refer you to. Because the prospectus may not contain all of the information that you may find important, you should review the full text of these documents, which we have included as exhibits to the registration statement.

We also file annual, quarterly, and special reports, proxy statements, and other information with the SEC. You may read and copy any document that we file with the SEC at the Public Reference Room of the SEC at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. You also may inspect our filings over the Internet at the SEC's website, www.sec.gov. The reports and other information we file with the SEC also are available at our website, www.bankofamerica.com. We have included the SEC's web address and our web address as inactive textual references only. Except as specifically incorporated by reference into this prospectus, information on those websites is not part of this prospectus.

You also can inspect reports and other information we file at the offices of The New York Stock Exchange, Inc., 20 Broad Street, 17th Floor, New York, New York 10005.

The SEC allows us to incorporate by reference in this prospectus the information we file with it. This means that:

- incorporated documents are considered part of this prospectus;
- we can disclose important information to you by referring you to those documents; and
- information that we file with the SEC automatically will update and supersede this incorporated information and information in this prospectus.

We incorporate by reference the documents listed below which were filed with the SEC under the Securities Exchange Act of 1934:

- our annual report on Form 10-K for the year ended December 31, 2008; and
- our current reports on Form 8-K or Form 8-K/A filed January 2, 2009, January 7, 2009, January 13, 2009, January 16, 2009, January 22, 2009, January 28, 2009, February 3, 2009 (two filings), February 25, 2009, March 3, 2009, March 12, 2009, and April 20, 2009 (two filings) (in each case, other than information that is furnished but deemed not to have been filed).

We also incorporate by reference reports that we will file under Sections 13(a), 13(c), 14, and 15(d) of the Securities Exchange Act of 1934, on or after the date of this prospectus, but not any information that we may furnish but that is not deemed to be filed.

You should assume that the information appearing in this prospectus is accurate only as of the date of this prospectus. Our business, financial position, and results of operations may have changed since that date.

You may request a copy of any filings referred to above (excluding exhibits), at no cost, by contacting us at the following address:

Bank of America Corporation
Corporate Treasury Division
NC1-007-07-06
100 North Tryon Street
Charlotte, North Carolina 28255
(704) 386-5681
E-mail: securities.administration@bankofamerica.com

There are no separate financial statement of any of the Trusts in this prospectus. We and the Trusts do not believe these financial statements would be material to holders of the capital securities because each Trust is a special purpose entity that will not have any independent operations other than issuing capital securities and common securities, holding corresponding junior subordinated notes as trust assets, and other necessary or incidental activities as described in this prospectus or any applicable prospectus supplement. Furthermore, taken together, our obligations under each series of corresponding junior subordinated notes, the junior subordinated indenture under which the corresponding junior subordinated notes will be issued, the related declaration of trust, and the related guarantee provide, in the aggregate, a full, irrevocable, and unconditional guarantee of payments of distributions and other amounts due on the related capital securities of a Trust. We do not expect any of the Trusts will be subject to the reporting requirements of the Securities Exchange Act of 1934.

FORWARD-LOOKING STATEMENTS

We have included or incorporated by reference in this prospectus and the accompanying prospectus supplement statements that may constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. You may find these statements by looking for words such as “plan,” “believe,” “expect,” “intend,” “anticipate,” “estimate,” “project,” “potential,” “possible,” or other similar expressions, or future or conditional verbs such as “will,” “should,” “would,” and “could.”

All forward-looking statements, by their nature, are subject to risks and uncertainties. Our actual results may differ materially from those set forth in our forward-looking statements. As a large, international financial services company, we face risks that are inherent in the businesses and market places in which we operate. Information regarding important factors that could cause our future financial performance to vary from that described in our forward-looking statements is contained in our annual report on Form 10-K for the year ended December 31, 2008, which is incorporated by reference in this prospectus, under the captions “Item 1A. Risk Factors,” and “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations,” as well as those discussed in our subsequent filings that are incorporated in this prospectus by reference. See “Where You Can Find More Information” above for information about how to obtain a copy of our annual report.

You should not place undue reliance on any forward-looking statements, which speak only as of the dates they are made.

All subsequent written and oral forward-looking statements attributable to us or any person on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Except to the extent required by applicable law or regulation, we undertake no obligation to update these forward-looking statements to reflect events or circumstances after the date of this prospectus or to reflect the occurrence of unanticipated events.

LEGAL MATTERS

Certain matters of Delaware law relating to the validity of the capital securities being registered will be passed upon on behalf of the Trusts by Richards, Layton & Finger, P.A., special Delaware counsel to the Trusts. The legality of the junior subordinated notes and the guarantees being registered will be passed upon for Bank of America by McGuireWoods LLP, Charlotte, North Carolina, and for the underwriters by Morrison & Foerster LLP, New York, New York. Certain U.S. federal income tax matters will be passed upon for Bank of America and the Trusts by Morrison & Foerster LLP, New York, New York, special tax counsel to Bank of America and the Trusts. McGuireWoods LLP and Morrison & Foerster LLP will rely on the opinion of Richards, Layton & Finger, P.A. as to matters of Delaware law. McGuireWoods LLP regularly performs legal services for us. Some members of McGuireWoods LLP performing these legal services for Bank of America own shares of Bank of America common stock.

EXPERTS

Our consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in the Report of Management on Internal Control Over Financial Reporting) incorporated in this prospectus by reference to our annual report on Form 10-K for the year ended December 31, 2008 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements of Merrill Lynch & Co., Inc. ("Merrill Lynch") incorporated in this prospectus by reference from the Bank of America Corporation current report on Form 8-K, filed with the SEC on February 25, 2009, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated by reference in this prospectus (which report expresses an unqualified opinion on those financial statements and includes explanatory paragraphs regarding the changes in accounting methods in 2007 relating to the adoption of Statement of Financial Accounting Standards No. 157, "*Fair Value Measurements*," Statement of Financial Accounting Standards No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115*," and FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109*" and Merrill Lynch becoming a wholly-owned subsidiary of Bank of America Corporation on January 1, 2009). Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

PROSPECTUS



**Debt Securities, Warrants, Units, Purchase Contracts,
Preferred Stock, Depositary Shares, Common Stock,
Junior Subordinated Notes, and Guarantees**

**BAC Capital Trust XVI
BAC Capital Trust XVII
BAC Capital Trust XVIII
BAC Capital Trust XIX
BAC Capital Trust XX**

Trust Securities

We from time to time may offer to sell debt securities, warrants, purchase contracts, preferred stock, depositary shares representing fractional interests in preferred stock, common stock, junior subordinated notes, guarantees, or units comprised of two or more of these securities or securities of other entities, and any of the BAC Capital Trusts from time to time may offer to sell trust securities. The debt securities, warrants, purchase contracts, and preferred stock may be convertible into or exercisable or exchangeable for our common or preferred stock or for debt or equity securities of one or more other entities. We will describe the specific terms of any securities to be offered in supplements to this prospectus. You should read this prospectus and any applicable prospectus supplement carefully before you invest in the securities.

Our common stock is listed on the New York Stock Exchange under the symbol "BAC." In addition, our common stock is listed on the London Stock Exchange, and certain shares are listed on the Tokyo Stock Exchange.

We may use this prospectus in the initial sale of these securities. In addition, Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, or any of our other affiliates, may use this prospectus in a market-making transaction in any of these securities or similar securities after their initial sale. Unless you are informed otherwise in the confirmation of sale, this prospectus is being used in a market-making transaction.

Our securities are unsecured. Our securities and the capital securities are not savings accounts, deposits, or other obligations of a bank, are not guaranteed by Bank of America, N.A. or any other bank, are not insured by the Federal Deposit Insurance Corporation or any other governmental agency, and may involve investment risks, including possible loss of principal.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

Prospectus dated April 20, 2009

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we and the Trusts filed with the Securities and Exchange Commission, or the “SEC,” utilizing a “shelf” registration process. Under this shelf process, from time to time, we and the Trusts, as applicable, may sell any combination of the securities described in this prospectus in one or more offerings.

Unless we indicate otherwise or unless the context requires otherwise, all references in this prospectus to “Bank of America,” “we,” “us,” “our,” or similar references are to Bank of America Corporation excluding its consolidated subsidiaries, and all references to a “Trust” or the “Trusts” are to any of the BAC Capital Trusts listed on the cover of this prospectus and to any similar entity that may be formed in the future.

THE ISSUERS

Bank of America’s headquarters is located at Bank of America Corporate Center, 100 North Tryon Street, 28255, and its telephone number is (704) 386-5681. The principal executive office of each Trust is c/o Bank of America Corporation, Corporate Treasury, Bank of America Corporate Center, 100 North Tryon Street, NC1-007-07-06, Charlotte, North Carolina 28255, telephone number (704) 386-5681.

USE OF PROCEEDS

We will set forth in the applicable prospectus supplement the intended use for the net proceeds received by us or a Trust for the sale of securities under this prospectus.

DESCRIPTION OF SECURITIES

We will set forth in the applicable prospectus supplement a description of the debt securities, warrants, purchase contracts, preferred stock, depositary shares, common stock, trust securities, junior subordinated notes, guarantees, or units that may be offered under this prospectus.

WHERE YOU CAN FIND MORE INFORMATION

We and the Trusts have filed a registration statement on Form S-3 with the SEC covering the securities to be offered and sold using this prospectus. You should refer to this registration statement and its exhibits for additional information about us, the Trusts and the securities being offered.

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We also file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document that we file with the SEC at the Public Reference Room of the SEC at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. You also may inspect our filings over the Internet at the SEC's website, www.sec.gov. The reports and other information we file with the SEC also are available at our website, www.bankofamerica.com.

We have included the SEC's web address and our web address as inactive textual references only. Except as specifically incorporated by reference into this prospectus, information on those websites is not part of this prospectus.

You also can inspect reports and other information we file at the offices of The New York Stock Exchange, Inc., 20 Broad Street, 17th Floor, New York, New York 10005.

The SEC allows us to incorporate by reference the information we file with it. This means that:

- incorporated documents are considered part of this prospectus;
- we can disclose important information to you by referring you to those documents; and
- information that we file with the SEC automatically will update and supersede this incorporated information and information in this prospectus.

We incorporate by reference the documents listed below which were filed with the SEC under the Securities Exchange Act of 1934:

- our annual report on Form 10-K for the year ended December 31, 2008;
- our current reports on Form 8-K or Form 8-K/A filed January 2, 2009, January 7, 2009, January 13, 2009, January 16, 2009, January 22, 2009, January 28, 2009, February 3, 2009 (two filings), February 25, 2009, March 3, 2009, March 12, 2009, and April 20, 2009 (two filings) (in each case, other than information that is furnished but deemed not to have been filed); and
- the description of our common stock which is contained in our registration statement filed under Section 12 of the Securities Exchange Act of 1934, as modified by our current report on Form 8-K dated April 20, 2009.

We also incorporate by reference reports that we will file under Sections 13(a), 13(c), 14, and 15(d) of the Securities Exchange Act of 1934, on or after the date of this prospectus, but not any information that we may furnish but that is not deemed to be filed.

You should assume that the information appearing in this prospectus is accurate only as of the date of this prospectus. Our business, financial position and results of operations may have changed since that date.

You may request a copy of any filings referred to above (excluding exhibits), at no cost, by contacting us at the following address:

Bank of America Corporation
Corporate Treasury Division
NC1-007-07-06
100 North Tryon Street
Charlotte, North Carolina 28255
(704) 386-5681
E-mail: securities.administration@bankofamerica.com

There are no separate financial statement of the Trusts in this prospectus. We and the Trusts do not believe these financial statements would be material to holders of the capital securities because each Trust is a special purpose entity that will not have any independent operations other than issuing capital securities and common securities, holding our corresponding junior subordinated notes as trust assets, and other necessary or incidental activities as described in this prospectus or any applicable prospectus supplement. Furthermore, taken together, our obligations under each series of corresponding junior subordinated notes, the junior subordinated indenture under which the corresponding junior subordinated notes will be issued, the related declaration of trust, and the related guarantee provide, in the aggregate, a full, irrevocable and unconditional guarantee of payments of distributions and other amounts due on the related capital securities of a Trust. We do not expect any of the Trusts will be subject to the reporting requirements of the Securities Exchange Act of 1934.

FORWARD-LOOKING STATEMENTS

We have included or incorporated by reference in this prospectus and the accompanying prospectus supplement statements that may constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. You may find these statements by looking for words such as “plan,” “believe,” “expect,” “intend,” “anticipate,” “estimate,” “project,” “potential,” “possible,” or other similar expressions, or future or conditional verbs such as “will,” “should,” “would,” and “could.”

All forward-looking statements, by their nature, are subject to risks and uncertainties. Our actual results may differ materially from those set forth in our forward-looking statements. As a large, international financial services company, we face risks that are inherent in the businesses and market places in which we operate. Information regarding important factors that could cause our future financial performance to vary from that described in our forward-looking statements is contained in our annual report on Form 10-K for the year ended December 31, 2008, which is incorporated in this prospectus by reference, under the captions “Item 1A. Risk Factors,” and “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations,” as well as those discussed in our subsequent filings that are incorporated in this prospectus by reference. See “Where You Can Find More Information” above for information about how to obtain a copy of our annual report.

You should not place undue reliance on any forward-looking statements, which speak only as of the dates they are made.

All subsequent written and oral forward-looking statements attributable to us or any person on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Except to the extent required by applicable law or regulation, we undertake no obligation to update these forward-looking statements to reflect events or circumstances after the date of this prospectus or to reflect the occurrence of unanticipated events.

LEGAL MATTERS

The legality of Bank of America’s securities being registered will be passed upon for us by McGuireWoods LLP, Charlotte, North Carolina and for the underwriters or agents by Morrison & Foerster LLP, New York, New York. Certain matters of Delaware law relating to the validity of the trust securities being registered will be passed upon on behalf of the Trusts by Richards, Layton & Finger, P.A., special Delaware counsel to the Trusts. Certain U.S. federal income tax matters will be passed upon for Bank of America and the Trusts by Morrison & Foerster LLP, New York, New York, special tax counsel to Bank of America and the Trusts. McGuireWoods LLP and Morrison & Foerster LLP will rely on the opinion of Richards, Layton & Finger, P.A. as to

matters of Delaware law. McGuireWoods LLP regularly performs legal services for Bank of America. Some members of McGuireWoods LLP performing those legal services own shares of Bank of America common stock.

EXPERTS

Our consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in the Report of Management on Internal Control Over Financial Reporting) incorporated in this prospectus by reference to our annual report on Form 10-K for the year ended December 31, 2008 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements of Merrill Lynch & Co., Inc. ("Merrill Lynch") incorporated in this prospectus by reference from the Bank of America Corporation current report on Form 8-K, filed with the SEC on February 25, 2009, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated by reference in this prospectus (which report expresses an unqualified opinion on those financial statements and includes explanatory paragraphs regarding the changes in accounting methods in 2007 relating to the adoption of Statement of Financial Accounting Standards No. 157, "*Fair Value Measurements*," Statement of Financial Accounting Standards No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115*," and FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109*" and Merrill Lynch becoming a wholly-owned subsidiary of Bank of America Corporation on January 1, 2009). Such consolidated financial statements have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

PART II. INFORMATION NOT REQUIRED IN PROSPECTUS**Item 14. Other Expenses of Issuance and Distribution.**

The estimated expenses, other than underwriting or broker-dealer fees, discounts and commissions, in connection with the offering are as follows:

Securities Act Registration Fee	\$	*
FINRA Fee		75,500
Printing and Engraving Expenses		1,300,000
Legal Fees and Expenses		500,000
Accounting Fees and Expenses		500,000
Blue Sky Fees and Expenses		50,000
Trustee Fees		475,000
Rating Agency Fees and Expenses		1,200,000
Listing Fees and Expenses		500,000
Miscellaneous		30,000
	\$	<u>4,630,500</u>

* The registration fee has been deferred in accordance with Rules 456(b) and 457(r) of the Securities Act of 1933, as amended (the "Securities Act").

Item 15. Indemnification of Directors and Officers.

Section 145(a) of the General Corporation Law of the State of Delaware ("Delaware Corporation Law") provides, in general, that a corporation has the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), because the person is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of any other enterprise. Such indemnity may be against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and if, with respect to any criminal action or proceeding, the person did not have reasonable cause to believe the person's conduct was unlawful.

Section 145(b) of the Delaware Corporation Law provides, in general, that a corporation has the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor because the person is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of any other enterprise, against any expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145(g) of the Delaware Corporation Law provides, in general, that a corporation has the power to purchase and maintain insurance on behalf of any person who is or was a director,

officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of any other enterprise, against any liability asserted against the person in any such capacity, or arising out of the person's status as such, regardless of whether the corporation would have the power to indemnify the person against such liability under the provisions of Section 145 of the Delaware Corporation Law.

Article VIII of the Registrant's bylaws provides for indemnification to the fullest extent authorized by the Delaware Corporation Law for any person who is or was a director or officer of the Registrant who is or was involved or threatened to be made involved in any proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was serving as a director, officer, manager or employee of the Registrant or is or was serving at the request of the Registrant as a director, officer, manager or employee of any other enterprise. Such indemnification is provided only if the director, officer, manager or employee acted in good faith and in a manner that the director, officer, manager or employee reasonably believed to be in, or not opposed to, the best interests of the Registrant, and with respect to any criminal proceeding, had no reasonable cause to believe that the conduct was unlawful.

The foregoing is only a general summary of certain aspects of the Delaware Corporation Law and the Registrant's bylaws dealing with indemnification of directors and officers, and does not purport to be complete. It is qualified in its entirety by reference to the detailed provisions of Section 145 of the Delaware Corporation Law and Article VIII of the bylaws of the Registrant.

Pursuant to the Registrant's bylaws, the Registrant may maintain a directors' and officers' insurance policy which insures the directors and officers of the Registrant against liability asserted against such persons in such capacity whether or not the Registrant would have the power to indemnify such person against such liability under the Delaware Corporation Law.

The respective Declarations of Trust of BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX, and BAC Capital Trust XX (each a "Trust" and together the "Trusts") provide that to the fullest extent permitted by applicable law, the Corporation shall indemnify each of the regular trustees of the respective Trust, any affiliate of any such regular trustee, any officer, director, shareholder, member, partner, employee, representative or agent of any such regular trustee, or any employee or agent of the Trust or its affiliates (each a "Company Indemnified Person"), who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Trust) by reason of the fact that he is or was a Company Indemnified Person against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The Declarations of Trust also provide that, to the fullest extent permitted by applicable law, expenses (including reasonable attorneys' fees and expenses) incurred by a Company Indemnified Person in defending such a civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Company Indemnified Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in the Declaration of Trust. The Declarations of Trust further provide that no Company Indemnified Person, the Delaware Trustee (as defined therein), any affiliate of the Delaware Trustee, and any officers, directors, shareholders, members, partners, employees, representatives, nominees, custodians or agents of the Delaware Trustee (collectively, with a Company Indemnified Person, an "Indemnified Person"), shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person (as defined therein) for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Persons in good faith on behalf of the

Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by the Declaration of Trust, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

In addition, certain sections of the forms of underwriting or distribution agreements filed or to be filed as exhibits to this registration statement provide for indemnification of the Corporation and its directors and officers and the Trusts and each of the Property Trustee, Delaware Trustee and Regular Trustees by the underwriters or agents against certain liabilities, including certain liabilities under the Securities Act. From time to time similar provisions have been contained in other agreements relating to other securities of the Corporation.

Item 16. *List of Exhibits.*

Exhibit No.	Description
1.1	Form of Underwriting Agreement for Debt Securities, incorporated herein by reference to Exhibit 1.1 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.2	Form of Underwriting Agreement for Preferred Stock, incorporated herein by reference to Exhibit 1.2 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.3	Form of Underwriting Agreement for Common Stock, incorporated herein by reference to Exhibit 1.3 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.4	Form of Underwriting Agreement for Depository Shares
1.5	Form of Underwriting Agreement for Warrants and Units, incorporated herein by reference to Exhibit 1.4 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.6	Form of Underwriting Agreement for Purchase Contracts*
1.7	Form of Underwriting Agreement for Trust Securities, incorporated herein by reference to Exhibit 1.6 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.8	Distribution Agreement dated as of April 10, 2008, between Bank of America Corporation, Banc of America Securities LLC, and Banc of America Investment Services, Inc., incorporated herein by reference to Exhibit 1.1 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed April 15, 2008
1.9	Letter agreement dated January 2, 2009, between Bank of America Corporation, Merrill Lynch, Pierce, Fenner & Smith Incorporated, and First Republic Securities Company, LLC
1.10	Form of Supplement to Series L Distribution Agreement, between Bank of America Corporation, Banc of America Securities LLC, Banc of America Investment Services, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and First Republic Securities Company, LLC
4.1	Amended and Restated Certificate of Incorporation of Bank of America Corporation, incorporated herein by reference to Exhibit 3(a) of the Corporation's Annual Report on Form 10-K (File No. 1-6523) for the year ended December 31, 2008
4.2	Amended and Restated Bylaws of Bank of America Corporation, incorporated herein by reference to Exhibit 3.2 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed December 15, 2008

Exhibit No.	Description
4.3	Indenture dated as of January 1, 1995 (for senior debt securities) between NationsBank Corporation and BankAmerica National Trust Company, as trustee, incorporated herein by reference to Exhibit 4.1 of the Corporation's Registration Statement on Form S-3 (Registration No. 33-57533)
4.4	Successor Trustee Agreement effective December 15, 1995, between NationsBank Corporation and First Trust New York, National Association (now U.S. Bank Trust National Association), as successor trustee to BankAmerica National Trust Company, incorporated herein by reference to Exhibit 4.2 of the Corporation's Registration Statement on Form S-3 (Registration No. 333-07229)
4.5	First Supplemental Indenture dated as of September 18, 1998, among NationsBank Corporation, NationsBank(DE) Corporation and U.S. Bank Trust National Association, incorporated herein by reference to Exhibit 4.3 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed November 18, 1998
4.6	Second Supplemental Indenture dated as of May 7, 2001, among Bank of America Corporation, U.S. Bank Trust National Association, as Prior Trustee, and The Bank of New York, as Successor Trustee, incorporated herein by reference to Exhibit 4.4 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed June 14, 2001
4.7	Third Supplemental Indenture dated as of July 28, 2004, between Bank of America Corporation and The Bank of New York, incorporated herein by reference to Exhibit 4.2 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed August 27, 2004
4.8	Fourth Supplemental Indenture dated as of April 28, 2006, between Bank of America Corporation and The Bank of New York, incorporated herein by reference to Exhibit 4.6 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.9	Agreement of Appointment and Acceptance dated as of December 29, 2006, between Bank of America Corporation and The Bank of New York Trust Company, N.A. (successor trustee to The Bank of New York), incorporated herein by reference to Exhibit 4(aaa) of the Corporation's Annual Report on Form 10-K (File No. 1-6523) for the year ended December 31, 2006
4.10	Fifth Supplemental Indenture dated as of December 1, 2008, between Bank of America Corporation and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York), incorporated herein by reference to Exhibit 4.1 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed December 5, 2008
4.11	Form of Senior Registered Note, incorporated herein by reference to Exhibit 4.7 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.12	Form of Global Senior Medium-Term Note, Series L
4.13	Indenture dated as of January 1, 1995 (for subordinated debt securities) between NationsBank Corporation and The Bank of New York, as trustee, incorporated herein by reference to Exhibit 4.5 of the Corporation's Registration Statement on Form S-3 (Registration No. 33-57533)
4.14	First Supplemental Indenture dated as of August 28, 1998, among NationsBank Corporation, NationsBank(DE) Corporation and The Bank of New York, incorporated herein by reference to Exhibit 4.8 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed November 18, 1998

Exhibit No.	Description
4.15	Second Supplemental Indenture dated as of January 25, 2007, between Bank of America Corporation and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated herein by reference to Exhibit 4.3 of the Corporation's Registration Statement on Form S-4 (Registration Statement No. 333-141361)
4.16	Form of Subordinated Registered Note, incorporated herein by reference to Exhibit 4.10 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.17	Form of Global Subordinated Medium-Term Note, Series L
4.18	Form of Certificate for Preferred Stock, incorporated herein by reference to Exhibit 4.14 of the Corporation's Registration Statement on Form S-3 (Registration No. 333-112708)
4.19	Specimen Common Stock Certificate, incorporated herein by reference to Exhibit 4.15 of the Corporation's Registration Statement on Form S-3 (Registration No. 333-112708)
4.20	Form of Deposit Agreement
4.21	Form of Depositary Receipt (included in Exhibit 4.20)
4.22	Form of Warrant Agreement for Universal Warrant*
4.23	Form of Warrant Agreement for Warrants Sold Alone*
4.24	Form of Warrant Agreement for Warrants Sold Attached to Debt Securities*
4.25	Form of Prepaid Unit Agreement, including form of prepaid unit certificate*
4.26	Form of Non-Prepaid Unit Agreement*
4.27	Form of Put Warrant (included in Exhibit 4.23)
4.28	Form of Call Warrant (included in Exhibit 4.23)
4.29	Form of Prepaid Purchase Contract*
4.30	Form of Non-Prepaid Purchase Contract*
4.31	Certificate of Trust of BAC Capital Trust XVI, incorporated herein by reference to Exhibit 4.28 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.32	Certificate of Trust of BAC Capital Trust XVII, incorporated herein by reference to Exhibit 4.29 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.33	Certificate of Trust of BAC Capital Trust XVIII, incorporated herein by reference to Exhibit 4.30 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.34	Certificate of Trust of BAC Capital Trust XIX, incorporated herein by reference to Exhibit 4.31 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.35	Certificate of Trust of BAC Capital Trust XX, incorporated herein by reference to Exhibit 4.32 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.36	Declaration of Trust of BAC Capital Trust XVI, incorporated herein by reference to Exhibit 4.37 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.37	Declaration of Trust of BAC Capital Trust XVII, incorporated herein by reference to Exhibit 4.38 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.38	Declaration of Trust of BAC Capital Trust XVIII, incorporated herein by reference to Exhibit 4.39 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006

Exhibit No.	Description
4.39	Declaration of Trust of BAC Capital Trust XIX, incorporated herein by reference to Exhibit 4.40 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.40	Declaration of Trust of BAC Capital Trust XX, incorporated herein by reference to Exhibit 4.41 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.41	Form of Amended and Restated Declaration of Trust for each BAC Capital Trust
4.42	Restated Indenture dated as of November 1, 2001 (for junior subordinated debt securities) between Bank of America Corporation and The Bank of New York, as Trustee, incorporated herein by reference to Exhibit 4.10 of Amendment No. 1 to the Corporation's Registration Statement on Form S-3 (File No. 333-70984)
4.43	Form of Supplemental Indenture to be used in connection with the issuance of the Corporation's Junior Subordinated Notes, incorporated herein by reference to Exhibit 4.44 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.44	Form of Capital Security (included in 4.41 above)
4.45	Form of Junior Subordinated Note (included in 4.43 above)
4.46	Form of Guarantee with respect to Capital Securities issued by the respective BAC Capital Trusts, incorporated herein by reference to Exhibit 4.47 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
5.1	Opinion of McGuireWoods LLP, regarding legality of securities being registered
5.2	Opinion of Richards, Layton & Finger, P.A.
8.1	Opinion of Morrison & Foerster LLP
12.1	Calculation of Ratio of Earnings to Fixed Charges, and Ratio of Earnings to Fixed Charges and Preferred Dividends, incorporated herein by reference to Exhibit 12 of the Corporation's Annual Report on Form 10-K (File No. 1-6523) for the year ended December 31, 2008
23.1	Consent of McGuireWoods LLP (included in Exhibit 5.1)
23.2	Consent of Richards, Layton & Finger, P.A. (included in Exhibit 5.2)
23.3	Consent of Morrison & Foerster LLP (included in Exhibit 8.1)
23.4	Consent of PricewaterhouseCoopers LLP
23.5	Consent of Deloitte & Touche LLP
24.1	Power of Attorney
24.2	Certified Resolutions
25.1	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Senior Trustee, on Form T-1
25.2	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Subordinated Trustee, on Form T-1
25.3	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Indenture Trustee under the Restated Indenture (Junior Subordinated Notes), on Form T-1
25.4	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XVI, on Form T-1
25.5	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XVII, on Form T-1

Exhibit No.	Description
25.6	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XVIII, on Form T-1
25.7	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XIX, on Form T-1
25.8	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XX, on Form T-1
25.9	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XVI, on Form T-1
25.10	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XVII, on Form T-1
25.11	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XVIII, on Form T-1
25.12	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XIX, on Form T-1
25.13	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XX, on Form T-1

* To be filed as an exhibit to a Current Report on Form 8-K at the time of a particular offering and incorporated herein by reference.

Item 17. *Undertakings.*

The undersigned Registrants hereby undertake:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission (the "Commission") pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (i), (ii) and (iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by a Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Securities Exchange Act"), that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser:

(i) each prospectus filed by a Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of this registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of this registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of a Registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of an undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) any preliminary prospectus or prospectus of an undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) any free writing prospectus relating to the offering prepared by or on behalf of a Registrant or used or referred to by an undersigned Registrant;

(iii) the portion of any other free writing prospectus relating to the offering containing material information about an undersigned Registrant or its securities provided by or on behalf of an undersigned Registrant; and

(iv) any other communication that is an offer in the offering made by an undersigned Registrant to the purchaser.

The undersigned Registrants hereby undertake that, for purposes of determining any liability under the Securities Act, each filing of the Corporation's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

Each undersigned Registrant hereby undertakes (1) to use its best efforts to distribute prior to the opening of bids, to prospective bidders, underwriters, and dealers, a reasonable number of copies of a prospectus which at that time meets the requirements of section 10(a) of the Securities Act, and relating to the securities offered at competitive bidding, as contained in the registration statement, together with any supplements thereto, and (2) to file an amendment to the registration statement reflecting the results of bidding, the terms of the reoffering, and related matters to the extent required by the applicable form, not later than the first use, authorized by the Registrant after the opening of bids, of a prospectus relating to the securities offered at competitive bidding, unless no further public offering of such securities by the Registrant and no reoffering of such securities by the purchasers is proposed to be made.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of a Registrant pursuant to the foregoing provisions, or otherwise, the Registrants have been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by a Registrant for expenses the incurred or paid by a director, officer, or controlling person in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

Each undersigned Registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act") in accordance with the rules and regulations prescribed by the SEC under Section 305(b)(2) of the Trust Indenture Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Charlotte, North Carolina, on April 20, 2009.

BANK OF AMERICA CORPORATION

BY: _____
Kenneth D. Lewis
Chairman, President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
_____ * Kenneth D. Lewis	Chairman, Chief Executive Officer, President and Director (Principal Executive Officer)	April 20, 2009
_____ * Joe L. Price	Chief Financial Officer (Principal Financial Officer)	April 20, 2009
_____ * Craig R. Rosato	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	April 20, 2009
_____ * William Barnet, III	Director	April 20, 2009
_____ * Frank P. Bramble, Sr.	Director	April 20, 2009
_____ * Virgis W. Colbert	Director	April 20, 2009
_____ * John T. Collins	Director	April 20, 2009
_____ * Gary L. Countryman	Director	April 20, 2009
_____ * Tommy R. Franks	Director	April 20, 2009
_____ * Charles K. Gifford	Director	April 20, 2009

<u>Signature</u>	<u>Title</u>	<u>Date</u>
* _____ Monica C. Lozano	Director	April 20, 2009
* _____ Walter E. Massey	Director	April 20, 2009
* _____ Thomas J. May	Director	April 20, 2009
* _____ Patricia E. Mitchell	Director	April 20, 2009
* _____ Joseph W. Prueher	Director	April 20, 2009
* _____ Charles O. Rossotti	Director	April 20, 2009
* _____ Thomas M. Ryan	Director	April 20, 2009
* _____ O. Temple Sloan, Jr.	Director	April 20, 2009
* _____ Meredith R. Spangler	Director	April 20, 2009
* _____ Robert L. Tillman	Director	April 20, 2009
* _____ Jackie M. Ward	Director	April 20, 2009
*By: <i>/s/ Teresa M. Brenner</i> _____ Teresa M. Brenner <i>Attorney-in-Fact</i>		

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Charlotte, North Carolina, on April 20, 2009.

BAC CAPITAL TRUST XVI

By: /s/ B. Kenneth Burton, Jr. **B. Kenneth Burton, Jr.**
Regular Trustee

By: /s/ William D. Hobbs **William D. Hobbs**
Regular Trustee

By: /s/ Angela C. Jones **Angela C. Jones**
Regular Trustee

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Charlotte, North Carolina, on April 20, 2009.

BAC CAPITAL TRUST XVII

By: /s/ B. Kenneth Burton, Jr. **B. Kenneth Burton, Jr.**
Regular Trustee

By: /s/ William D. Hobbs **William D. Hobbs**
Regular Trustee

By: /s/ Angela C. Jones **Angela C. Jones**
Regular Trustee

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Charlotte, North Carolina, on April 20, 2009.

BAC CAPITAL TRUST XVIII

By: /s/ B. Kenneth Burton, Jr. _____
B. Kenneth Burton, Jr.
Regular Trustee

By: /s/ William D. Hobbs _____
William D. Hobbs
Regular Trustee

By: /s/ Angela C. Jones _____
Angela C. Jones
Regular Trustee

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Charlotte, North Carolina, on April 20, 2009.

BAC CAPITAL TRUST XIX

By: /s/ B. Kenneth Burton, Jr. _____
B. Kenneth Burton, Jr.
Regular Trustee

By: /s/ William D. Hobbs _____
William D. Hobbs
Regular Trustee

By: /s/ Angela C. Jones _____
Angela C. Jones
Regular Trustee

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Charlotte, North Carolina, on April 20, 2009.

BAC CAPITAL TRUST XX

By: /s/ B. Kenneth Burton, Jr.
B. Kenneth Burton, Jr.
Regular Trustee

By: /s/ William D. Hobbs
William D. Hobbs
Regular Trustee

By: /s/ Angela C. Jones
Angela C. Jones
Regular Trustee

EXHIBIT INDEX

Exhibit No.	Description
1.1	Form of Underwriting Agreement for Debt Securities, incorporated herein by reference to Exhibit 1.1 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.2	Form of Underwriting Agreement for Preferred Stock, incorporated herein by reference to Exhibit 1.2 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.3	Form of Underwriting Agreement for Common Stock, incorporated herein by reference to Exhibit 1.3 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.4	Form of Underwriting Agreement for Depositary Shares
1.5	Form of Underwriting Agreement for Warrants and Units, incorporated herein by reference to Exhibit 1.4 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.6	Form of Underwriting Agreement for Purchase Contracts*
1.7	Form of Underwriting Agreement for Trust Securities, incorporated herein by reference to Exhibit 1.6 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
1.8	Distribution Agreement dated as of April 10, 2008, between Bank of America Corporation, Banc of America Securities LLC, and Banc of America Investment Services, Inc., incorporated herein by reference to Exhibit 1.1 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed April 15, 2008
1.9	Letter agreement dated January 2, 2009, between Bank of America Corporation, Merrill Lynch, Pierce, Fenner & Smith Incorporated, and First Republic Securities Company, LLC
1.10	Form of Supplement to Series L Distribution Agreement, between Bank of America Corporation, Banc of America Securities LLC, Banc of America Investment Services, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and First Republic Securities Company, LLC
4.1	Amended and Restated Certificate of Incorporation of Bank of America Corporation, incorporated herein by reference to Exhibit 3(a) of the Corporation's Annual Report on Form 10-K (File No. 1-6523) for the year ended December 31, 2008
4.2	Amended and Restated Bylaws of Bank of America Corporation, incorporated herein by reference to Exhibit 3.2 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed December 15, 2008
4.3	Indenture dated as of January 1, 1995 (for senior debt securities) between NationsBank Corporation and BankAmerica National Trust Company, as trustee, incorporated herein by reference to Exhibit 4.1 of the Corporation's Registration Statement on Form S-3 (Registration No. 33-57533)
4.4	Successor Trustee Agreement effective December 15, 1995, between NationsBank Corporation and First Trust New York, National Association (now U.S. Bank Trust National Association), as successor trustee to BankAmerica National Trust Company, incorporated herein by reference to Exhibit 4.2 of the Corporation's Registration Statement on Form S-3 (Registration No. 333-07229)
4.5	First Supplemental Indenture dated as of September 18, 1998, among NationsBank Corporation, NationsBank(DE) Corporation and U.S. Bank Trust National Association, incorporated herein by reference to Exhibit 4.3 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed November 18, 1998

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Exhibit No.	Description
4.6	Second Supplemental Indenture dated as of May 7, 2001, among Bank of America Corporation, U.S. Bank Trust National Association, as Prior Trustee, and The Bank of New York, as Successor Trustee, incorporated herein by reference to Exhibit 4.4 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed June 14, 2001
4.7	Third Supplemental Indenture dated as of July 28, 2004, between Bank of America Corporation and The Bank of New York, incorporated herein by reference to Exhibit 4.2 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed August 27, 2004
4.8	Fourth Supplemental Indenture dated as of April 28, 2006, between Bank of America Corporation and The Bank of New York, incorporated herein by reference to Exhibit 4.6 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.9	Agreement of Appointment and Acceptance dated as of December 29, 2006, between Bank of America Corporation and The Bank of New York Trust Company, N.A. (successor trustee to The Bank of New York), incorporated herein by reference to Exhibit 4(aaa) of the Corporation's Annual Report on Form 10-K (File No. 1-6523) for the year ended December 31, 2006
4.10	Fifth Supplemental Indenture dated as of December 1, 2008, between Bank of America Corporation and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York), incorporated herein by reference to Exhibit 4.1 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed December 5, 2008
4.11	Form of Senior Registered Note, incorporated herein by reference to Exhibit 4.7 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.12	Form of Global Senior Medium-Term Note, Series L
4.13	Indenture dated as of January 1, 1995 (for subordinated debt securities) between NationsBank Corporation and The Bank of New York, as trustee, incorporated herein by reference to Exhibit 4.5 of the Corporation's Registration Statement on Form S-3 (Registration No. 33-57533)
4.14	First Supplemental Indenture dated as of August 28, 1998, among NationsBank Corporation, NationsBank(DE) Corporation and The Bank of New York, incorporated herein by reference to Exhibit 4.8 of the Corporation's Current Report on Form 8-K (File No. 1-6523) filed November 18, 1998
4.15	Second Supplemental Indenture dated as of January 25, 2007, between Bank of America Corporation and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated herein by reference to Exhibit 4.3 of the Corporation's Registration Statement on Form S-4 (Registration Statement No. 333-141361)
4.16	Form of Subordinated Registered Note, incorporated herein by reference to Exhibit 4.10 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.17	Form of Global Subordinated Medium-Term Note, Series L
4.18	Form of Certificate for Preferred Stock, incorporated herein by reference to Exhibit 4.14 of the Corporation's Registration Statement on Form S-3 (Registration No. 333-112708)
4.19	Specimen Common Stock Certificate, incorporated herein by reference to Exhibit 4.15 of the Corporation's Registration Statement on Form S-3 (Registration No. 333-112708)
4.20	Form of Deposit Agreement
4.21	Form of Depository Receipt (included in Exhibit 4.20)
4.22	Form of Warrant Agreement for Universal Warrant*
4.23	Form of Warrant Agreement for Warrants Sold Alone*

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Exhibit No.	Description
4.24	Form of Warrant Agreement for Warrants Sold Attached to Debt Securities*
4.25	Form of Prepaid Unit Agreement, including form of prepaid unit certificate*
4.26	Form of Non-Prepaid Unit Agreement*
4.27	Form of Put Warrant (included in Exhibit 4.23)
4.28	Form of Call Warrant (included in Exhibit 4.23)
4.29	Form of Prepaid Purchase Contract*
4.30	Form of Non-Prepaid Purchase Contract*
4.31	Certificate of Trust of BAC Capital Trust XVI, incorporated herein by reference to Exhibit 4.28 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.32	Certificate of Trust of BAC Capital Trust XVII, incorporated herein by reference to Exhibit 4.29 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.33	Certificate of Trust of BAC Capital Trust XVIII, incorporated herein by reference to Exhibit 4.30 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.34	Certificate of Trust of BAC Capital Trust XIX, incorporated herein by reference to Exhibit 4.31 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.35	Certificate of Trust of BAC Capital Trust XX, incorporated herein by reference to Exhibit 4.32 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.36	Declaration of Trust of BAC Capital Trust XVI, incorporated herein by reference to Exhibit 4.37 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.37	Declaration of Trust of BAC Capital Trust XVII, incorporated herein by reference to Exhibit 4.38 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.38	Declaration of Trust of BAC Capital Trust XVIII, incorporated herein by reference to Exhibit 4.39 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.39	Declaration of Trust of BAC Capital Trust XIX, incorporated herein by reference to Exhibit 4.40 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.40	Declaration of Trust of BAC Capital Trust XX, incorporated herein by reference to Exhibit 4.41 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.41	Form of Amended and Restated Declaration of Trust for each BAC Capital Trust
4.42	Restated Indenture dated as of November 1, 2001 (for junior subordinated debt securities) between Bank of America Corporation and The Bank of New York, as Trustee, incorporated herein by reference to Exhibit 4.10 of Amendment No. 1 to the Corporation's Registration Statement on Form S-3 (File No. 333-70984)
4.43	Form of Supplemental Indenture to be used in connection with the issuance of the Corporation's Junior Subordinated Notes, incorporated herein by reference to Exhibit 4.44 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006
4.44	Form of Capital Security (included in 4.41 above)
4.45	Form of Junior Subordinated Note (included in 4.43 above)
4.46	Form of Guarantee with respect to Capital Securities issued by the respective BAC Capital Trusts, incorporated herein by reference to Exhibit 4.47 of the Corporation's Registration Statement on Form S-3 (Registration Statement No. 333-133852), filed on May 5, 2006

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Exhibit No.	Description
5.1	Opinion of McGuireWoods LLP, regarding legality of securities being registered
5.2	Opinion of Richards, Layton & Finger, P.A.
8.1	Opinion of Morrison & Foerster LLP
12.1	Calculation of Ratio of Earnings to Fixed Charges, and Ratio of Earnings to Fixed Charges and Preferred Dividends, incorporated herein by reference to Exhibit 12 of the Corporation's Annual Report on Form 10-K (File No. 1-6523) for the year ended December 31, 2008
23.1	Consent of McGuireWoods LLP (included in Exhibit 5.1)
23.2	Consent of Richards, Layton & Finger, P.A. (included in Exhibit 5.2)
23.3	Consent of Morrison & Foerster LLP (included in Exhibit 8.1)
23.4	Consent of PricewaterhouseCoopers LLP
23.5	Consent of Deloitte & Touche LLP
24.1	Power of Attorney
24.2	Certified Resolutions
25.1	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Senior Trustee, on Form T-1
25.2	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Subordinated Trustee, on Form T-1
25.3	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Indenture Trustee under the Restated Indenture (Junior Subordinated Notes), on Form T-1
25.4	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XVI, on Form T-1
25.5	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XVII, on Form T-1
25.6	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XVIII, on Form T-1
25.7	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XIX, on Form T-1
25.8	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Property Trustee under the Amended and Restated Declaration of Trust of BAC Capital Trust XX, on Form T-1
25.9	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XVI, on Form T-1
25.10	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XVII, on Form T-1
25.11	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XVIII, on Form T-1

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Exhibit No.	Description
25.12	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XIX, on Form T-1
25.13	Statement of Eligibility of The Bank of New York Mellon Trust Company, N.A., as Guarantee Trustee under the Capital Securities Guarantee of Bank of America Corporation for the benefit of the holders of Capital Securities of BAC Capital Trust XX, on Form T-1

* To be filed as an exhibit to a Current Report on Form 8-K at the time of a particular offering and incorporated herein by reference.

BANK OF AMERICA CORPORATION

UNDERWRITING AGREEMENT

_____ Depository Shares, Each Representing a _____ Interest in a Share of
 _____ Preferred Stock, Series _____

New York, New York
 [Date]

To the Representative
 named in Schedule I
 hereto of the Underwriters
 named in Schedule II hereto

Dear Ladies and Gentlemen:

Bank of America Corporation, a Delaware corporation (the "Company"), proposes to issue and sell to the underwriters named in Schedule II hereto (the "Underwriters"), for whom you are acting as representative (the "Representative"), _____ depository shares (the "Initial Shares"), each representing a [specify fraction] interest in a share of the Company's [specify designation of preferred stock] (the "Preferred Stock"). The Preferred Stock, when issued, will be deposited against delivery of Depositary Receipts (the "Depositary Receipts"), which will evidence the depository shares, that are to be issued by _____, as depository (the "Depository") under the Deposit Agreement dated _____, 20__ by and among the Company and the Depository and the holders from time to time of the Depositary Receipts described therein (the "Deposit Agreement").

The Company also grants to the Underwriters, severally and not jointly, the option described in Section 2 to purchase up to _____ additional depository shares, each representing a [specify fraction] interest in a share of the Preferred Stock (the "Option Shares"), to cover over-allotments. The Initial Shares and the Option Shares also are referred to herein as the "Depositary Shares" and the "Shares" and, where appropriate herein, reference to the Shares includes the underlying shares of Preferred Stock. Such Depositary Shares are to be sold to each Underwriter, acting severally and not jointly, in such amounts as are listed in Schedule II opposite the name of each Underwriter. The Shares are described more fully in the Prospectus, referred to below. If the firm or firms listed in Schedule II hereto include only the firm or firms listed in Schedule I hereto, then the terms "Underwriters" and "Representative," as used herein, each shall be deemed to refer to such firm or firms.

1. Representations and Warranties.

(a) The Company represents and warrants to, and agrees with, each Underwriter that:

(i) The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-3 (File No. 333- ____), which contains a base prospectus (the "Base Prospectus"), to be used in connection

with the public offering and sale of the Shares. Such registration statement, as amended, including the financial statements, exhibits and schedules thereto, including any required information deemed to be a part thereof pursuant to Rule 430B under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “Securities Act”), and the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “Exchange Act”), at each time of effectiveness, is called the “Registration Statement.” Any preliminary prospectus supplement to the Base Prospectus that describes the Shares and the offering thereof and is used prior to filing of the Prospectus is called, together with the Base Prospectus, a “preliminary prospectus.” The term “Prospectus” shall mean the final prospectus supplement relating to the Shares, together with the Base Prospectus, that is first filed pursuant to Rule 424(b) after the date and time that this Agreement is executed and delivered by the parties hereto (the “Execution Time”). Any reference herein to the Registration Statement, any preliminary prospectus or the Prospectus, as the case may be, shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Securities Act; any reference to any amendment or supplement to any preliminary prospectus or the Prospectus, as the case may be, shall be deemed to refer to and include any documents filed after the date of such preliminary prospectus or Prospectus, as the case may be, under the Exchange Act, and incorporated by reference in such preliminary prospectus or Prospectus, as the case may be; and any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement. All references in this Agreement to the Registration Statement, a preliminary prospectus, the Prospectus, or any amendments or supplements to any of the foregoing shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System (“EDGAR”).

(ii) The term “Disclosure Package” shall mean (A) the [preliminary prospectus, as it may be amended or supplemented, (B) the] Base Prospectus, [(B)][(C)] the applicable issuer free writing prospectuses as defined in Rule 433 under the Securities Act (each, an “Issuer Free Writing Prospectus”), if any, identified in Schedule III hereto; and [(C)][(D)] any other free writing prospectus that the parties hereto shall hereafter expressly agree in writing to treat as part of the Disclosure Package. As of ___ p.m. (Eastern time) on the date of this Agreement (the “Initial Sale Time”), the Disclosure Package did not contain an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Company by or on behalf of any Underwriter specifically for use therein, it being understood and agreed that such information furnished by or on behalf of any Underwriter consists only of the information described as such in Section 8(b) hereof (the “Underwriter Information”).

(iii) As of the date hereof, when the Prospectus is first filed with the Commission pursuant to Rule 424(b) under the Securities Act, when any supplement or amendment to the Prospectus is filed with the Commission, at the Closing Date (as hereinafter defined) and, with respect to the Registration Statement in (A) and (B) below, as of the Initial Sale Time, (A) the Registration Statement is effective, the Registration Statement, as amended as of any such time, and the Prospectus, as amended or supplemented as of any such time complied, complies or will comply in all material respects with the applicable provisions under the

Securities Act and the Exchange Act, (B) the Registration Statement, as amended as of any such time, did not, does not and will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading, and (C) the Prospectus, as amended or supplemented as of any such time, did not, does not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representations or warranties as to the Underwriter Information. The documents which are incorporated by reference in the Registration Statement, the Disclosure Package[, the preliminary prospectus] or the Prospectus or from which information is so incorporated by reference, when they were filed with the Commission, complied in all material respects with the requirements under the Securities Act or the Exchange Act, as applicable, and did not, when such documents were so filed, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Commission has not issued any stop order suspending the effectiveness of the Registration Statement or any order preventing or suspending the use of [the preliminary prospectus or] the Prospectus, and the Company is without knowledge that any proceedings have been instituted for either purpose.

(iv) (A) At the earliest time after the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Securities Act) and (B) as of the date of the execution and delivery of this Agreement (with such date being used as a determination date for purposes of this clause (B)), the Company neither was nor is an Ineligible Issuer (as defined in Rule 405 under the Securities Act).

(v) No Issuer Free Writing Prospectus (including any Final Term Sheet (as defined herein)), as of its date and at all subsequent times through the completion of the offering contemplated hereby or until any earlier date that the Company notified or notifies the Representative as described in the next sentence, included, includes or will include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, including any document incorporated by reference therein[, the preliminary prospectus] or the Prospectus, that had not or has not been superseded or modified. If at any time following issuance of an Issuer Free Writing Prospectus and prior to the end of the Prospectus Delivery Period (as defined below), there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement[, the preliminary prospectus] or the Prospectus, the Company has promptly notified or will promptly notify the Representative and has promptly amended or supplemented or will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict. The foregoing two sentences do not apply to statements in or omissions from an Issuer Free Writing Prospectus based upon and in conformity with Underwriter Information.

(vi) The Company has not distributed and will not distribute, prior to the later of the Closing Date and the completion of the Underwriters' distribution of the Shares, any offering material in connection with the offering and sale of the Shares other than the Registration Statement, [the preliminary prospectus,] the Prospectus or any Issuer Free Writing Prospectus reviewed and consented to by the Underwriters and included in Schedule III hereto.

(vii) (A) At the time of filing the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) under the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Securities Act) made any offer relating to the Shares in reliance on the exemption of Rule 163 under the Securities Act, and (D) at the Execution Time (with such date being used as the determination date for purposes of this clause (D)), the Company was and is a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act. The Registration Statement is an “automatic shelf registration statement,” as defined in Rule 405 under the Securities Act, the Company has not received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to use of the automatic shelf registration statement form and the Company has not otherwise ceased to be eligible to use the automatic shelf registration statement form.

(viii) The Deposit Agreement has been duly authorized and, when validly executed and delivered by the Company, assuming due authorization, execution and delivery by the other parties thereto, will constitute a valid and binding agreement of the Company, enforceable in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies, and further subject to 12 U.S.C. §1818(b)(6)(D) (or any successor statute) and similar bank regulatory powers and to the application of principles of public policy; the Depository Shares are entitled to the benefits of the Deposit Agreement; and such Deposit Agreement will conform to the description thereof in the Disclosure Package and the Prospectus.

(ix) The Preferred Stock, including any shares of Preferred Stock subject to the over-allotment option described in Section 2 hereof, and the Depository Shares have been duly and validly authorized for issuance and sale, and, when the Initial Shares and any Option Shares are issued and delivered against payment therefor pursuant to this Agreement, the Preferred Stock and the Depository Shares will be duly and validly issued and fully paid and non-assessable; all corporate action required to be taken for the authorization, issue and sale of the Depository Shares has been validly and sufficiently taken and upon deposit of the Preferred Stock with the Depository pursuant to the Deposit Agreement and the due execution by the Depository of the Deposit Agreement and the Depository Receipts, in accordance with the Deposit Agreement, such Depository Shares will represent legal and valid interests in the Preferred Stock; and the Preferred Stock and the Depository Shares conform to the description thereof contained in the Registration Statement and Prospectus, as amended or supplemented.

(x) The issue and sale of the Preferred Stock and the Depository Shares and the compliance by the Company with all of the provisions thereof and of this Agreement and the Deposit Agreement, and the consummation of the transactions herein and therein contemplated, and the performance of its obligations hereunder and thereunder, will not contravene any provision of applicable law, the certificate of incorporation or bylaws of the Company or articles of association or bylaws of the Principal Subsidiary Bank (as defined below) or any agreement or other instrument binding upon the Company or the Principal Subsidiary Bank that is material to the Company and its subsidiaries, taken as a whole, or any judgment, order or decree of any governmental body, agency or court having jurisdiction over

the Company or any subsidiary; and no consent, approval, authorization or order of, or qualification with, any governmental or regulatory body is required for the performance by the Company of its obligations under this Agreement or the Deposit Agreement, except such as may be required by the securities or blue sky laws of the various states in connection with the offer and sale of the Shares.

(b) Each Underwriter, severally and not jointly, represents and agrees that:

(i) it has not and will not offer, sell or deliver any of the Depositary Shares, directly or indirectly, or distribute [the preliminary prospectus,] the Prospectus or any other offering materials (including any Issuer Free Writing Prospectus or other free writing prospectuses) relating to the Shares in any jurisdiction except under circumstances that will result in compliance with applicable laws and regulations and that will not impose any obligations on the Company except as set forth herein; and

(ii) it will comply in all material respects with the selling restrictions set forth in [the preliminary prospectus and]the Prospectus under the caption “Underwriting-Selling Restrictions.”

2. Purchase and Sale. Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Company agrees to sell to each Underwriter, and each Underwriter agrees, severally and not jointly, to purchase from the Company at the purchase price set forth in Schedule I hereto the respective number of Initial Shares set forth opposite such Underwriter’s name in Schedule II hereto.

In addition, on the basis of the representations and warranties contained herein, and subject to the terms and conditions set forth herein, the Company grants an option to the Underwriters, severally and not jointly, to purchase the Option Shares from the Company at the purchase price set forth in Schedule I hereto. The option hereby granted will expire 30 days after the date hereof, and may be exercised, in whole or in part (but not more than once), only for the purpose of covering over-allotments upon notice by the Representative to the Company setting forth the number of Option Shares as to which the several Underwriters are exercising the option, and the time and date of payment and delivery thereof. Such time and date of delivery (the “Date of Delivery”) shall be determined by the Representative but shall not be later than seven full business days after the exercise of such option and not in any event prior to the Closing Date (as defined below). If the option is exercised as to all or any portion of the Option Shares, the Option Shares as to which the option is exercised shall be purchased by the Underwriters severally and not jointly, in proportion to, as nearly as practicable, their respective Initial Shares underwriting obligations as set forth on Schedule II.

3. Delivery and Payment. Delivery of and payment for the Initial Shares shall be made on the date and at the time specified in Schedule I hereto, which date and time may be postponed by agreement between the Representative and the Company or as provided in Section 9 hereto (such date and time of delivery and payment for the Initial Shares being herein called the “Closing Date”). Delivery of the Initial Shares shall be made to the Representative for the respective accounts of the several Underwriters against payment by the several Underwriters through the Representative of the purchase price thereof in the amount and manner set forth in Schedule I hereto. Unless otherwise agreed, Depositary Receipts for the Initial Shares shall be in

book-entry form, and such Depositary Receipts may be deposited with The Depository Trust Company (“DTC”) or a custodian for DTC and registered in the name of Cede & Co., as nominee for DTC.

In addition, in the event that any or all of the Option Shares are purchased by the Underwriters, delivery and payment for the Option Shares shall be made at the office specified for delivery of the Initial Shares in Schedule I hereto, or at such other place as the Company and the Representative shall determine, on the Date of Delivery as specified in the notice from the Representative to the Company. Delivery of the Option Shares shall be made to the Representative against payment by the Underwriters through the Representative of the purchase price thereof to or upon the order of the Company in the amount and manner set forth in Schedule I hereto. Unless otherwise agreed, Depositary Receipts shall be registered in such names and in such denominations as the Representative may request not less than three full business days in advance of the Date of Delivery.

4. Agreements. The Company agrees with the several Underwriters that:

(a) During the period beginning at the Initial Sale Time and ending on the later of the Closing Date or such date, as in the opinion of counsel for the Underwriters, the Prospectus is no longer required by law to be delivered in connection with sales by an Underwriter or dealer (except for delivery requirements imposed because such Underwriter or dealer is an affiliate of the Company), including in circumstances where such requirement may be satisfied pursuant to Rule 172 (the “Prospectus Delivery Period”), the Company will not file any amendment to the Registration Statement or supplement to the Base Prospectus or the Disclosure Package (including the Prospectus) unless the Company has furnished you a copy for your review prior to filing and will not file any such proposed amendment or supplement to which you reasonably object. Subject to the foregoing sentence, the Company will cause the Prospectus to be filed with the Commission pursuant to Rule 424 via EDGAR. The Company will advise the Representative promptly (i) when [the preliminary prospectus and] the Prospectus shall have been filed with the Commission pursuant to Rule 424, (ii) when any amendment to the Registration Statement or the Disclosure Package relating to the Shares shall have become effective, (iii) of any request by the Commission for any amendment of the Registration Statement or amendment of or supplement to the Prospectus or the Disclosure Package or for any additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the institution or threatening of any proceeding for that purpose and (v) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose. The Company will use its best efforts to prevent the issuance of any such stop order and, if issued, to obtain as soon as possible the withdrawal thereof.

(b) If, at any time during the Prospectus Delivery Period, except with respect to any such delivery requirement imposed upon an affiliate of the Company in connection with any secondary market sales, any event occurs as a result of which the Disclosure Package or the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein in light of the circumstances under which they were made or then prevailing, as the case may be, not misleading, or if it shall be necessary to amend or supplement the Disclosure Package or the Prospectus to comply with the Securities Act or the Exchange Act, the Company promptly will

prepare and file with the Commission, subject to the first sentence of paragraph (a) of this Section 4, an amendment or supplement which will correct such statement or omission or an amendment or supplement which will effect such compliance (including, if consented to by the Underwriters, by means of an Issuer Free Writing Prospectus), and will give immediate notice, and confirm in writing, to the Underwriters to cease the solicitation of offers to purchase the Depositary Shares, and furnish to the Underwriters a reasonable number of copies of such amendment or supplement.

(c) The Company will make generally available to its security holders and to the Representative as soon as practicable, but not later than 60 days after the close of the period covered thereby, an earnings statement (in form complying with the provisions of Rule 158 under the Securities Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the "effective date" (as defined in said Rule 158) of the Registration Statement.

(d) The Company will furnish to the Representative and counsel for the Underwriters, without charge, copies of the Registration Statement (including exhibits thereto) and each amendment thereto which shall become effective on or prior to the Closing Date and, so long as delivery of a prospectus by an Underwriter or dealer may be required by the Securities Act, as many copies of [the preliminary prospectus or] the Prospectus and any amendments thereof and supplements thereto as the Representative may reasonably request. The Company will pay the expenses of printing all documents relating to the offering.

(e) The Company will arrange for the qualification of the Depositary Shares for sale under the laws of such jurisdictions as the Representative may reasonably designate, will maintain such qualifications in effect so long as required for the distribution of the Depositary Shares and will arrange for the determination of the legality of the Depositary Shares for purchase by investors; provided, however, that the Company shall not be required to qualify to do business in any jurisdiction where it is not now so qualified or to take any action which would subject it to general or unlimited service of process in any jurisdiction where it is not now so subject.

(f) Until the business day following the Closing Date, the Company will not, without the consent of the Representative, offer or sell, or announce the offering of, any securities covered by the Registration Statement or by any other registration statement filed under the Securities Act; provided, however, the Company may, at any time, offer or sell or announce the offering of securities (i) covered by a registration statement on Form S-8 or (ii) covered by a registration statement on Form S-3 and (A) pursuant to which the Company issues securities under one of the Company's medium-term note programs (including, without limitation, the Company's Series L Medium-Term Note Program and the Company's InterNotes Program), (B) pursuant to which the Company issues securities for its dividend reinvestment plan, (C) pursuant to which the Company issues notes in an underwritten offering in which the lead manager is Banc of America Securities LLC (under the Registration Statement No. 333-____) or (D) pursuant to which affiliates of the Company offer securities of the Company in secondary market transactions.

(g) The Company will prepare a final term sheet containing only a description of the Shares, in a form approved by the Representative and contained in Schedule IV of this Agreement, and will file the such term sheet pursuant to Rule 433(d) under the Securities Act as

promptly as possible, but in any case not later than the time required by such rule (such term sheet, the “Final Term Sheet”).

(h) The Company represents that it has not made and agrees that, unless it obtains the prior written consent of the Representative, it will not make any offer relating to the Shares that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a “free writing prospectus” (as defined in Rule 405 under the Securities Act) required to be filed by the Company with the Commission or retained by the Company under Rule 433 under the Securities Act; provided that the prior written consent of the Representative shall be deemed to have been given in respect of the Issuer Free Writing Prospectuses included in Schedule III hereto. Any such free writing prospectus consented to by the Representative is hereinafter referred to as a “Permitted Free Writing Prospectus.” The Company agrees that (i) it has treated and will treat as the case may be, each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, and (ii) it has complied and will comply, as the case may be, with the requirements of Rules 164 and 433 under the Securities Act applicable to any Permitted Free Writing Prospectus, including in respect of timely filing with the Commission, legending and record keeping. The Company consents to the use by any Underwriter of a free writing prospectus that (a) is not an “issuer free writing prospectus” as defined in Rule 433, and (b) contains only (i) information describing the preliminary terms of the Shares or their offering, (ii) information permitted by Rule 134 under the Securities Act or (iii) information that describes the final terms of the Shares or their offering and that is included in the Final Term Sheet of the Company contemplated in paragraph (g) above.

(i) If immediately prior to the third anniversary (the “Renewal Deadline”) of the initial effective date of the Registration Statement, any of the Shares remain unsold by the Underwriters, the Company will file prior to the Renewal Deadline, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Shares, in a form satisfactory to the Representative. If the Company is no longer eligible to file an automatic shelf registration statement, the Company will file prior to the Renewal Deadline, if it has not already done so, a new shelf registration statement relating to the Shares, in a form satisfactory to the Representative, and will use its reasonable efforts to cause such registration statement to be declared effective within 60 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Shares to continue as contemplated in the expired registration statement relating to the Shares. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be.

(j) If at any time when Shares remain unsold by the Underwriters the Company receives from the Commission a notice pursuant to Rule 401(g)(2) or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Company will (i) promptly notify the Representative, (ii) promptly file a new registration statement or post-effective amendment on the proper form relating to the Shares, in a form satisfactory to the Representative, (iii) use its best efforts to cause such registration statement or post-effective amendment to be declared effective and (iv) promptly notify the Representative of such effectiveness. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Shares to continue as contemplated in the registration statement that was the subject of the Rule 401(g)(2) notice or for which the Company has otherwise become ineligible. References herein to the Registration Statement shall include such new registration statement or post-effective amendment, as the case may be.

(k) The Company agrees to pay the required Commission filing fees relating to the Shares within the time required by Rule 456(b)(1) under the Securities Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Securities Act.

5. Conditions to the Obligations of the Underwriters. The obligations of the Underwriters to purchase the Shares shall be subject to the accuracy of the representations and warranties on the part of the Company contained herein as of the date hereof, as of the date of the effectiveness of any amendment to the Registration Statement filed prior to the Closing Date (including the filing of any document incorporated by reference therein) and as of the Closing Date, to the accuracy of the statements of the Company made in any certificates furnished pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder and to the following additional conditions:

(a) For the period from and after effectiveness of this Agreement and prior to the Closing Date:

(i) no stop order suspending the effectiveness of the Registration Statement, or any post-effective amendment to the Registration Statement, shall be in effect and no proceedings for such purpose shall have been instituted or threatened by the Commission, and the Company shall not have received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to use of the automatic shelf registration statement form (unless the Shares are duly registered in the manner contemplated by Rule 401(g)(2) to the satisfaction of the Representative prior to the Closing Date);

(ii) the Company shall have filed [the preliminary prospectus and] the Prospectus with the Commission (including the information required by Rule 430B under the Securities Act) in the manner and within the time period required by Rule 424(b) under the Securities Act; or the Company shall have filed a post-effective amendment to the Registration Statement containing the information required by such Rule 430B, and such post-effective amendment shall have become effective (if not automatically effective under the rules of the Commission);

(iii) the Final Term Sheet, and any other material required to be filed by the Company pursuant to Rule 433(d) under the Securities Act, shall have been filed with the Commission within the applicable time periods prescribed for such filings under such Rule or, to the extent applicable, under Rule 164(b); and

(iv) the Financial Industry Regulatory Authority, Inc. ("FINRA") shall have raised no objection to the fairness and reasonableness of the underwriting terms and arrangements.

(b) The Company shall have furnished to the Representative the opinion of McGuireWoods LLP, counsel for the Company, dated the Closing Date, to the effect of paragraphs (i) and (v) through (xiv) below, and the opinion of the General Counsel of the Company (or such other attorney, reasonably acceptable to counsel to the Underwriters, who exercises general supervision or review in connection with a particular securities law matter for the Company), dated the Closing Date, to the effect of paragraphs (ii) through (iv) below:

(i) the Company is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, has the corporate power and authority to own its properties and conduct its business as described in the Disclosure Package and the Prospectus, and is duly registered as a bank holding company under the Bank Holding Company Act of 1956, as amended; Bank of America, N.A. (the “Principal Subsidiary Bank”) is a national banking association formed under the laws of the United States and authorized thereunder to transact business;

(ii) each of the Company and the Principal Subsidiary Bank is qualified or licensed to do business as a foreign corporation in any jurisdiction in which such counsel has knowledge that the Company or the Principal Subsidiary Bank, as the case may be, is required to be so qualified or licensed;

(iii) all the outstanding shares of capital stock of the Principal Subsidiary Bank have been duly and validly authorized and issued and are fully paid and (except as provided in 12 U.S.C. § 55, as amended) nonassessable, and, except as otherwise set forth in the Disclosure Package and the Prospectus, all outstanding shares of capital stock of the Principal Subsidiary Bank (except directors’ qualifying shares) are owned, directly or indirectly, by the Company free and clear of any perfected security interest and such counsel is without knowledge of any other security interests, claims, liens or encumbrances;

(iv) such counsel is without knowledge that there is (1) any pending or threatened action, suit or proceeding before or by any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries, of a character required to be disclosed in the Registration Statement, the Disclosure Package or the Prospectus which is omitted or not adequately disclosed therein, or (2) any franchise, contract or other document of a character required to be described in the Registration Statement, the Disclosure Package or the Prospectus, or to be filed as an exhibit to the Registration Statement, is not so described or filed as required;

(v) the Deposit Agreement, the Depositary Shares and the Preferred Stock conform in all material respects to the descriptions thereof contained in the Disclosure Package and the Prospectus;

(vi) if the Depositary Shares are to be listed on [insert applicable securities exchange], the Company has filed a preliminary listing application and all required supporting documents with respect to the Depositary Shares with [insert applicable securities exchange], and such counsel has received no information stating that the Depositary Shares will not be authorized for listing, subject to official notice of issuance and evidence of satisfactory distribution;

(vii) the Registration Statement became effective under the Securities Act automatically upon its filing; no stop order suspending the effectiveness of the Registration Statement, or any post-effective amendment to the Registration Statement, has been issued, and such counsel is without knowledge that any proceeding for that purpose has been instituted or threatened, or that the Company has received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to the use of the automatic shelf registration statement form; and the Registration Statement, the Disclosure Package and the Prospectus and each amendment thereof or supplement thereto (other than the financial statements and other

financial and statistical information contained therein or incorporated by reference therein, as to which such counsel need express no opinion) comply as to form in all material respects with the applicable requirements under the Securities Act and the Exchange Act;

(viii) this Agreement has been duly authorized, executed and delivered by the Company and, assuming due authorization, execution and delivery by you, constitutes a legal, valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies, and except insofar as the enforceability of the indemnity and contribution provisions contained in this Agreement may be limited by federal and state securities laws, and further subject to 12 U.S.C. §1818(b)(6)(D) (or any successor statute) and similar bank regulatory powers and to the application of principles of public policy;

(ix) no consent, approval, authorization or order of any court or governmental agency or body in the United States is necessary or required on behalf of the Company for the consummation of the transactions contemplated herein, except such as have been obtained under the Securities Act and such as may be required under the blue sky, state securities or insurance or similar laws of the United States in connection with the purchase and distribution of the Depositary Shares by the Underwriters and such other approvals (specified in such opinion) as have been obtained;

(x) the shares of Preferred Stock, and any shares of Preferred Stock as to which the over-allotment option granted in Section 2 of this Agreement has been exercised, have been duly authorized and, when paid for as contemplated herein, will be duly issued, fully paid and nonassessable;

(xi) the Depositary Shares, including any Depositary Shares subject to the over-allotment option granted in Section 2 of this Agreement, have been duly and validly authorized for issuance and sale, and, when the Initial Shares and any Option Shares are issued and delivered against payment therefor pursuant to this Agreement, the Depositary Shares will be duly and validly issued and fully paid and non-assessable; and all corporate action required to be taken for the authorization, issue and sale of the Depositary Shares has been validly and sufficiently taken and the Depositary Shares represent legal and valid interests in the Preferred Stock;

(xii) neither the issuance and sale of the Preferred Stock or the Depositary Shares, nor the consummation of any other of the transactions herein contemplated or contemplated by the Deposit Agreement nor the fulfillment of the terms hereof or thereof will conflict with, result in a breach of, or constitute a default under (1) the certificate of incorporation or by-laws of the Company, each as amended to date, (2) the terms of any indenture or other material agreement or instrument known to such counsel and to which the Company or the Principal Subsidiary Bank is a party or bound, or (3) any order, law or regulation known to such counsel to be applicable to the Company or the Principal Subsidiary Bank of any court, regulatory body, administrative agency, governmental body or arbitrator having jurisdiction over the Company or the Principal Subsidiary Bank;

(xiii) the Deposit Agreement has been duly authorized, executed and delivered by the Company and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding agreement of the Company, enforceable in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies, and further subject to 12 U.S.C. §1818(b)(6)(D) (or any successor statute) and similar bank regulatory powers and to the application of principles of public policy; and

(xiv) such counsel is without knowledge of any rights to the registration of securities of the Company under the Registration Statement which have not been waived by the holders of such rights or which have not expired by reason of lapse of time following notification of the Company's intention to file the Registration Statement.

In rendering such opinion, but without opining in connection therewith, such counsel also shall state that, although it expresses no view as to portions of the Registration Statement, the Disclosure Package, or the Prospectus consisting of financial statements and other financial, accounting and statistical information and it has not independently verified, is not passing upon and assumes no responsibility for, the accuracy, completeness or fairness of the statements contained in the Registration Statement, the Disclosure Package, or the Prospectus or any amendment or supplement thereto (other than as stated in (v) above), it has no reason to believe that such remaining portions of the Registration Statement or any amendment thereto as of the time it became effective, as of the Initial Sale Time or as of the date of such opinion, contained an untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading or that, subject to the foregoing with respect to financial statements and other financial, accounting and statistical information, the Disclosure Package, taken as a whole, as of the Initial Sale Time, contained an untrue statement of a material fact or omitted to state a material fact necessary to make the statement therein, in light of the circumstances under which they were made, not misleading, or that the Prospectus, as amended or supplemented, as of its date or as of the date of such opinion contained or contains an untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Such counsel also need not pass upon nor assume any responsibility for ascertaining whether or when any of the information contained in each Disclosure Package was conveyed to any purchaser of the Depositary Shares.

In rendering such opinion, such counsel may rely (A) as to matters involving the application of laws of any jurisdiction other than the State of North Carolina, the United States, or the General Corporation Law of the State of Delaware to the extent deemed proper and specified in such opinion, upon the opinion of counsel to the Underwriters, or upon the opinion of other counsel of good standing believed to be reliable and who are satisfactory to counsel for the Underwriters; and (B) as to matters of fact, to the extent deemed proper, on certificates of responsible officers of the Company and its subsidiaries and public officials.

(c) The Representative shall have received from Morrison & Foerster LLP, counsel for the Underwriters, such opinion or opinions, dated the Closing Date, with respect to the issuance and sale of the Initial Shares, the Registration Statement, the Disclosure Package and the Prospectus and any other related matters as the Representative may reasonably require,

and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(d) The Company shall have furnished to the Representative a certificate of the Company, signed by any Senior Vice President or Treasurer or any other authorized officer of the Company, dated the Closing Date, to the effect that the signers of such certificate have carefully examined the Registration Statement, the Disclosure Package and the Prospectus and this Agreement and they are without knowledge that:

(i) the representations and warranties of the Company in this Agreement are not true and correct with the same force and effect as though expressly made at and as of the Closing Date and the Company has not performed or complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date;

(ii) any stop order suspending the effectiveness of the Registration Statement has been issued or any proceedings for that purpose have been instituted or threatened by the Commission; and

(iii) since the date of the most recent financial statements included in the Disclosure Package and the Prospectus, there has been any material adverse change or any development involving a prospective material adverse change in the condition (financial or other), earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Prospectus.

(e) At the time this Agreement is executed, PricewaterhouseCoopers LLP shall have furnished to the Representative a letter or letters (which may refer to letters previously delivered to one or more of the Representative), dated as of the date of this Agreement, in form and substance satisfactory to the Representative, confirming that the response, if any, to Item 10 of the Registration Statement is correct insofar as it relates to them and stating in effect that:

(i) They are an independent registered public accounting firm with respect to the Company within the meaning under the Securities Act and the applicable rules and regulations thereunder adopted by the Commission and the Public Company Accounting Oversight Board (United States).

(ii) In their opinion, the consolidated financial statements of the Company and its subsidiaries audited by them and included or incorporated by reference in the Registration Statement[, the preliminary prospectus] and the Prospectus comply as to form in all material respects with the applicable accounting requirements under the Securities Act and the Exchange Act and the related rules and regulations adopted by the Commission.

(iii) On the basis of procedures (but not an audit in accordance with generally accepted auditing standards) consisting of:

(a) Reading the minutes of the meetings of the stockholders, the board of directors, executive committee and audit committee of the Company and the boards of directors of the Principal Subsidiary Bank as set forth in the minute books

through a specified date not more than five business days prior to the date of delivery of such letter;

(b) Performing the procedures specified by the American Institute of Certified Public Accountants for a review of interim financial information as described in Statement of Accounting Standards No. 100, Interim Financial Information, on the unaudited condensed consolidated interim financial statements of the Company and its consolidated subsidiaries included or incorporated by reference in the Registration Statement[, the preliminary prospectus] and the Prospectus and reading the unaudited interim financial data, if any, for the period from the date of the latest balance sheet included or incorporated by reference in the Registration Statement, the preliminary prospectus and the Prospectus to the date of the latest available interim financial data; and

(c) Making inquiries of certain officials of the Company who have responsibility for financial and accounting matters regarding the specific items for which representations are requested below;

nothing has come to their attention as a result of the foregoing procedures that caused them to believe that:

(1) the unaudited condensed consolidated interim financial statements, included or incorporated by reference in the Registration Statement[, the preliminary prospectus] and the Prospectus, do not comply as to form in all material respects with the applicable accounting requirements of the Exchange Act and the published rules and regulations thereunder;

(2) any material modifications should be made to the unaudited condensed consolidated interim financial statements, included or incorporated by reference in the Registration Statement[, the preliminary prospectus,] and the Prospectus, for them to be in conformity with generally accepted accounting principles;

(3) [(i) at the date of the latest available interim financial data and at the specified date not more than five business days prior to the date of the delivery of such letter, there was any change in the common stock and additional paid-in capital or the consolidated long-term debt (other than scheduled repayments of such debt) of the Company and the subsidiaries on a consolidated basis as compared with the amounts shown in the latest balance sheet included or incorporated by reference in the Registration Statement[, the preliminary prospectus] and the Prospectus or (ii) for the period from the date of the latest available financial data to a specified date not more than five business days prior to the delivery of such letter, there was any change in the common stock and additional paid-in capital or the consolidated long-term debt (other than scheduled repayments of such debt) of the Company and the subsidiaries on a consolidated basis, except in all instances for changes or decreases which the Registration Statement[, the preliminary prospectus,] and the Prospectus discloses have occurred or may occur, or PricewaterhouseCoopers LLP shall state any specific changes or decreases.]

(iv) The letter shall also state that PricewaterhouseCoopers LLP has carried out certain other specified procedures, not constituting an audit, with respect to certain amounts, percentages and financial information which are included or incorporated by reference in the Registration Statement[, the preliminary prospectus] and the Prospectus and which are specified by the Representative and agreed to by PricewaterhouseCoopers LLP, and has found such amounts, percentages and financial information to be in agreement with the relevant accounting, financial and other records of the Company and its subsidiaries identified in such letter.

In addition, on the Closing Date, PricewaterhouseCoopers LLP shall have furnished to the Representative a letter or letters, dated the Closing Date, in form and substance satisfactory to the Representative, to the effect set forth in this paragraph (e).

(f) Subsequent to the respective dates as of which information is given in the Registration Statement, the Disclosure Package and the Prospectus, there shall not have been (i) any change or decrease specified in the letter or letters referred to in paragraph (e) of this Section 5 or (ii) any change, or any development involving a prospective change, in or affecting the condition (financial or other), earnings, business or properties of the Company and its subsidiaries the effect of which, in any case referred to in clause (i) or (ii) above, is, in the judgment of the Representative, so material and adverse as to make it impractical or inadvisable to proceed with the offering or the delivery of the Shares as contemplated by the Registration Statement, the Disclosure Package and the Prospectus.

(g) Prior to the Closing Date, the Company shall have furnished to the Representative such further information, certificates and documents as the Representative may reasonably request.

(h) On or after the date hereof and prior to the Closing Date, (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by any "nationally recognized statistical rating organization," as that term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities.

(i) The Representative shall have received on the Closing Date a certificate of the Depository.

(j) The Deposit Agreement shall have been duly authorized, executed and delivered, in a form reasonably satisfactory to the Representative.

(k) If the Depositary Shares are to be listed on [insert applicable securities exchange], the Depositary Shares to be sold by the Company at such time of delivery shall have been authorized for listing, subject to notice of issuance, on [insert applicable securities exchange].

(l) There shall not have come to the Representative's attention any facts that would cause the Representative to believe that the Disclosure Package, as of the Initial Sale Time, or the Prospectus, at the time it was required to be delivered to a purchaser of the Depositary Shares, included an untrue statement of a material fact or omitted to state a material

fact necessary in order to make the statements therein, in light of the circumstances existing at the time of such delivery, not misleading.

If any of the conditions specified in this Section 5 shall not have been fulfilled in all material respects when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be in all material respects reasonably satisfactory in form and substance to the Representative and their counsel, this Agreement and all obligations of the Underwriters hereunder may be canceled at, or at any time prior to, the Closing Date by the Representative. Notice of such cancellation shall be given to the Company in writing or by telephone or facsimile confirmed in writing.

6. Payment of Expenses. The Company will pay all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing, delivery to the Underwriters and filing of the Registration Statement, any Issuer Free Writing Prospectus, [the preliminary prospectus] and the Prospectus as originally filed and of each amendment or supplement thereto, (ii) the copying of this Agreement, (iii) the preparation, issuance and delivery of the certificates for the Depositary Shares to the Underwriters, including capital duties, stamp duties and transfer taxes, if any, payable upon issuance of any of the Shares, the sale of the Depositary Shares to the Underwriters and the fees and expenses of any transfer agent or trustee for the Shares, (iv) the fees and expenses of counsel to any such transfer agent or trustee, (v) the fees and disbursements of the Company's counsel and accountants, (vi) the qualification of the Shares under state securities laws in accordance with the provisions of Section 4(e), including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of any Blue Sky Survey, (vii) the printing and delivery to the Underwriters of copies of any Blue Sky Survey, and (viii) the fees of FINRA, (ix) any fees charged by rating agencies for the rating of the Depositary Shares and (x) the fees and expenses of any depository and any nominee thereof in connection with the Depositary Shares.

If the sale of the Depositary Shares provided for herein is not consummated because any condition to the obligations of the Underwriters set forth in Section 5 hereof is not satisfied or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Underwriters, the Company will reimburse the Underwriters severally upon demand for all out-of-pocket expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the proposed purchase and sale of the Depositary Shares.

7. Conditions to Purchase of Option Shares. In the event the Underwriters exercise the over-allotment option granted in Section 2 hereof to purchase all or any portion of the Option Shares and the Date of Delivery determined by the Representative pursuant to Section 2 is later than the Closing Date, the obligations of the several Underwriters to purchase and pay for the Option Shares that they shall have respectively agreed to purchase hereunder are subject to the accuracy of the representations and warranties of the Company contained herein, to the performance by the Company of its obligations hereunder and to the following additional conditions:

(a) (i) No stop order suspending the effectiveness of the Registration Statement, or any post-effective amendment to the Registration Statement, shall be in effect and no proceedings for such purpose shall have been instituted or threatened by the Commission, and

the Company has not received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to use of the automatic shelf registration statement form (unless the Shares are duly registered in the manner contemplated by Rule 401(g)(2) to the satisfaction of the Representative prior to the Closing Date); and

(ii) FINRA shall have raised no objection to the fairness and reasonableness of the underwriting terms and arrangements.

(b) At the Date of Delivery, the Representative shall have received, each dated the Date of Delivery and relating to the Option Shares:

(i) the favorable opinion of McGuireWoods LLP, counsel for the Company, in form and substance satisfactory to counsel for the Underwriters, to the same effect as the opinion required by Section 5(b);

(ii) the favorable opinion of the General Counsel of the Company (or such other attorney, reasonably acceptable to counsel to the underwriters, who exercises general supervision or review in connection with a particular securities law matter for the Company), in form and substance satisfactory to counsel for the Underwriters, to the same effect as the opinion required by Section 5(b);

(iii) the favorable opinion of Morrison & Foerster LLP, counsel for the Underwriters, to the same effect as the opinion required by Section 5(c);

(iv) a certificate of any Senior Vice President or Treasurer or any other authorized officer of the Company with respect to the matters set forth in Section 5(d);

(v) a letter from PricewaterhouseCoopers LLP, in form and substance satisfactory to the Underwriters, substantially the same in scope and substance as the letter furnished to the Underwriters pursuant to Section 5(e) except that the "specified date" in the letter furnished pursuant to this Section 7(b)(v) shall be a date not more than five days prior to the Date of Delivery;

(vi) a certificate of the Depository pursuant to Section 5(i); and

(vii) such further information, certificates and documents as the Representative may reasonably request.

(c) Subsequent to the respective dates as of which information is given in the Registration Statement, the Disclosure Package and the Prospectus, there shall not have been (i) any change or decrease specified in the letter or letters referred to in paragraph (b)(v) of this Section 7 or (ii) any change, or any development involving a prospective change, in or affecting the earnings, business or properties of the Company and its subsidiaries the effect of which, in any case referred to in clause (i) or (ii) above, is, in the judgment of the Representative, so material and adverse as to make it impractical or inadvisable to proceed with the offering or the delivery of the Shares as contemplated by the Registration Statement, the Disclosure Package and the Prospectus.

(d) On or after the date of the exercise of the over-allotment option and prior to the Closing Date for the Option Shares, (i) no downgrading shall have occurred in the rating

accorded the Company's debt securities by any "nationally recognized statistical rating organization," as that term is defined by the Commission for purposes of Rule 436(g) (2) under the Securities Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities.

(e) There shall not have come to the Representative's attention any facts that would cause the Representative to believe that the Disclosure Package, as of the Initial Sale Time, or the Prospectus, at the time it was required to be delivered to a purchaser of the Shares, included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at the time of such delivery, not misleading.

If any of the conditions specified in this Section 7 shall not have been fulfilled in all material respects when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be in all material respects reasonably satisfactory in form and substance to the Representative and their counsel, this Agreement and all obligations of the Underwriters hereunder with respect to the Option Shares may be canceled at, or at any time prior to, the Date of Delivery of the Option Shares by the Representative. Notice of such cancellation shall be given to the Company in writing or by telephone or facsimile confirmed in writing.

8. Indemnification and Contribution.

(a) The Company agrees to indemnify and hold harmless each Underwriter and each person, if any, who controls any Underwriter within the meaning under the Securities Act and the Exchange Act against any loss, claim, damage, liability or expense, as incurred, to which such Underwriter or such controlling person may become subject, insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, including any information deemed to be a part thereof pursuant to Rule 430B under the Securities Act, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading; or (ii) an untrue statement or alleged untrue statement of a material fact contained in the Disclosure Package or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, and to reimburse each Underwriter and each such controlling person for any and all expenses (including the fees and disbursements of counsel chosen by Banc of America Securities LLC) as such expenses are reasonably incurred by such Underwriter or such controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action; provided, however, that the foregoing indemnity agreement shall not apply to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with the Underwriter Information. The indemnity agreement set forth in this Section 8(a) shall be in addition to any liabilities that the Company may otherwise have.

(b) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors, each of its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning under the Securities Act or the Exchange Act, against any loss, claim, damage, liability or expense, as incurred, to which the Company, or any such director, officer or controlling person may become subject, insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading; or (ii) an untrue statement or alleged untrue statement of a material fact contained in the Base Prospectus[, the preliminary prospectus,] or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, and only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Base Prospectus[, the preliminary prospectus] or the Prospectus (or any amendment or supplement thereto), in reliance upon and in conformity with the Underwriter Information; and to reimburse the Company, or any such director, officer or controlling person for any legal and other expense reasonably incurred by the Company, or any such director, officer or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action. The Company hereby acknowledges that the only information that the Underwriters have furnished to the Company expressly for use in the Registration Statement, the Disclosure Package or the Prospectus (or any amendment or supplement thereto) are the names of the Underwriters, the sentences relating to concessions and reallowances and the statements set forth in the [_____] and [_____] paragraphs, all under the caption "Underwriting" in [the preliminary prospectus and] the Prospectus. The indemnity agreement set forth in this Section 8(b) shall be in addition to any liabilities that each Underwriter may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure to so notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any liability other than the indemnification obligation provided in paragraph (a) or (b) above. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel satisfactory to such indemnified party; provided, however, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified

party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party's election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 8 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (other than local counsel approved by the Representative)), representing the indemnified parties who are parties to such action) or (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party.

(d) The indemnifying party under this Section 8 shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent (i) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(e) If the indemnification provided for in Sections 8(a) through (d) is for any reason unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any losses, claims, damages, liabilities or expenses referred to therein (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and the Underwriters, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Shares pursuant to this Agreement (before deducting expenses) received by the Company, and the total underwriting discount received by the Underwriters, in each case as set forth on the front cover page of the Prospectus, bear to the aggregate initial public offering price of the Shares as set forth on such cover. The relative fault of the Company, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or

alleged omission to state a material fact or any such inaccurate or alleged inaccurate representation or warranty relates to information supplied by the Company, on the one hand, or the Underwriters, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 8(c), any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim. The provisions set forth in Section 8(c) with respect to notice of commencement of any action shall apply if a claim for contribution is to be made under this Section 8; provided, however, that no additional notice shall be required with respect to any action for which notice has been given in accordance with Section 8(c) for purposes of indemnification. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 8(e) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 8(e).

Notwithstanding the provisions of this Section 8(e), no Underwriter shall be required to contribute any amount in excess of the underwriting discounts received by such Underwriter in connection with the Shares underwritten by it. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) under the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 8(e) are several, and not joint, in proportion to their respective underwriting commitments as set forth opposite their names in Schedule II. For purposes of this Section 8(e), each person, if any, who controls an Underwriter within the meaning under the Securities Act and the Exchange Act shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement and each person, if any, who controls the Company within the meaning under the Securities Act and the Exchange Act shall have the same rights to contribution as the Company. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this paragraph (e), notify such party or parties from whom contribution may be sought, as contemplated by the preceding paragraph. However, the omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have hereunder or otherwise than under this paragraph (e).

9. Default by an Underwriter. If any one or more Underwriters shall fail to purchase and pay for any of the Shares agreed to be purchased by such Underwriter or Underwriters hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Underwriters shall be obligated severally to take up and pay for (in the respective proportions which the amount of Shares set forth opposite their names in Schedule II hereto bear to the aggregate amount of Shares set forth opposite the names of all the remaining Underwriters) the Shares which the defaulting Underwriter or Underwriters agreed but failed to purchase; provided, however, that in the event that the aggregate amount of Shares which the defaulting Underwriter or Underwriters agreed but failed to purchase shall exceed 10% of the aggregate amount of Shares set forth in Schedule II hereto, the remaining Underwriters shall have the right to purchase all, but shall not be under any

obligation to purchase any, of the Shares, and if such non-defaulting Underwriters do not purchase all the Shares, this Agreement will terminate without liability to any non-defaulting Underwriter or the Company. In the event of a default by any Underwriter as set forth in this Section 9, the Closing Date shall be postponed for such period, not exceeding seven days, as the Representative shall determine in order that the required changes in the Registration Statement, the Disclosure Package, [the preliminary prospectus] and the Prospectus or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Underwriter of its liability, if any, to the Company and any non-defaulting Underwriter for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representative, by notice given to the Company prior to delivery of and payment for the Shares, if prior to such time (i) trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such exchange, or (ii) a banking moratorium shall have been declared by Federal or New York State authorities or a material disruption in the commercial banking or securities settlement or clearance services in the United States shall have occurred, or (iii) there shall have occurred any outbreak or material escalation of hostilities or other calamity or crisis (in the United States or elsewhere) the effect of which on the financial markets of the United States is such as to make it, in the judgment of the Representative, impracticable to market the Shares.

11. Representations and Indemnities to Survive. The respective agreements, representations, warranties, indemnities and other statements of the Company or its officers and of the Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or the Company or any of the officers, directors or controlling persons referred to in Section 8 hereof, and will survive delivery of and payment for the Shares. The provisions of Section 6 and 8 hereof and this Section 11 shall survive the termination or cancellation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representative, will be mailed, delivered or sent by facsimile and confirmed to them, at the address specified in Schedule I hereto, with a copy to: Morrison & Foerster LLP, 1290 Avenue of the Americas, New York, New York 10104-0050, Attn: James R. Tanenbaum, Facsimile: 212-468-7900; or, if sent to the Company, will be mailed, delivered or sent by facsimile and confirmed to it at Bank of America Corporation, Corporate Treasury — Securities Administration, Bank of America Corporate Center, NC1-007-07-13, 100 North Tryon Street, Charlotte, North Carolina 28255, Facsimile: 980-387-8794, with a copy to each of: Bank of America Corporation, Legal Department, NC1-002-29-01, 101 South Tryon Street, Charlotte, North Carolina 28255, Attn: General Counsel, Facsimile: 704-386-1670; and McGuireWoods LLP, 201 North Tryon Street, Charlotte, North Carolina 28202, Attn: Boyd C. Campbell, Jr., Facsimile: 704-343-2300.

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and controlling persons referred to in Section 8 hereof, and no other person will have any right or obligation hereunder.

14. No Fiduciary Duties: Agreement Complete.

(a) The Company acknowledges and agrees that: (i) the purchase and sale of the Shares pursuant to this Agreement, including the determination of the public offering price of the Shares and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement; (ii) in connection with each transaction contemplated hereby and the process leading to such transaction each Underwriter is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary of the Company, or its affiliates, stockholders, creditors or employees or any other party; (iii) no Underwriter has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Company with respect to any of the transactions contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement; (iv) the several Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and that the several Underwriters have no obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

(b) This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the several Underwriters, or any of them, with respect to the subject matter hereof. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the several Underwriters with respect to any breach or alleged breach of agency or fiduciary duty.

15. Applicable Law. This Agreement will be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to principles of conflict of laws.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement among the Company and the several Underwriters.

Very truly yours,

BANK OF AMERICA CORPORATION

By:
Name:
Title:

The foregoing Agreement is
hereby confirmed and accepted
as of the date specified in
Schedule I hereto.

By: BANC OF AMERICA SECURITIES LLC

By: _____

Name:

Title:

For themselves and the other
several Underwriters, if any,
named in Schedule II to the
foregoing Agreement.

SCHEDULE I

Underwriting Agreement dated _____, 20__.

Registration Statement No. 333-_____

Representative:

Address of Representative:

Title, Purchase Price and Description of Depositary Shares:

Title:

Net purchase price for the Initial Shares (include type of funds, if applicable):

Purchase price per share for the Option Shares:

Other provisions:

Closing Date, Time and Location:

Additional items to be covered by the letter from
PricewaterhouseCoopers LLP delivered pursuant
to Section 5(e) at the time this Agreement is executed:

SCHEDULE II

Underwriters
Number of Initial Shares to be Purchased

II-1

SCHEDULE III

Issuer Free Writing Prospectuses

III-1

SCHEDULE IV

Final Term Sheet

IV-1



January 2, 2009

Merrill Lynch, Pierce, Fenner & Smith Incorporated
First Republic Securities Company, LLC

c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated
4 World Financial Center
New York, NY 10080

Re: Issuance of Medium-Term Senior/Subordinated Notes, Series L, by Bank of America Corporation

Dear Ladies and Gentlemen:

The Distribution Agreement dated April 10, 2008 (the "Agreement"), among Bank of America Corporation ("Bank of America") and the Selling Agents named therein, provides for the issue and sale by Bank of America of its Senior Medium Term Notes, Series L (the "Senior Notes") and its Subordinated Medium-Term Notes, Series L (the "Subordinated Notes," and together with the Senior Notes, the "Notes").

Subject to and in accordance with the terms and conditions of the Agreement, and subject to the reservation by Bank of America of the right to sell Notes directly on its own behalf, Bank of America hereby appoints each of you as a new Selling Agent in accordance with the provisions of Section 1(f) of the Agreement for the purposes of the offer and sale of the Notes from time to time. Bank of America reserves the right to sell Notes, at any time, on its own behalf to any unsolicited purchaser, whether directly to such purchaser or through an agent for such purchaser. Upon the sale of any Notes to an unsolicited purchaser, neither of you shall be entitled to any commission pursuant to the Agreement.

In consideration of Bank of America appointing you as a new Selling Agent in respect of the Notes under the Agreement, each of you hereby undertakes, severally and not jointly, for the benefit of Bank of America and each of the other Selling Agents, that, in relation to each series of the Notes as to which you act as a Selling Agent, you will perform and comply with all the duties and obligations of a Selling Agent under the Agreement. Notwithstanding anything contained in the Agreement, each of you shall be vested with all authority, rights, powers, duties and obligations of a Selling Agent in relation to the issue of such notes as if you were originally named as a Selling Agent under the Agreement.

The parties hereto currently expect that you will from time to time make offers to sell one or more series of Notes that are equity-linked, commodity-linked or that otherwise constitute "indexed notes" (as such term is used in the Prospectus). In such cases,

notwithstanding the provisions set forth in Section 1(d) of the Agreement, your obligation to purchase such Notes as principal or to act as an agent, and the applicable underwriting discount or selling concession to which you shall be entitled will be set forth in the applicable Pricing Supplement or term sheet. In addition, unless otherwise agreed by the parties hereto, such Notes will initially be issued into an account designated by Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”), and MLPF&S will be responsible to allocate your respective compensation payable hereunder between MLPF&S and First Republic Securities Company, LLC (it being understood that Bank of America shall be relieved of any and all responsibility, duty or obligation with respect to any compensation payable to any party hereto for any series of such Notes once such Notes and the related compensation are allocated to MLPF&S).

Upon the execution and delivery of this letter agreement, Bank of America shall comply with its notice obligations set forth in the final sentence of Section 1(f) of the Agreement. Further, solely with respect to “indexed notes” (as such term is used in the Prospectus) of Bank of America that may be offered and sold from time to time that constitute structured investments of MLPF&S or that are service marks or trademarks of Merrill Lynch & Co., Inc. (including, but not limited to, Accelerated Return Notes, Market Index Target Term Securities, Strategic Accelerated Redemption Securities and Leveraged Index Return Notes), notwithstanding the provisions set forth in Section 1(f) of the Agreement, Bank of America agrees to notify MLPF&S of each and any appointment of any additional selling agents for the offer and sale of such Notes, whether such appointment is on a onetime basis or an on-going basis.

Accompanying this letter agreement is a copy of the Agreement, the provisions of which are incorporated herein by reference. By signing this letter, you acknowledge that you have received a copy of the Agreement from Bank of America. Copies of the officer’s certificate, opinions of counsel, and auditors’ letter described in the Agreement are not enclosed but are available upon your request.

Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

This letter agreement, like the Agreement, is governed by and construed in accordance with the laws of the State of New York, notwithstanding any otherwise applicable conflicts of law principles. This letter agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

If the above is in accordance with your understanding of our agreement, please sign and return this letter to us.

In addition, your respective addresses to use for notice hereunder, and under the Agreement and the Administrative Procedures, are set forth on Exhibit A attached hereto.

These actions will confirm your appointment and your acceptance and agreement to act as Selling Agent in connection with the issue and sale of the Notes under the terms and conditions of the Agreement.

Very truly yours,

BANK OF AMERICA CORPORATION

By: /s/ B. Kenneth Burton, Jr.
Name: B. Kenneth Burton, Jr.
Title: Senior Vice President

AGREED AND ACCEPTED:

MERRILL LYNCH, PIERCE, FENNER &
SMITH INCORPORATED

By: /s/ Brian Partridge
Name: Brian Partridge
Title: Director, Structured Investments
Address: 4 World Financial Center
6th Floor
New York, NY 10080

FIRST REPUBLIC SECURITIES COMPANY, LLC

By: /s/ David Tateosian
Name: David Tateosian
Title: President
Address: 111 Pine St.
San Francisco, CA 94111

**EXHIBIT A
NOTICE INFORMATION**

Merrill Lynch, Pierce, Fenner & Smith Incorporated
4 World Financial Center
New York, New York 10080
Attention: Oscar Loynaz, Global Investments & Insurance Solutions
Telephone: (212) 449-5080
Facsimile: (917) 338-2428
E-mail: oscarloynaz@ml.com

First Republic Securities Company, LLC
111 Pine Street
7th Floor
San Francisco, California 94111
Attention: Carl Triolo, Director of Technology/Municipal Principal
Telephone: (415) 296-5882
Facsimile: (415) 362-0888
E-mail: ctriolo@firstrepublic.com

BANK OF AMERICA CORPORATION

FORM OF SUPPLEMENT TO SERIES L DISTRIBUTION AGREEMENT

THIS SUPPLEMENTAL AGREEMENT is dated as of April __, 2009 (the "Agreement") among:

- (i) Bank of America Corporation, a Delaware corporation (the "Company"); and
- (ii) Banc of America Securities LLC ("BAS"), Banc of America Investment Services, Inc. ("BAI"), Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") and First Republic Securities Company, LLC ("First Republic," and together with BAS, BAI and MLPF&S, the "Selling Agents").

WITNESSETH:

WHEREAS, in connection with the issuance and offering of the Company's Senior Medium-Term Notes, Series L (the "Senior Notes") and its Subordinated Medium-Term Notes, Series L (the "Subordinated Notes," and together with the Senior Notes, the "Notes"), the Company, BAS and BAI entered into a Distribution Agreement, dated April 10, 2008 (the "Original Agreement");

WHEREAS, MLPF&S and First Republic were appointed Selling Agents under the terms of the Original Agreement pursuant to a letter agreement dated January 2, 2009; and

WHEREAS, the Company and the Selling Agents wish to amend the Original Agreement with respect to certain Notes to be offered by the Selling Agents on and after the date hereof.

NOW, THEREFORE, it is agreed as follows:

1. Application of this Agreement.

The provisions of this Agreement shall apply to all of the Notes offered by the Selling Agents on and after the date hereof, except for those Notes as to which the Pricing Supplement is filed pursuant to the registration statement on Form S-3, file number 333-133852.

2. Definitions and Interpretation.

(a) Except where the context requires otherwise, the following terms used in the Original Agreement and the Procedures shall hereby be amended to have the following meanings:

"Base Prospectus" means the prospectus for the Company's debt securities and other securities filed as part of the Registration Statement for the offering of the Notes, together with the medium-term notes prospectus supplement dated April __, 2009, or any amendment thereto, but not including any Pricing Supplement, any product supplement, any index supplement, any preliminary pricing supplement or any free writing prospectus (as such term is used in Rule 405 under the Securities Act).

"Prospectus" means the Base Prospectus, together with the applicable Pricing Supplement and any applicable product supplement and/or index supplement.

“Registration Statement” means the registration statement on Form S-3, file number 333-____, as amended, including the financial statements, exhibits and schedules thereto, including any required information deemed to be a part thereof at the time of effectiveness pursuant to Rule 430B under the Securities Act or pursuant to the Exchange Act, at each time of effectiveness.

All references in the Original Agreement to the “Senior Indenture” shall include the Fifth Supplemental Indenture thereto, dated December 1, 2008.

All references in the Original Agreement (including Exhibits and Annexes) to “this Agreement” or “the Agreement” or “the Distribution Agreement” shall mean the Original Agreement, as amended by this Agreement.

(b) All other capitalized terms used, but not defined herein, shall have the meanings set forth in the Original Agreement.

3. Additional Representations and Warranties. The parties hereby agree that the date hereof shall be a “Representation Date” as contemplated by Section 2(a) of the Original Agreement, and each of the Company’s representations and warranties set forth in the Original Agreement is deemed to be made as of the date hereof to the Selling Agents. In addition to such representations and warranties, as of the date hereof, and as of each Representation Date subsequent to the date hereof, the Company represents and warrants that:

(a) Due Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by the Company and, assuming due authorization, execution, and delivery by the Selling Agents, constitutes a legal, valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies, and except insofar as the enforceability of the indemnity and contribution provisions contained in the Original Agreement may be limited by federal and state securities laws, and further subject to 12 U.S.C. §1818(b)(6)(D) and similar bank regulatory powers and to the application of principles of public policy.

(b) Merrill Lynch Pro Forma Financial Statements. The unaudited pro forma condensed combined financial data of the Company and Merrill Lynch & Co., Inc. and the related notes thereto included in or incorporated by reference in the Registration Statement have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements, except as specifically described therein, and have been properly presented on the basis described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions referred to therein.

(c) All references in the Original Agreement to “Section 2” shall be deemed to include the representations and warranties set forth in the above clauses (a) and (b) of this Section 3.

4. Additional Covenants of the Company.

The following clauses shall be deemed included in the Original Agreement as additional provisions of Section 3 thereof as to each issuance of Notes in which one or more Selling Agents agree to purchase such Notes as principal. For the avoidance of doubt, the written confirmation

contemplated by Section 1(d)(ii)(B) of the Original Agreement may take the form of the relevant Pricing Supplement agreed to by the parties, and the disclosures of the purchase obligations set forth therein.

(a) Notice of Certain Events. The Company will notify the Selling Agents immediately of the receipt by the Company of any notification with respect to the suspension of the qualification of the Notes for sale in any jurisdiction as described in Section 3(k) of the Original Agreement or the initiation or threatening of any proceeding for such purpose.

(b) Review of Proposed Amendments and Supplements. During the Prospectus Delivery Period with respect to any series of the Notes, prior to amending or supplementing the Registration Statement, the Base Prospectus, the Prospectus or the applicable Disclosure Package (except with respect to a filing required under the Exchange Act), the Company shall furnish to the applicable Selling Agents a copy of each such proposed amendment or supplement for review, and the Company shall not file or use any such proposed amendment or supplement to which the applicable Selling Agents reasonably object.

(c) Registration Statement Renewal Deadline. If immediately prior to the third anniversary (the "Renewal Deadline") of the initial effective date of the Registration Statement, any of the Notes purchased as principal remain unsold by the Selling Agents, the Company will file, prior to the Renewal Deadline, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the applicable Notes, in a form reasonably satisfactory to the applicable Selling Agents. If the Company is no longer eligible to file an automatic shelf registration statement, the Company will file, prior to the Renewal Deadline, if it has not already done so, a new shelf registration statement relating to the applicable Notes, in a form reasonably satisfactory to the applicable Selling Agents, and will use its reasonable efforts to cause such registration statement to be declared effective within 60 days after the Renewal Deadline. The Company will take all other reasonable action necessary or appropriate to permit the public offering and sale of such Notes to continue as contemplated in the expired registration statement relating to such Notes. References in the Original Agreement and herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be.

(d) Notice of Inability to Use Automatic Shelf Registration Statement Form. If at any time during the Prospectus Delivery Period for any of the Notes the Company receives from the Commission a notice pursuant to Rule 401(g)(2) under the Securities Act or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Company will (i) promptly notify the applicable Selling Agents, (ii) promptly file a new registration statement or post-effective amendment on the proper form relating to the relevant Notes, in a form reasonably satisfactory to the Selling Agents, (iii) use every reasonable effort to cause such registration statement or post-effective amendment to be declared effective and (iv) promptly notify the Selling Agents of such effectiveness. The Company will take all other reasonable action necessary or appropriate to permit the public offering and sale of the applicable Notes to continue as contemplated in the registration statement that was the subject of the Rule 401(g)(2) notice or for which the Company has otherwise become ineligible. References in the Original Agreement and herein to the Registration Statement shall include such new registration statement or post-effective amendment, as the case may be.

(e) Earnings Statement. The Company will make generally available to its security holders and to the Selling Agents as soon as practicable, but not later than 60 days after the close of the period covered thereby, an earnings statement (in form complying with the provisions of Section 11(a)

of the Securities Act and Rule 158 under the Securities Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the "effective date" (as defined in such Rule 158) of the Registration Statement with respect to each issuance of the Notes.

5. Governing Law; Counterparts.

This Agreement and all the rights and obligations of the parties shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed in such State, notwithstanding any otherwise applicable conflicts of law principles. This Agreement may be executed in counterparts and the executed counterparts shall together constitute a single instrument.

6. Effect of Headings.

The section and sub-section headings herein are for convenience only and shall not affect the construction hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names by their respective officers thereunto duly authorized as of the date and year first above written.

BANK OF AMERICA CORPORATION

By: _____
Name:
Title:

BANC OF AMERICA SECURITIES LLC

By: _____
Name:
Title:

BANC OF AMERICA INVESTMENT SERVICES, INC.

By: _____
Name:
Title:

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

By: _____
Name:
Title:

FIRST REPUBLIC SECURITIES COMPANY, LLC

By: _____
Name:
Title:

[FORM OF REGISTERED GLOBAL SENIOR NOTE]

**BANK OF AMERICA CORPORATION
Medium-Term Senior Note, Series L****REGISTERED GLOBAL SENIOR NOTE**

This Note is a global security within the meaning of the Indenture dated as of January 1, 1995, as supplemented from time to time (the "Indenture"), between Bank of America Corporation and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee") under the Indenture and is registered in the name of [Cede & Co., as the nominee of The Depository Trust Company (the "Depository")] [The Bank of New York Mellon Depository (Nominees) Limited, as nominee of The Bank of New York Mellon, the common depository (the "Common Depository") for Euroclear Bank S.A./N.V., as operator of the Euroclear system, and/or Clearstream Banking, société anonyme, Luxembourg]. This Note is not exchangeable for definitive or other Notes registered in the name of a person other than [the Depository or its nominee] [the Common Depository], except in the limited circumstances described in the Indenture or in this Note, and no transfer of this Note (other than a transfer as a whole by [the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor depository or a nominee of such successor depository] [the Common Depository to a successor common depository]) may be registered except in the limited circumstances described in the Indenture.

[Unless this Note is presented by an authorized representative of The Depository Trust Company (the "Depository") (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer, exchange or payment, and this Note is registered in the name of CEDE & CO., or such other name as requested by an authorized representative of The Depository Trust Company, and unless any payment is made to CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, since the registered owner hereof, CEDE & CO., has an interest herein.]¹

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY AND IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA, N.A. OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA CORPORATION.

THIS NOTE IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA CORPORATION. THE OBLIGATIONS EVIDENCED BY THIS NOTE RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA CORPORATION, EXCEPT OBLIGATIONS THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.

¹ Modify in the case of all Registered Global Notes other than DTC Global Notes.

THIS NOTE IS SOLD IN MINIMUM DENOMINATIONS AS NOTED HEREIN AND IN THE PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER ATTACHED HERETO AND CANNOT BE EXCHANGED FOR NOTES IN SMALLER DENOMINATIONS. EACH OWNER OF A BENEFICIAL INTEREST IN THIS NOTE IS REQUIRED TO HOLD A BENEFICIAL INTEREST OF A PRINCIPAL AMOUNT OF THIS NOTE EQUAL TO THE MINIMUM AUTHORIZED DENOMINATION AT ALL TIMES.

No. R-
CUSIP No.:
ISIN:
Common Code:

Registered

Principal Amount: [\$] _____

BANK OF AMERICA CORPORATION
Medium-Term Senior Note, Series L

[INSERT SPECIFIC NAME OR DESIGNATION OF THE NOTES]
REGISTERED GLOBAL SENIOR NOTE

- ORIGINAL ISSUE DATE:
STATED MATURITY DATE:
CURRENCY:
- U.S. Dollars
 - Other (specify):
- FIXED RATE NOTE
 FLOATING RATE NOTE
 INDEXED NOTE
- FLOATING RATE/FIXED RATE NOTE
- This Note is an Extendible Note at the Holder's Option. [See attached Rider]
 This Note is an Extendible Note at the Issuer's Option. [See attached Rider]
 This Note is an Amortizing Note. [See payment schedule in attached Pricing Supplement]
- See attached Principal Repayment Amount Rider
 See attached Interest Payment Amounts or Supplemental Payment Amount Rider

RECORD DATES:

[CALCULATION AGENT:]

BANK OF AMERICA CORPORATION, a Delaware corporation (herein called the "Issuer," which term includes any successor corporation), for value received, hereby promises to pay to [CEDE & CO., as nominee for The Depository Trust Company][THE BANK OF NEW YORK MELLON DEPOSITORY (NOMINEES) LIMITED, as nominee of The Bank of New York, the common depository for Euroclear Bank S.A./N.V., as operator of the Euroclear system, and/or Clearstream Banking, société anonyme, Luxembourg], or its registered assigns, the principal amount specified above (or if this Note is designated as an Indexed Note above, the Principal Repayment Amount and/or the Supplemental Payment Amount calculated in accordance with the provisions set forth in the Pricing Supplement (which may include a related product supplement and/or index supplement), Principal Repayment Amount Rider or Supplemental Payment Amount Rider, as applicable, attached hereto (referred to collectively as the "Pricing Supplement")) as

² The form provides that interest, if any, will accrue from the Original Issue Date. In the event a series of Notes is reopened, interest will accrue from the Original Issue Date for all tranches of Notes of that series. However, in the event a series of Notes is reopened, the authentication date for each tranche of Notes will be the date that tranche of Notes is settled, which may be different from the Original Issue Date.

adjusted in accordance with Schedule 1 hereto, on the Stated Maturity Date specified above (except to the extent redeemed or repaid prior to the Stated Maturity Date), and to pay interest thereon (i) in accordance with the provisions set forth on the reverse hereof in Section 2(a), if this Note is designated as a "Fixed Rate Note" above, (ii) in accordance with the provisions set forth on the reverse hereof under the Section 2(b), if this Note is designated as a "Floating Rate Note" above, (iii) in accordance with the provisions set forth on the reverse hereof in Section 2(c), if this Note is designated as a "Floating Rate/Fixed Rate Note" above, or (iv) in accordance with the provisions set forth in the Pricing Supplement, if this Note is designated as an "Indexed Note" above, in each case as such provisions may be modified or supplemented by the terms and provisions set forth in the Pricing Supplement, and (to the extent that the payment of such interest shall be legally enforceable) to pay interest at the Default Rate per annum specified in the Pricing Supplement on any overdue principal and premium, if any, and on any overdue installment of interest. If no Default Rate is specified in the Pricing Supplement, the Default Rate shall be the fixed or floating Interest Rate or Interest Rates on this Note specified in the Pricing Supplement. "Maturity," when used herein, means the date on which the principal of this Note or an installment of principal becomes due and payable in full in accordance with the terms of this Note and of the Indenture, whether at the Stated Maturity Date or by declaration of acceleration, call for redemption, prepayment at the holder's option or otherwise.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will be paid to the person in whose name this Note (or one or more predecessor Notes evidencing all or a portion of the same debt as this Note) is registered, unless otherwise specified on the face hereof or in the Pricing Supplement (i) for book-entry only Notes denominated in U.S. dollars, at the close of business on the date that is one business day (in Charlotte, North Carolina and New York City) prior to such Interest Payment Date or (ii) for book-entry only Notes denominated in a currency other than U.S. dollars and for any Notes in definitive form, at the close of business on the fifteenth calendar day immediately preceding such Interest Payment Date (each, referred to herein as the "Regular Record Date"); provided, however, that the first payment of interest on any Note with an Original Issue Date between a Regular Record Date and an Interest Payment Date or on an Interest Payment Date will be made on the Interest Payment Date following the next Regular Record Date to the person in whose name this Note is registered at the close of business on such next Regular Record Date; and provided, further, that interest payable at Maturity (the "Maturity Date") will be payable to the person to whom the principal hereof shall be payable. The principal so payable, and punctually paid or duly provided for, at Maturity will be paid to the person in whose name this Note (or one or more predecessor Notes evidencing all or a portion of the same debt as this Note) is registered at the close of business on the Maturity Date. Any such interest or principal not punctually paid or duly provided for shall be payable as provided in this Note and in the Indenture.

Payment of principal of, and premium, if any, and interest on, this Note due at Maturity will be made in immediately available funds upon presentation and surrender of this Note at the office of the applicable Paying Agent (as described on the reverse hereof) maintained for that purpose, and in

³ This form provides for Notes that will mature only on a specified date. If the Maturity of Notes of a series may be extended at the option of the holder, or if the Issuer may elect the extension of Maturity of the Notes of a series, the form, as used, will be modified by the applicable Rider attached to this Note to provide for additional terms relating to such renewal or extension, as the case may be, including the period or periods for which the Maturity may be extended, changes in the interest rate, if any, and requirements for notice.

accordance with the procedures of the depository or clearing system noted hereon;provided, that this Note is presented to the Paying Agent in time for the Paying Agent to make such payment in accordance with its normal procedures. Payments of interest on this Note (other than at Maturity) will be made by wire transfer to such account as has been appropriately designated to the Paying Agent by the person entitled to such payments.

The Issuer will pay any administrative costs imposed by any bank in making payments in immediately available funds, but any tax, assessment or governmental charge imposed upon payments hereunder, including, without limitation, any withholding tax, will be borne by the holder hereof.

Reference is made to the further provisions of this Note set forth on the reverse hereof and in the Pricing Supplement attached hereto, which shall have the same effect as though fully set forth at this place. In the event of any conflict between the provisions contained herein or on the reverse hereof and the provisions contained in the Pricing Supplement attached hereto, the latter shall control. References herein to "this Note," "hereof," "herein" and comparable terms shall include the Pricing Supplement attached hereto.

Unless the certificate of authentication hereon has been executed by the Trustee (or other authentication agent duly appointed in accordance with the Indenture), by manual signature of an authorized signatory, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, Bank of America Corporation has caused this instrument to be duly executed on its behalf, by manual or facsimile signature.

Dated: _____

BANK OF AMERICA CORPORATION

[CORPORATE SEAL]

ATTEST:

By: _____

Title: [Assistant] Secretary

By: _____

Name:

Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Dated: _____

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee

By: _____
Authorized Signatory

[ATTACH PRICING SUPPLEMENT AND/OR
INDEXED PAYMENT RIDER, AS APPLICABLE]

BANK OF AMERICA CORPORATION
Medium-Term Senior Note, Series L

PRINCIPAL REPAYMENT AMOUNT RIDER

[formula]
[supplemental amount]
[indexed item]
[valuation date]
[event of default]
[market disruption]
[conversion features and mechanics]
[ability to settle in stock or other non-cash property]
[other]

BANK OF AMERICA CORPORATION
Medium-Term Senior Note, Series L

INTEREST PAYMENT AMOUNTS OR
SUPPLEMENTAL PAYMENT AMOUNT RIDER

[formula]
[Interest Payment Amount(s) or Supplemental Payment Amount determination date(s)]
[dates for payment of Interest Payment Amount(s) or Supplemental Payment Amount]
[indexed item]
[formula/methodology for determining indexed item on determination date(s)]
[delivery of securities or other non-cash property]
[other terms]

[Reverse of Note]

BANK OF AMERICA CORPORATION
Medium-Term Senior Note, Series L

REGISTERED GLOBAL SENIOR NOTE

SECTION 1. *General.* This Note is one of a duly authorized issue of senior notes of the Issuer to be issued in one or more series under the Indenture dated January 1, 1995, as supplemented from time to time (the "Indenture"), between Bank of America Corporation (the "Issuer") and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), and to which Indenture reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Trustee and the London Paying Agent (as described below) thereunder and the holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms Trustee and London Paying Agent shall include any additional or successor trustee or agents appointed in such capacities by the Issuer in accordance with the terms of the Indenture.

This Note is also one of the Notes issued pursuant to the Prospectus Supplement dated April 21, 2009 to the Prospectus dated April 20, 2009, as either of such documents may be supplemented or amended from time to time, or pursuant to any document that supersedes or replaces either of such documents from time to time (referred to collectively herein as the "Prospectus"), for the offer and sale of the Issuer's senior and subordinated medium-term notes, Series L (the "Notes"). The Notes may have different issue and maturity dates, bear interest at different rates and vary in such other ways as provided in the Indenture and described in the Prospectus. The specific terms of each issuance of Notes will be described in a Pricing Supplement.

The Issuer has initially appointed the Trustee to act as the U.S. Issuing and Paying Agent, Security Registrar and Transfer Agent for the Notes and The Bank of New York Mellon to act as the London Paying Agent for certain of the Notes through its London branch (the "London Paying Agent" and, with the Trustee, each, a "Paying Agent"). This Note may be presented or surrendered for payment, and notices, designations or requests in respect of payments with respect to this Note may be served, at the corporate trust office of the Trustee, located at 101 Barclay Street, New York, New York, 10286, and/or at the office of the London Paying Agent located at One Canada Square, London, E14 5AL, as applicable, or such other locations as may be specified by the applicable Paying Agent and notified to the Issuer and the registered holder of this Note.

Unless specified otherwise in the Pricing Supplement, this Note will not be subject to a sinking fund.

SECTION 2. *Interest Provisions.*

(a) Fixed Rate Notes. If this Note is designated as a "*Fixed Rate Note*" on the face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted

in accordance with Schedule 1 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified above, except as provided on the face hereof, until payment of such principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from, and including, the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise specified in the Pricing Supplement, if no interest has been paid or duly provided for, from, and including, the Original Issue Date) to, but excluding, the relevant Interest Payment Date or Maturity Date, as the case may be.

Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity less than one year and is payable in U.S. dollars, interest (including payments for partial periods) will be computed and paid on the basis of the actual number of days elapsed divided by 360. Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity of one year or more and is payable in U.S. dollars, interest (including payments for partial periods) will be computed on the basis of a 360-day year of twelve 30-day months. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in a currency other than U.S. dollars or Canadian dollars, interest will be computed on the basis of the Actual/Actual (ISMA) Fixed Day Count Convention. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in Canadian dollars, interest will be calculated using Actual/Actual (Canadian Compound Method).

“**Actual/Actual (ISMA) Fixed Day Count Convention**” means:

- (a) in the case of fixed-rate notes where the number of days in the relevant period from and including the most recent Interest Payment Date (or, if none, from, and including, the interest commencement date, which unless specified otherwise in the Pricing Supplement shall be the Original Issue Date) to, but excluding, the relevant payment date (referred to as the “**accrual period**”) is equal to or shorter than the determination period (as defined below) during which the accrual period ends, the number of days in the accrual period divided by the product of (1) the number of days in that determination period and (2) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; or
- (b) in the case of fixed-rate notes where the accrual period is longer than the determination period during which the accrual period ends, the sum of:
 - (1) the number of days in that accrual period falling in the determination period in which the accrual period begins divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; and

(2) the number of days in that accrual period falling in the next determination period divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year.

“**Determination period**” means the period from, and including, a determination date to, but excluding, the next determination date (including, where either the interest commencement date or the final Interest Payment Date is not a determination date, the period commencing on the first determination date prior to, and ending on the first determination date falling after, such date).

“**Determination date**” means each date specified in the Pricing Supplement or, if none is specified, each Interest Payment Date.

“**Actual/Actual (Canadian Compound Method)**” means, when calculating interest due on any Interest Payment Date for a full semi-annual interest period, the day count fraction will be 30/360, and, when calculating interest for any interest period that is shorter than a full semi-annual interest period, the day count fraction will be Actual/365 (Fixed).

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date or the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal, premium, if any, or interest on this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after such Interest Payment Date or the Maturity Date, as the case may be.

(b) **Floating Rate Notes.** If this Note is designated as a “*Floating Rate Note*” on face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified on the face hereof, unless the Original Issue Date occurs between a Regular Record Date and the next Interest Payment Date, in which case interest shall be payable commencing on the Interest Payment Date following the next Regular Record Date, at a rate per annum determined in accordance with the provisions hereof and the Pricing Supplement, until payment of such principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from, and including, the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise provided in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to, but excluding, the relevant Interest Payment Date or Maturity Date, as the case may be (each such period, an “Interest Period”).

As set forth in the Pricing Supplement, this Note may have either or both of the following: (i) a maximum numerical interest rate limitation, or ceiling, on the rate at which interest may accrue during any Interest Period (“Maximum Interest Rate”); or (ii) a minimum

numerical interest rate limitation, or floor, on the rate at which interest may accrue during any interest period (“Minimum Interest Rate”) provided, however, that the interest rate on this Note will in no event be higher than the maximum rate permitted by applicable law.

The Base Rate (as defined herein) with respect to this Note may be (i) the federal funds rate, (ii) the London interbank offered rate, or “LIBOR,” (iii) the Euro-zone interbank offered rate, or “EURIBOR,” (iv) the prime rate, (v) the treasury rate or (vi) such other rate as is described in the Pricing Supplement.

Except as described below, this Note will bear interest at the rate determined by reference to the appropriate interest rate basis (the “Base Rate”) and Index Maturity, each as specified in the Pricing Supplement, (i) plus or minus the Spread, if any, specified in the Pricing Supplement and/or (ii) multiplied by the Spread Multiplier, if any, specified in the Pricing Supplement. The interest rate in effect during an Interest Period will be the rate determined by the Calculation Agent specified in the Pricing Supplement on the “calculation date” by reference to the Interest Determination Date (as described below).

The “calculation date” pertaining to any Interest Determination Date will be the date by which the Calculation Agent specified in the Pricing Supplement computes the amount of interest owed on this Note for the related Interest Period. Unless otherwise specified in the Pricing Supplement, the “calculation date” will be the earlier of (a) the tenth calendar day after the related Interest Determination Date or, if that date is not a Business Day, the next succeeding Business Day; or (b) the Business Day immediately preceding the applicable Interest Payment Date or the Stated Maturity Date or the date of redemption or the date of prepayment, as the case may be.

The interest rate in effect on each day shall be (a) if such day is an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to such Interest Reset Date or (b) if such day is not an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to the immediately preceding Interest Reset Date. Unless otherwise specified herein or in the Pricing Supplement, if any Interest Reset Date specified in the Pricing Supplement (including the Initial Interest Reset Date, as specified in the Pricing Supplement) falls on a day that is not a Business Day, the Interest Reset Date will be postponed to the next day that is a Business Day, except that, unless otherwise specified in the Pricing Supplement, in the case of a LIBOR note or a EURIBOR note, if the next Business Day is in the next succeeding calendar month, the Interest Reset Date will be the immediately preceding Business Day. The Interest Reset Dates are subject to adjustment as described below.

Unless otherwise specified in the Pricing Supplement: (i) the “Interest Determination Date” with respect to any Note that has as its Base Rate the federal funds rate or the prime rate will be the Business Day immediately preceding the related Interest Reset Date; (ii) the “Interest Determination Date” with respect to any Note that has LIBOR as its Base Rate will be the second London Banking Day preceding the related Interest Reset Date, unless the Index Currency specified in the Pricing Supplement is pounds sterling, in which case the Interest Determination Date will be the Interest Reset Date; (iii) the “Interest Determination Date” with respect to any Note that has EURIBOR as its Base Rate will be the second TARGET Settlement Date (as defined below) preceding the related Interest Reset Date; and (iv) the “Interest

Determination Date” with respect to any Note that has as its Base Rate the treasury rate will be the day of the week in which the related Interest Reset Date falls on which Treasury bills of the Index Maturity specified in the Pricing Supplement normally would be auctioned; provided, however, that if an auction is held on the Friday of the week preceding the related Interest Reset Date, the related “Interest Determination Date” shall be such preceding Friday; and provided, further, that if an auction is held on any Interest Reset Date then the Interest Reset Date shall instead be the first Business Day following such auction.

For a Note whose interest rate is determined by reference to two or more Base Rates, unless otherwise specified in the Pricing Supplement, the “Interest Determination Date” shall be the most recent Business Day that is at least two Business Days prior to the applicable Interest Reset Date for the Note on which each Base Rate is determinable.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date falls on a day that is not a Business Day, the related payment of interest will be made on the next succeeding Business Day. However, unless otherwise specified in the Pricing Supplement, if this Note has as its Base Rate LIBOR or EURIBOR, as described below, if an Interest Payment Date falls on a date that is not a Business Day, and the next Business Day is in the next calendar month, the Interest Payment Date will be the immediately preceding Business Day. In each such case, except for the Interest Payment Date falling on the Maturity Date, the Interest Periods and the Interest Reset Dates will be adjusted accordingly to calculate the amount of interest payable on this Note. Unless otherwise specified in the Pricing Supplement, if the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after the Maturity Date.

Accrued interest on this Note is calculated by multiplying the principal amount of the Note by an accrued interest factor. The accrued interest factor is the sum of the interest factors calculated for each day in the period for which accrued interest is being calculated. Unless otherwise indicated in the Pricing Supplement, the daily interest factor will be computed on the basis of a 360-day year of twelve 30-day months if the Day Count Convention specified in the Pricing Supplement is “30/360” for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 360 if the Day Count Convention specified in the Pricing Supplement is “Actual/360” for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 365, or in the case of an Interest Payment Date falling in a leap year, 366, if the Day Count Convention specified in the Pricing Supplement is “Actual/Actual” for the period specified thereunder. If no Day Count Convention is specified in the Pricing Supplement, the daily interest factor will be computed and interest will be paid (including payments for partial periods) as follows: (i) for Notes that have as a Base Rate the federal funds rate, LIBOR, EURIBOR, the prime rate, or any other rate other than the treasury rate, as if “Actual/360” had been specified in the Pricing Supplement; (ii) for Notes that have the treasury rate as a Base Rate, as if “Actual/Actual” had been specified in the Pricing Supplement; and (iii) for Notes that are denominated in Canadian dollars, unless otherwise specified in the Pricing Supplement, as if “Actual/365” had been specified in the Pricing Supplement.

All amounts used in or resulting from any calculation on this Note will be rounded to the nearest cent, if the currency specified on the face hereof (referred to herein as the "Specified Currency") is U.S. dollars, or to the nearest corresponding hundredth of a unit, if the Specified Currency is other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward. Unless otherwise specified in the Pricing Supplement, all percentages resulting from any calculation are rounded to the nearest one hundred-thousandth of a percent, with five one-millionths of a percentage point rounded upward. For example, 9.876545% (or .09876545) will be rounded to 9.87655% (or .0987655).

Notwithstanding the calculations determined as specified below, the interest rate hereon shall not be greater than the Maximum Interest Rate, if any, or less than the Minimum Interest Rate, if any, specified in the Pricing Supplement.

The Calculation Agent shall calculate the interest rate hereon in accordance with the procedures described below on or before each calculation date. At the request of the registered holder hereof, the Calculation Agent will provide to such holder the interest rate hereon then in effect and, if determined, the interest rate which will become effective as of the next Interest Reset Date.

Determination of LIBOR. LIBOR for any Interest Determination Date will be the arithmetic mean of the offered rates for deposits in the relevant Index Currency having the Index Maturity described in the Pricing Supplement, commencing on the related Interest Reset Date, as the rates appear on the LIBOR Reuters page designated in the Pricing Supplement as of 11:00 A.M., London time, on that Interest Determination Date, if at least two offered rates appear on the designated LIBOR page, except that, if the designated LIBOR Reuters page only provides for a single rate, that single rate will be used.

If fewer than two of the rates described above appears on that page or no rate appears on any page on which only one rate normally appears, then the Calculation Agent will determine LIBOR as follows:

- The Calculation Agent will select four major banks in the London interbank market, after consultation with the Issuer. On the Interest Determination Date, those four banks will be requested to provide their offered quotations for deposits in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to prime banks in the London interbank market at approximately 11:00 A.M., London time.
- If at least two quotations are provided, the Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.
- If fewer than two quotations are provided, the Calculation Agent will select, after consultation with the Issuer, three major banks in New York City. On the Interest Determination Date, those three banks will be requested to provide their offered quotations for loans in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to

leading European banks at approximately 11:00 A.M., New York time. The Calculation Agent will determine LIBOR as the average of those quotations.

- If fewer than three New York City banks selected by the Calculation Agent are quoting rates, LIBOR for that interest period will remain LIBOR then in effect on the Interest Determination Date.

Determination of EURIBOR. EURIBOR means, for any Interest Determination Date, the rate for deposits in euro as sponsored, calculated, and published jointly by the European Banking Federation and ACI—The Financial Market Association, or any company established by the joint sponsors for purposes of compiling and publishing those rates, having the Index Maturity specified in the Pricing Supplement, as that rate appears on the display on Reuters, or any successor service, on page EURIBOR01 or any other page as may replace such page (“**Reuters Page EURIBOR01**”), as of 11:00 A.M., Brussels time.

The following procedures will be followed if EURIBOR cannot be determined as described above:

- If no offered rate appears on Reuters Page EURIBOR01 on an Interest Determination Date at approximately 11:00 A.M., Brussels time, then the Calculation Agent, after consultation with the Issuer, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in euro having the Index Maturity specified in the Pricing Supplement are offered to prime banks in the Euro-zone interbank market, and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least two quotations are provided, EURIBOR will be the average of those quotations.
- If fewer than two quotations are provided, then the Calculation Agent, after consultation with the Issuer, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate offered by them, at approximately 11:00 A.M., Brussels time, on the Interest Determination Date, for loans in euro to prime banks in the Euro-zone interbank market for a period of time equivalent to the Index Maturity specified in the Pricing Supplement commencing on that Interest Reset Date and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least three quotations are provided, EURIBOR will be the average of those quotations.
- If three quotations are not provided, EURIBOR for that Interest Determination Date will be equal to EURIBOR for the immediately preceding interest period.

“**Euro-zone**” means the region comprising Member States of the European Union that have adopted the euro as their single currency in accordance with the Treaty establishing European Community, as amended.

Determination of Treasury Rate. The “treasury rate” for any Interest Determination Date is the rate set at the auction of direct obligations of the United States (“**Treasury bills**”) having the Index Maturity described in the Pricing Supplement, as specified under the caption “Investment Rate” on the display on Reuters, or any successor service, on page USAUCTION 10/11 or any other page as may replace such page.

The following procedures will be followed if the treasury rate cannot be determined as described above:

- If the rate is not displayed on Reuters on page USAUCTION 10/11 or any other page as may replace such page by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate of Treasury bills as published in H.15 Daily Update, or another recognized electronic source for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Auction High."
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the bond equivalent yield, as defined below, of the auction rate of the applicable Treasury bills as announced by the U.S. Department of the Treasury.
- If the alternative rate described in the paragraph immediately above is not announced by the U.S. Department of the Treasury, or if the auction is not held, the treasury rate will be the bond equivalent yield of the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15(519) under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15 Daily Update, or another recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date calculated by the Calculation Agent as the bond equivalent yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 P.M., New York City time, on that Interest Determination Date, of three primary U.S. government securities dealers, selected by the Calculation Agent, after consultation with the Issuer, for the issue of Treasury bills with a remaining maturity closest to the particular Index Maturity.
- If the dealers selected by the Calculation Agent are not quoting as described in the paragraph immediately above, the treasury rate will be the treasury rate in effect on the particular Interest Determination Date.

The bond equivalent will be calculated using the following formula:

$$\text{Bond Equivalent Yield} = \frac{D \times N}{360 - (D \times M)} \times 100$$

where "D" refers to the applicable annual rate for Treasury bills quoted on a bank discount basis and expressed as a decimal, "N" refers to 365 or 366, as the case may be, and "M" refers to the actual number of days in the applicable interest period.

“**H.15(519)**” means the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Board.

“**H.15 Daily Update**” means the daily update of H.15(519), available through the website of the Federal Reserve Board at www.federalreserve.gov/releases/h15/update, or any successor site or publication.

Determination of Federal Funds Rate. The “federal funds rate” for any Interest Determination Date will be as follows:

- if “**Federal Funds (Effective) Rate**” is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds, as published in H.15(519) under the heading “Federal Funds (Effective)” and displayed on Reuters, or any successor service, on page FEDFUNDS1 or any other page as may replace the specified page on that service (“**Reuters Page FEDFUNDS1**”), or if such rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date or does not appear on Reuters Page FEDFUNDS1, the federal funds rate will be the rate on that Interest Determination Date, as published in H.15 Daily Update, or any other recognized electronic source for the purposes of displaying the applicable rate, under the caption “Federal Funds (Effective).” If the alternate rate described in the preceding sentence is not published in H.15 Daily Update, or other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on the business day following that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with the Issuer; provided, however, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.
- if “**Federal Funds Open Rate**” is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds transactions among member of the U.S. Federal Reserve System arranged by federal funds brokers on such day, under the heading “Federal Funds” for the applicable Index Maturity and opposite the caption “Open” and displayed on Reuters, or any successor service, on page 5 or any other page as may replace the specified page on that service (“**Reuters Page 5**”), or if such rate does not appear on Reuters Page 5 by 3:00 P.M., New York City time, on the related calculation date, the federal funds rate will be the rate on that Interest Determination Date displayed on FFPREBON Index page on Bloomberg L.P. (“**Bloomberg**”), which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg. If the alternate rate described in the preceding sentence is not displayed on FFPREBON Index page on Bloomberg, or any other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to

be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with the Issuer; provided, however, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if “**Federal Funds Target Rate**” is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds displayed on the FDTR Index page on Bloomberg. If such rate does not appear on the FDTR Index page on Bloomberg by 3:00 P.M., New York City time, on the calculation date, the federal funds rate for such Interest Determination Date will be the rate for that day appearing on Reuters, or any successor service, on page USFFTARGET= or any other page as may replace the specified page on that service (“**Reuters Page USFFTARGET=**”). If such rate does not appear on the FDTR Index page on Bloomberg or is not displayed on Reuters Page USFFTARGET= by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with the Issuer; provided, however, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

Determination of Prime Rate. The “prime rate” for any Interest Determination Date is the prime rate or base lending rate on that date, as published in H.15(519) prior to 3:00 P.M., New York City time, on the related calculation date, under the caption “Bank Prime Loan.”

The following procedures will be followed if the prime rate cannot be determined as described above:

- If the rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date, then the prime rate will be the rate as published in H.15 Daily Update, or any other recognized electronic source used for the purpose of displaying the applicable rate, under the caption “Bank Prime Loan.”
- If the alternative rate described above is not published in H.15 Daily Update or another recognized electronic source by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the prime rate to be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters screen US PRIME 1, as defined below, as that bank’s prime rate or base lending rate as in effect as of 11:00 A.M., New York City time, on that Interest Determination Date.
- If fewer than four rates appear on the Reuters screen US PRIME 1 for that Interest Determination Date, by 3:00 P.M., New York City time, then the Calculation Agent

will determine the prime rate to be the average of the prime rates or base lending rates furnished in New York City by three substitute banks or trust companies (all organized under the laws of the United States or any of its states and having total equity capital of at least U.S.\$500,000,000) selected by the Calculation Agent, after consultation with the Issuer.

- If the banks selected by the Calculation Agent are not quoting as described above, the prime rate will remain the prime rate then in effect on the Interest Determination Date.

“**Reuters screen US PRIME 1**” means the display designated as page “US PRIME 1” on the Reuters Monitor Money Rates Service (or any other page as may replace the US PRIME 1 page on that service for the purpose of displaying prime rates or base lending rates of major U.S. banks).

(c) Floating Rate/Fixed Rate Notes. If this Note is designated as a “Floating Rate/Fixed Rate Note” on the face hereof, this Note may bear interest at a fixed rate for a specified period and at a floating rate for a specified period, in each case calculated as set forth in (a) and (b) above, as applicable, and in the Pricing Supplement.

SECTION 3. *Amortizing Notes*. If this Note is designated as an “Amortizing Note” on the face hereof, the Issuer will make payments combining principal and interest on the dates and in the amounts set forth in the table included in the Pricing Supplement. If this Note is an Amortizing Note, payments made hereon will be applied first to interest due and payable on each such payment date and then to the reduction of the Outstanding Face Amount. The term “Outstanding Face Amount” means, at any time, the amount of unpaid principal hereof at such time.

SECTION 4. *Optional Redemption*. If so specified in the Pricing Supplement, this Note may be redeemed at the option of the Issuer on any Interest Payment Date (unless otherwise specified in the Pricing Supplement) on and after the Initial Redemption Date, if any, specified in the Pricing Supplement (each, a “Redemption Date”). **IF NO INITIAL REDEMPTION DATE IS SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE REDEEMED AT THE OPTION OF THE ISSUER PRIOR TO THE STATED MATURITY DATE, EXCEPT AS PROVIDED BELOW IN THE EVENT THAT ANY ADDITIONAL AMOUNTS (AS DEFINED BELOW) ARE REQUIRED TO BE PAID BY THE ISSUER WITH RESPECT TO THIS NOTE.** If so specified in the Pricing Supplement, on and after the Initial Redemption Date, if any, this Note may be redeemed at any time in whole or from time to time in part at the option of the Issuer at the Redemption Price (as defined below), together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the Redemption Date, on notice given in accordance with the Indenture not less than 10 Business Days nor more than 60 calendar days (unless otherwise specified in the Pricing Supplement) prior to the Redemption Date. The notice will take the form of a certificate signed by the Issuer specifying:

- the date fixed for redemption;
- the redemption price;
- the securities identification number(s) of the Notes to be redeemed;

- the amount to be redeemed, if less than all of the series of Notes is to be redeemed;
- the place of payment for the Notes to be redeemed; and
- that on and after the date fixed for redemption, interest will cease to accrue on the Notes to be redeemed.

So long as a depository is the record holder of this Note, the Issuer will deliver any redemption notice only to that depository.

In the event of redemption of this Note in part only, the unredeemed portion hereof shall be at least the minimum authorized denomination (the “Authorized Denomination”) specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. \$1,000 or its equivalent in the Specified Currency. In the event of redemption of this Note in part only, a new Note for the unredeemed portion hereof shall be issued in the name of the registered holder hereof upon the surrender of this Note or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Unless otherwise specified above, if less than all of the Notes with like tenor and terms are to be redeemed, the Trustee shall select, pro rata or by lot or in such other manner as the Trustee shall deem fair and appropriate, the Notes to be redeemed. If this Note is redeemable at the option of the Issuer, then if so specified in the Pricing Supplement, the “Redemption Price” initially shall be the Initial Redemption Percentage specified in the Pricing Supplement of the principal amount of this Note to be redeemed, which shall be 100% of the principal amount of the Note to be redeemed, unless otherwise specified in the Pricing Supplement.

From and after any Redemption Date, if monies for the redemption of this Note (or portion hereof) shall have been made available for redemption on such Redemption Date, this Note (or such portion hereof) shall cease to bear interest and the holder’s only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being redeemed (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

SECTION 5. *Optional Repayment.* If so specified in the Pricing Supplement, this Note will be repayable prior to the Stated Maturity Date at the option of the registered holder on the Optional Repayment Date(s), if any, specified in the Pricing Supplement. **IF NO OPTIONAL REPAYMENT DATES ARE SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE SO REPAYED AT THE OPTION OF THE HOLDER HEREOF PRIOR TO THE STATED MATURITY DATE.** Unless otherwise specified in the Pricing Supplement, on any Optional Repayment Date, this Note shall be repayable in whole or in part at the option of the holder hereof at a repayment price equal to 100% of the principal amount to be repaid, together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the date of repayment; provided, however, that, in the event of repayment of this Note in part only, the unrepaid portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. \$1,000 or its equivalent in the Specified Currency. For this Note to be repaid in whole or in part at the option of the holder hereof on any Optional Repayment Date, this Note must be received, with the form attached hereto entitled “Option to

Elect Repayment” duly completed, by the applicable Paying Agent (as appropriate in accordance with such attached form), at the applicable address set forth on such form or at such other address which the Issuer shall from time to time notify the holders of the Notes not less than 30 nor more than 60 calendar days prior to such holder’s Optional Repayment Date. In the event of repayment of this Note in part only, a new Note for the unrepaid portion hereof shall be issued in the name of the registered holder hereof upon the surrender hereof or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Exercise of such repayment option by the holder hereof shall be irrevocable.

From and after any Optional Repayment Date, if monies for the repayment of this Note (or portion hereof) shall have been made available for repayment on such Optional Repayment Date, this Note (or such portion hereof) shall cease to bear interest and the holder’s only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being repaid (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such Optional Repayment Date.

SECTION 6. *Additional Amounts.* All payments of principal, premium, if any, and interest with respect to this Note will be made without withholding or deduction at source for, or on account of, any present or future taxes, fees, duties, assessments, or governmental charges of whatever nature imposed or levied by the United States or any political subdivision or taxing authority thereof or therein, except to the extent such withholding or deduction is required by (a) the laws (or any regulations or rulings promulgated thereunder) of the United States or any political subdivision or taxing authority thereof or therein or (b) an official position regarding the application, administration, interpretation, or enforcement of any such laws, regulations, or rulings (including, without limitation, a holding by a court of competent jurisdiction or by a taxing authority in the United States or any political subdivision thereof). If so specified in the Pricing Supplement, if a withholding or deduction at source is required, the Issuer will, subject to the exceptions and limitations set forth below, pay to the beneficial owner of this Note that is a “non-U.S. person” (as defined below) additional amounts (“**Additional Amounts**”) to ensure that every net payment on this Note will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. For this purpose, a “**net payment**” on this Note means a payment by the Issuer or any Paying Agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States (other than a territory or possession). These Additional Amounts will constitute additional interest on this Note. For this purpose, “**U.S. withholding tax**” means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding the Issuer’s obligation, if so specified in the Pricing Supplement, to pay Additional Amounts, the Issuer will not be required to pay Additional Amounts in any of the circumstances described in items (1) through (13) below, unless otherwise specified in the Pricing Supplement.

(1) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- having a relationship with the United States as a citizen, resident, or otherwise;

- having had such a relationship in the past; or
- being considered as having had such a relationship.

(2) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- being treated as present in or engaged in a trade or business in the United States;
- being treated as having been present in or engaged in a trade or business in the United States in the past;
- having or having had a permanent establishment in the United States; or
- having or having had a qualified business unit which has the U.S. dollar as its functional currency.

(3) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being or having been a:

- personal holding company;
- foreign personal holding company;
- private foundation or other tax-exempt organization;
- passive foreign investment company;
- controlled foreign corporation; or
- corporation which has accumulated earnings to avoid U.S. federal income tax.

(4) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of the Issuer's stock entitled to vote.

(5) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being a bank extending credit under a loan agreement entered into in the ordinary course of business.

For purposes of items (1) through (5) above, "**beneficial owner**" includes, without limitation, a holder and a fiduciary, settlor, partner, member, shareholder, or beneficiary of the holder if the holder is an estate, trust, partnership, limited liability company, corporation, or other entity, or a person holding a power over an estate or trust administered by a fiduciary holder.

(6) Additional Amounts will not be payable to any beneficial owner of this Note that is:

- a fiduciary;
- a partnership;
- a limited liability company;
- another fiscally transparent entity; or
- not the sole beneficial owner of this Note or any portion of this Note.

However, this exception to the obligation to pay Additional Amounts will apply only to the extent that a beneficiary or settlor in relation to the fiduciary, or a beneficial owner, partner, or member of the partnership, limited liability company, or other fiscally transparent entity, would not have been entitled to the payment of an additional amount had the beneficiary, settlor, beneficial owner, partner, or member received directly its beneficial or distributive share of the payment.

(7) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner of this Note or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay Additional Amounts will apply only if compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.

(8) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on this Note by the Issuer or any Paying Agent.

(9) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

(10) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner of this Note for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.

(11) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any:

- estate tax;
- inheritance tax;
- gift tax;
- sales tax;
- excise tax;
- transfer tax;
- wealth tax;
- personal property tax; or
- any similar tax, assessment, or other governmental charge.

(12) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any Paying Agent from a payment of principal or interest on the this Note if such payment can be made without such withholding by any other Paying Agent.

(13) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any combination of items (1) through (12) above.

Except as specifically provided in this section or in the Pricing Supplement, the Issuer will not be required to make any payment of any tax, assessment, or other governmental charge with respect to this Note imposed by any government, political subdivision, or taxing authority of that government.

For purposes of determining whether the payment of Additional Amounts is required, the term “**U.S. person**” means any individual who is a citizen or resident of the United States; any corporation, partnership, or other entity created or organized in or under the laws of the United States; any estate if the income of such estate falls within the federal income tax jurisdiction of the United States regardless of the source of that income; and any trust if a U.S. court is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of the substantial decisions of the trust. Additionally, for this purpose, “**non-U.S. person**” means a person who is not a U.S. person, and “**United States**” means the United States of America, including each state of the United States and the District of Columbia, its territories, its possessions, and other areas within its jurisdiction.

SECTION 7. *Redemption for Tax Reasons.* If so specified in the Pricing Supplement, the Issuer may redeem this Note in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), after giving not less than 30 nor more than 60 calendar days’ notice to the applicable Paying Agent and to the registered holder of this Note, if the Issuer has or will become obligated to pay Additional Amounts, as described above, as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United

States having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of the Pricing Supplement, and the Issuer cannot avoid such obligation by taking reasonable measures available to it.

Before the Issuer delivers or publishes any notice of redemption for tax reasons, it will deliver to the Trustee and any other applicable Paying Agent an officers' certificate complying with the applicable provisions of the Indenture.

Unless otherwise specified in the Pricing Supplement, any Note redeemed for tax reasons will be redeemed at 100% of its principal amount (or, in the case of an Original Issue Discount Note, the amortized face amount hereof determined as of the date of redemption), together with any interest accrued up to, but excluding, the redemption date.

From and after any redemption date, if monies for the redemption of this Note shall have been made available for redemption on such redemption date, this Note shall cease to bear interest and the holder's only right with respect to this Note shall be to receive payment of the principal amount of the Note (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

SECTION 8. *Modification and Waivers.* The Indenture permits, with certain exceptions as therein provided, the amendment of the Indenture and the modification of the rights and obligations of the Issuer and the rights of the holders of the Notes under the Indenture at any time by the Issuer with the consent of the holders of not less than $66\frac{2}{3}\%$ in aggregate principal amount of the series of Notes of which this Note is a part then outstanding and all other Securities (as defined in the Indenture) then outstanding under the Indenture and affected by such amendment and modification. The Indenture also contains provisions permitting the holders of a majority in aggregate principal amount of the series of Notes of which this Note is a part then outstanding and all other Securities then outstanding under the Indenture and affected thereby, on behalf of the holders of all such Securities, to waive compliance by the Issuer with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the holder of this Note shall be conclusive and binding upon such holder and upon all future holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Note. The determination of whether particular Securities are "outstanding" will be made in accordance with the Indenture.

Any action by the holder of this Note shall bind all future holders of this Note, and of any Note issued in exchange or substitution hereof or in place hereof, in respect of anything done or permitted by the Issuer or by the Trustee in pursuance of such action.

New Notes authenticated and delivered after the execution of any agreement modifying, amending or supplementing this Note may bear a notation in a form approved by the Issuer as to any matter provided for in such modification, amendment or supplement to the Indenture or the Notes. New Notes so modified as to conform, in the opinion of the Issuer, to any provisions contained in any such modification, amendment or supplement may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for this Note.

SECTION 9. *Obligations Unconditional.* No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal, premium, if any, and interest on this Note at the times, place and rate, and in the coin or currency, herein prescribed.

SECTION 10. *Successor to Issuer.* The Issuer may not consolidate or merge with or into any other person, or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless (a) the resulting or acquiring entity, if other than the Issuer, is organized and validly existing under the laws of the United States, any state thereof or the District of Columbia, and shall expressly assume all the Issuer's obligations under the Indenture; and (b) immediately after giving effect to such transaction, the Issuer (or any resulting or acquiring entity, if other than the Issuer) is not in default in the performance of any covenant or condition under the Indenture.

Upon consolidation, merger, sale or transfer as described above, the resulting or acquiring entity shall be substituted for the Issuer in the Indenture with the same effect as if it had been an original party to the Indenture, and the successor entity may exercise the Issuer's right and powers under the Indenture.

SECTION 11. *Authorized Denominations.* This Note, and any Note issued in exchange or substitution hereof or in place hereof, or upon registration of transfer, exchange or partial redemption or repayment of this Note, may be issued only in an Authorized Denomination as specified in the Pricing Supplement, or if no Authorized Denomination is so specified, in minimum denominations of U.S.\$1,000 and any integral multiple of U.S.\$1,000 in excess thereof (or equivalent denominations in other currencies, subject to any other statutory or regulatory minimums).

SECTION 12. *Registration of Transfer.* As provided in the Indenture and subject to certain limitations as therein set forth, the transfer of this Note is registrable in the register maintained by the Security Registrar, upon surrender of this Note for registration of transfer at the office or agency of the Issuer designated by it pursuant to the Indenture, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Trustee or the Security Registrar requiring such written instrument of transfer duly executed by, the registered holder hereof or his attorney duly authorized in writing, and thereupon one or more new Notes of this series, of Authorized Denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

This Note may be exchanged in whole, but not in part, for security-printed definitive Notes, only under the circumstances described in the Indenture and (a) if this Note is a global note clearing initially through The Depository Trust Company ("DTC"), DTC notifies the Issuer that it is unwilling or unable to continue as depository for the DTC global note or DTC ceases to be a clearing agency registered under the United States Securities Exchange Act of 1934, as amended, if so required by applicable law or regulation, and, in either case, a successor depository is not appointed by the Issuer within 90 days after receiving such notice or becoming aware that DTC is no longer so registered; or (b) in the case of any other registered global note,

if the Issuer is notified that any clearing system through which this Note is cleared and settled has been closed for business for a continuous period of 14 days (other than by reason of holidays, whether statutory or otherwise) after the original issuance of the relevant notes or has announced an intention to cease business permanently or has in fact done so and no alternative clearance system approved by the applicable noteholders is available; or (c) the Issuer, in its sole discretion, elects to issue definitive registered notes; or (d) after the occurrence of an Event of Default with respect to this Note, beneficial owners representing a majority in principal amount of the Notes represented by this Note advise the relevant clearing system through its participants to cease acting as a depository for this Note.

In any such instance, an owner of a beneficial interest in this Note will be entitled to physical delivery in definitive form of Notes equal in principal amount to such beneficial interest and to have such Notes registered in its name. Unless otherwise set forth above, Notes so issued in definitive form will be issued in Authorized Denominations only and will be issued in registered form only, without coupons.

Subject to the terms of the Indenture, if the Notes are held in definitive form, a holder may exchange its Notes for other Notes of the same series in an equal aggregate principal amount and in Authorized Denominations.

Notes in definitive form may be presented for registration of transfer at the office of the Security Registrar or at the office of any transfer agent that the Issuer may designate and maintain. The Security Registrar or the transfer agent will make the transfer or registration only if it is satisfied with the documents of title and identity of the person making the request. The Issuer may change the Security Registrar or the transfer agent or approve a change in the location through which the Security Registrar or transfer agent acts at any time, except that the Issuer will be required to maintain a security registrar and transfer agent in each place of payment for the Notes of this series. At any time, the Issuer may designate additional transfer agents for the Notes of this series.

The Issuer will not be required to (a) issue, exchange, or register the transfer of this Note if it has exercised its right to redeem the Notes of the series of which this Note is a part for a period of 15 calendar days before the redemption date, or (b) exchange or register the transfer of any Notes of the series of which this Note is a part that were selected, called, or are being called for redemption, except the unredeemed portion of the Notes of the series of which this Note is a part, if being redeemed in part.

No service charge shall be made for any such registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Issuer, the Trustee, and any agent of the Issuer or the Trustee may treat the person in whose name this Note is registered as the owner hereof for all purposes, whether not this Note be overdue, and neither the Issuer, the Trustee, nor any such agent shall be affected by notice to the contrary, except as required by applicable law.

[The Notes represented by this global certificate are being issued by means of a book-entry system with no physical distribution of certificates to be made except as provided in the Indenture. The book-entry system maintained by Euroclear Bank S.A./N.V., as operator of the Euroclear system (“Euroclear”), and/or Clearstream Banking, société anonyme, Luxembourg (“Clearstream, Luxembourg”), will evidence ownership of the Notes represented by this global certificate, with transfers of ownership effected on the records of Euroclear and Clearstream, Luxembourg and their participants pursuant to rules and procedures established by Euroclear and Clearstream, Luxembourg and their participants. So long as this Note is registered in the name of the Common Depository or its nominee, the Issuer will recognize Euroclear and Clearstream, Luxembourg, as the depositories of the Notes represented hereby, as the owner of the Notes represented by this global certificate for all purposes, including payment of principal, premium (if any) and interest, notices, and voting.

Transfers of the Notes represented by this global certificate will be effected through the facilities of Euroclear and Clearstream, Luxembourg, in accordance with the rules and procedures established by those depositories. The Issuer has no responsibility for any aspect of the records kept by Euroclear and Clearstream, Luxembourg or any of their direct or indirect participants. The Issuer does not supervise these systems in any way.⁴

SECTION 13. *Events of Default*. If an Event of Default (defined in the Indenture as (a) the Issuer’s failure to pay the principal or premium, if any, on the Notes; (b) the Issuer’s failure to pay interest on the Notes within 30 calendar days after the same becomes due; (c) the Issuer’s breach of its other covenants contained in this Note or in the Indenture, which breach is not cured within 90 calendar days after written notice by the Trustee or the holders of at least 25% in outstanding principal amount of all Securities issued under the Indenture and affected thereby; and (d) certain events involving the bankruptcy, insolvency or liquidation of the Issuer) shall occur with respect to this Note, the principal of this Note may be declared due and payable in the manner and with the effect provided in the Indenture.

SECTION 14. *Defeasance*. Unless otherwise specified in the Pricing Supplement, the provisions of Article Fourteen of the Indenture do not apply to this Note.

SECTION 15. *Specified Currency*. Unless otherwise provided herein or in the Pricing Supplement, the principal, premium, if any, and interest on this Note are payable in the Specified Currency indicated on the face hereof (or, if such Specified Currency is not at the time of such payment legal tender for the payment of public and private debts, in (a) such other coin or currency of the country that issued such Specified Currency or (b) (if such Specified Currency is the euro) the successor currency under applicable law, in each case as at the time of such payment is legal tender for the payment of debts).

In the event the Specified Currency indicated on the face hereof has been replaced by another currency (a “Replacement Currency”), any amount due pursuant to this Note may be repaid, at the option of the Issuer, in the Replacement Currency or in U.S. dollars, at a rate of exchange which takes into account the conversion, at the rate prevailing on the most recent date

⁴ These two paragraphs should be deleted if the Note is a DTC Note.

on which official conversion rates were quoted or set by the national government or other authority responsible for issuing the Replacement Currency, from the Specified Currency to the Replacement Currency and, if necessary, the conversion of the Replacement Currency into U.S. dollars at the rate prevailing on the date of such conversion. Notwithstanding the foregoing, if this Note originally was issued in a domestic currency of a state that is or subsequently becomes a Member State of the European Union, then this Note may be redenominated in euro, if subsequent to the issuance of this Note, such state participates in the European monetary union. This Note may be redenominated as a matter of law whether or not the Pricing Supplement provides for redenomination.

If the Specified Currency indicated on the face hereof is other than U.S. dollars (referred to in this Section 15 as a "Foreign Currency"), the Issuer generally will pay principal, premium (if any), interest and other amounts payable (if any) in the Foreign Currency. Holders of beneficial interests in this Note through a participant in DTC (other than Euroclear or Clearstream, Luxembourg) will receive payments in U.S. dollars, regardless of the Foreign Currency, unless those holders elect to receive payments on this Note in the Foreign Currency, which election shall be made pursuant to procedures and arrangements in place between DTC and its participants. DTC shall notify the Trustee of any such election in accordance with arrangements in place between DTC and the Trustee.

If holders of beneficial interests in this Note do not elect to receive payments in the Foreign Currency, the Trustee or an affiliate or other agent of the Trustee performing currency exchange transactions and procedures on its behalf (collectively referred to herein as the "Exchange Agent") will convert any payments due to those holders of beneficial interests in this Note into U.S. dollars. The U.S. dollar amount of any such payment shall be the amount of the Foreign Currency otherwise payable converted into U.S. dollars at the applicable exchange rate, determined as described below. All costs of those conversions will be shared pro rata among the holders of beneficial interests not electing to receive payments in the Foreign Currency in proportion to their respective holdings by deduction from the applicable payments.

The conversion described above will be made by the Exchange Agent using the exchange rate for the Foreign Currency into U.S. dollars prevailing as of 11:00 a.m. (New York City time) on the second Business Day (in Charlotte, North Carolina and New York City) prior to the relevant payment date. If the applicable exchange rate quotation is unavailable from the entity or source ordinarily used by the Exchange Agent in the normal course of business, the Exchange Agent will obtain a quotation from a leading foreign exchange bank in New York City, which may be an affiliate of the Trustee or another entity selected by the Trustee for that purpose after consultation with the Issuer. If no quotation is available from a leading foreign exchange bank, payment will be made in the applicable Foreign Currency to the account or accounts specified by DTC to the Trustee, unless the applicable Foreign Currency is unavailable as described below.

If the Issuer determines that a payment hereon cannot be made in the Foreign Currency, due to the imposition of exchange controls or other circumstances beyond the Issuer's control, or the Foreign Currency is unavailable because that currency is no longer used by the government of the relevant country or for the settlement of transactions by public institutions of or within the international banking community, such payment will be made in U.S. dollars. The Trustee and/or

the London Paying Agent, on receipt of the Issuer's written instructions and at the Issuer's expense, will give prompt notice to the beneficial holders of this Note if such determination is made. The U.S. dollar amount of any payment described in this paragraph shall be the amount of the Foreign Currency otherwise payable converted into U.S. dollars using the most recently available market exchange rate for the applicable Foreign Currency.

Any payment made under such circumstances in U.S. dollars, where the payment is required to be made in the Foreign Currency, will not constitute an "Event of Default" with respect to this Note.

SECTION 16. *Original Issue Discount Note.* If this Note is identified as an Original Issue Discount Note in the Pricing Supplement, then unless otherwise specified therein, the amount payable to the holder of this Note in the event of redemption, repayment or acceleration of Maturity will be the Amortized Face Amount of this Note (as defined below) as of the date of such event. The "Amortized Face Amount" shall be the amount equal to (a) the Issue Price (as set forth in the Pricing Supplement) plus (b) the original issue discount amortized from the Original Issue Date to the date as of which the Amortized Face Amount is calculated, as specified in the Pricing Supplement.

SECTION 17. *Dual Currency Note.* If this Note is identified as a Dual Currency Note in the Pricing Supplement, the Issuer has the option of making each scheduled payment of principal and interest, if any, due on this Note either in the Specified Currency designated on the face hereof or in the optional payment currency specified in the Pricing Supplement. If the Issuer elects to make a payment in the optional payment currency, the amount payable in such optional payment currency shall be determined using the exchange rate specified in the Pricing Supplement, on the terms specified in the Pricing Supplement.

SECTION 18. *Mutilated, Defaced, Destroyed, Lost or Stolen Notes.* In case this Note shall at any time become mutilated, defaced, destroyed, lost or stolen, and this Note or evidence of the loss, theft or destruction hereof satisfactory to the Issuer and the Security Registrar and such other documents or proof as may be required by the Issuer and the Security Registrar shall be delivered to the Security Registrar, the Security Registrar shall issue a new Note of like tenor and principal amount, having a serial number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Note or in lieu of the Note destroyed, lost or stolen but, in the case of any destroyed, lost or stolen Note, only upon receipt of evidence satisfactory to the Issuer and the Security Registrar that this Note was destroyed, stolen or lost, and, if required, upon receipt of indemnity satisfactory to the Issuer and the Security Registrar. Upon the issuance of any substituted Note, the Issuer may require the payment of a sum sufficient to cover all expenses and reasonable charges connected with the preparation and delivery of a new Note. If any Note which has matured or has been redeemed or repaid or is about to mature or to be redeemed or repaid shall become mutilated, defaced, destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Note, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Note) upon compliance by the holder with the provisions of this paragraph.

SECTION 19. *Miscellaneous.* No recourse shall be had for the payment of principal of (and premium, if any) or interest on, this Note for any claim based hereon, or otherwise in

respect hereof, against any shareholder, employee, agent, officer or director, as such, past, present or future, of the Issuer or of any successor organization, either directly or through the Issuer or any successor organization, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

SECTION 20. *Defined Terms.* All terms used in this Note which are defined in the Indenture or the Prospectus and are not otherwise defined in this Note shall have the meanings assigned to them in the Indenture or the Prospectus, as applicable.

Unless specified otherwise in the Pricing Supplement, “Business Day” means, a day that meets all the following requirements:

- (a) for all Notes, is any weekday that is not a legal holiday in New York City or Charlotte, North Carolina, or any other place of payment of the applicable Note, and is not a date on which banking institutions in those cities are authorized or required by law or regulation to be closed;
- (b) for any Note where the base rate is LIBOR, also is a day on which commercial banks are open for business (including dealings in the Index Currency specified in the Pricing Supplement) in London, England;
- (c) for any Note denominated in euro or any Note where the base rate is EURIBOR, also is a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System or any successor is operating (a “Target Settlement Date”); and
- (d) for any Note that has a Specified Currency other than U.S. dollars or euro, also is not a day on which banking institutions generally are authorized or obligated by law, regulation, or executive order to close in the Principal Financial Center of the country of the Specified Currency.

Unless specified otherwise in the Pricing Supplement, “Principal Financial Center” means (i) the capital city of the country issuing the Specified Currency, except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the “Principal Financial Center” shall be New York City, Sydney and Melbourne, Toronto, Johannesburg, and Zurich, respectively; and (ii) the capital city of the country to which the Index Currency relates, except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the “Principal Financial Center” shall be New York City, Sydney, Toronto, Johannesburg and Zurich, respectively.

SECTION 21. *GOVERNING LAW.* THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, NOTWITHSTANDING ANY OTHERWISE APPLICABLE CONFLICTS OF LAWS PROVISIONS AND ALL APPLICABLE UNITED STATES FEDERAL LAWS AND REGULATIONS.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

- TEN COM — as tenants in common
- TEN ENT — as tenants by the entireties
- JT TEN — as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT — _____ as Custodian for _____
 (Cust) (Minor)
 Under Uniform Gifts to Minors Act

 (State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto
 PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____/_____/_____
 Please print or type name and address, including zip code of assignee

the within Note of BANK OF AMERICA CORPORATION and all rights thereunder and does hereby irrevocably constitute and appoint

 Attorney

to transfer the said Note on the books of the within-named Issuer, with full power of substitution in the premises

Dated: _____

SIGNATURE GUARANTEED: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of this Note

Schedule 1

SCHEDULE OF TRANSFERS, EXCHANGES AND EXTENSIONS

The following increases and decreases in the principal amount of this Note have been made:

Date of Transfer, Redemption, Repayment or Extension, as Applicable	Increase (Decrease) in Principal Amount of this Note Due to Transfer Among Global Notes or Redemption, Repayment or Non- Election of Extension of Maturity Date of a Portion of Global Note, as Applicable	Principal Amount of this Note After Transfer, Redemption, Repayment or Extension, as Applicable	Notation made by or on behalf of the Issuer
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**[EXTENDIBLE NOTE RIDER FOR
EXTENSION OF MATURITY AT HOLDER'S OPTION]**

This Note is an Extendible Note, whereby the registered holder has the option to extend the Maturity Date of the principal amount of this Note held by such registered holder (whether in whole or in part) for one or more periods, as specified in the Pricing Supplement, up to but not beyond the Final Maturity Date specified in the Pricing Supplement, under the terms of this Note as supplemented by this Extendible Note Rider.

Unless otherwise specified in the Pricing Supplement, the following provisions will apply to this Note:

This Note will mature on _____, or if that day is not a Business Day, the immediately preceding Business Day, unless the Maturity Date of all or any portion of the principal amount of this Note is extended in accordance with the procedures described below. In no event will the Maturity Date of this Note be extended beyond the Final Maturity Date.

During the Election Notice Period (as defined below) for each Election Date (as defined below), the registered holder of this Note may elect to extend the Maturity Date of all or any portion of the principal amount of this Note. If the holder so elects to extend the Maturity Date of all or any portion of the principal amount of this Note, the Maturity Date of the principal amount for which the election has been made will be extended [to the ___ day of the ___ calendar month]⁵ following the applicable Election Date (each, an "Additional Maturity Date"), up to but not beyond the Final Maturity Date. [If that day is not a Business Day, the Maturity Date of the applicable principal amount will be extended to the immediately preceding Business Day.]⁶ The holder may elect to extend the Maturity Date of all or the applicable portion of the principal amount of this Note having a principal amount of at least [\$1,000] or any integral multiple of [\$1,000] in excess of [\$1,000], provided that the principal amount of any portion of this Note not so extended shall be at least [\$1,000].

[The "Election Dates" will be the ___ of each month from, and including, _____ to, and including, _____, whether or not such day is a Business Day.] To make an election effective on any Election Date, the registered holder of this Note must deliver (a) a notice of election during the Election Notice Period for that Election Date and, in the event of an election to extend the Maturity Date of only a portion of the principal amount of this Note, this Note, or (b) a facsimile transmission or a letter from a member of a national securities exchange or the Financial Industry Regulatory Authority, Inc. or a commercial bank or a trust company in the United States setting forth the name of the holder of this Note, the principal amount hereof, the certificate number of this Note or a description of this Note's tenor or terms, a statement that the option to elect extension of Maturity Date is being exercised thereby, the principal amount hereof with respect to which such option is being exercised and a guarantee that the notice of

⁵ This form of rider contemplates the option to extend maturity of the notes on a monthly basis. If the applicable notes are not extendible monthly, this language will be modified to reflect semi-annual, quarterly or other periods for extension.

⁶ Modify as necessary for applicable business day convention.

election form included below duly completed and, in the event of an election to extend the Maturity Date of only a portion of the principal amount of this Note, this Note, will be delivered to the [Trustee] [London Paying Agent] as required hereby. A form of notice of election to extend the Maturity Date is set forth below.

The "Election Notice Period" for each Election Date will begin on the _____ Business Day prior to the applicable Election Date, and will end at [12:00 noon, New York City time,] on that Election Date. However, if that Election Date is not a Business Day, the Election Notice Period will be extended to [12:00 noon, New York City time,] on the next following day that is a Business Day. The election notice must be delivered to the [Trustee] [London Paying Agent] no later than 12:00 noon, New York City time, on the last Business Day in the Election Notice Period. Upon delivery to the [Trustee] [London Paying Agent] of a notice of election to extend the Maturity Date of the Notes or any portion thereof during any Election Notice Period, that election will be revocable during each day of that Election Notice Period, until [12:00 noon, New York City time,] on the last Business Day in the applicable Election Notice Period, at which time the notice will become irrevocable.

If on any Election Date, the registered holder of this Note does not make a timely or proper election to extend the Maturity Date of all or any portion of the principal amount of this Note, the principal amount of this Note for which an election has not been made will become due and payable on the Initial Maturity Date, or the applicable Additional Maturity Date to which the Maturity of this Note has previously been extended, as applicable. The principal amount of this Note for which an election is not exercised will be represented by a non-extendible substitute note, [substantially in the form attached hereto as Annex A,]⁷ which will be completed by the [Trustee] [London Paying Agent] in consultation with the Issuer, and issued by the [Trustee] [London Paying Agent] in the name of the holder hereof on that Election Date in accordance with the terms of the Indenture, subject to the delivery of this Note to the [Trustee] [London Paying Agent]. In such a case, Schedule 1 hereto will be annotated as of that Election Date to reflect the corresponding decrease in the principal amount of this Note. The non-extendible substitute note so issued will have the same terms as this Note, except that such note:

- will not be extendible;
- will have a new CUSIP number [and ISIN and Common Code]; and
- will retain the then-current Maturity Date of this Note.

Interest on a non-extendible substitute note will accrue from, and including, the last Interest Payment Date on this Note as to which interest was duly paid or provided by the Issuer.

The failure to elect to extend the Maturity Date of all or any portion of this Note will be irrevocable, and will be binding upon any subsequent holder of this Note or any applicable replacement note. The holder of a non-extendible substitute note received as a consequence of the failure to make such an election may not elect to exchange that non-extendible substitute note for an interest in this Note. The Issuer and the [Trustee] [London Paying Agent] will deem this

⁷ The form of non-extendible substitute note will be annexed to the global note at the time of issuance of notes extendible at the holder's option.

Note cancelled as to any portion of the principal amount hereof for which a duly completed form of notice of election to extend the Maturity Date and, if applicable, this Note are not delivered to the [Trustee] [London Paying Agent] within the applicable Election Notice Period in accordance with the terms of this Note.

Form of Notice of Election to Extend Maturity Date

The undersigned hereby elects to extend the Maturity Date of the Bank of America Corporation [*insert name of specific notes*] (CUSIP Number _____ [ISIN _____ and Common Code _____]) (or the portion thereof specified below) with the effect provided in the Note by surrendering such Note to the [the Trustee at 101 Barclay Street, New York, New York, 10286] [the London Paying Agent at One Canada Square, London, E14 5AL,], or such other address of which the Issuer shall from time to time notify the registered holders of the Note, in the event of an election to extend the Maturity Date of only a portion of the principal amount of the Note, together with this form of "Notice of Election to Extend Maturity Date" duly completed by the holder.

If the option to extend the Maturity Date of less than the entire principal amount of the Note is elected, specify the portion of the Note (which shall be [U.S.\$1,000] or an integral multiple of [U.S.\$1,000] in excess thereof) as to which the holder elects to extend the Maturity Date: [U.S.\$]_____; and specify the principal amount or amounts (which shall be [\$1,000] or an integral multiple of [U.S.\$1,000] in excess thereof) of the non-extendible substitute note or notes, [substantially in the form attached to the Note as Annex A,] to be issued to the holder for the portion of the principal amount of the Note for which the option to extend the Maturity Date is not being elected (in the absence of any such specification, one non-extendible substitute note, [substantially in the form of Annex A,] will be issued for the portion of the principal amount of the Note as to which the option to extend Maturity Date is not being made):
[U.S.\$]_____.

Dated: _____

[NOTICE: The signature on this Notice of Election to Extend Maturity Date must correspond with the name as written upon the face of the Note in every particular, without alteration or enlargement or any change whatever.]

**[EXTENDIBLE NOTE RIDER
FOR EXTENSION OF MATURITY AT ISSUER'S OPTION]**

This Note is an Extendible Note, whereby the Issuer has the option to extend the maturity of this Note for one or more periods, as specified in the Pricing Supplement (each, an "Extension Period"), up to but not beyond the Final Maturity Date specified in the Pricing Supplement, under the terms of this Note as supplemented by this Extendible Note Rider.

Unless otherwise specified in the Pricing Supplement, the following provisions will apply to this Note:

The Issuer may exercise its option with respect hereto by delivery to the [Trustee] [London Paying Agent] a notice of such exercise at least 45, but not more than 60, calendar days prior to the Stated Maturity Date originally in effect with respect hereto or, if the Stated Maturity Date has already been extended, prior to the maturity date then in effect (each, an "Extended Maturity Date"). After such receipt and not later than 40 calendar days prior to the Stated Maturity Date or an Extended Maturity Date, as the case may be (each, an "Existing Maturity Date"), the [Trustee] [London Paying Agent] (or any duly appointed paying agent) will mail by first class mail, postage prepaid, to the registered holder hereof a notice (the "Extension Notice") relating to such extension period (the "Extension Period") setting forth (i) the election of the Issuer to extend the Maturity hereof, (ii) the new Extended Maturity Date, (iii) the interest rate applicable to the Extension Period (which interest rate may be higher during the Extension Period), and (iv) the provisions, if any, for redemption during the Extension Period, including the date or dates on which, the period or periods during which and the price or prices at which such redemption may occur during the Extension Period. Upon the mailing by the [Trustee] [London Paying Agent] (or any duly appointed paying agent) of an Extension Notice to the registered holder hereof, the maturity shall be extended automatically as set forth in the Extension Notice, and, except as modified by the Extension Notice and as described in the next paragraph, this Note will have the same terms as prior to the mailing of such Extension Notice.

Notwithstanding the foregoing, not later than 20 calendar days prior to the Existing Maturity Date hereof (or, if such date is not a Business Day, on the immediately succeeding Business Day), the Issuer, at its option, may revoke the interest rate provided for in the Extension Notice and establish a higher interest rate for the Extension Period by mailing or causing the applicable Paying Agent to mail notice of such higher interest rate, by first class mail, postage prepaid, to the registered holder hereof. Such notice shall be irrevocable. Thereafter, this Note will bear such higher interest rate for the Extension Period.

[If the Issuer elects to extend the maturity hereof, the registered holder hereof will have the option to elect repayment hereof in whole or in part by the Issuer on the Existing Maturity Date then in effect at a price equal to the principal amount hereof plus any accrued and unpaid interest to such date. In order for this Note to be so repaid on the Existing Maturity Date, the Issuer must receive, at least 15 days but not more than 30 calendar days prior to the Existing Maturity Date then in effect with respect hereto: (i) this Note with the form "Option to Elect Repayment" below duly completed, or (ii) a facsimile transmission or a letter from a member of a national securities exchange or the Financial Industry Regulatory Authority, Inc. or a commercial bank or a trust company in the United States setting forth the name of the registered

holder hereof, the principal amount hereof to be repaid, the certificate number, or a description of the tenor and terms hereof, a statement that the option to elect repayment is being exercised thereby, and a guarantee that this Note, together with the duly completed form entitled "Option to Elect Repayment" attached hereto, will be received by the [Trustee] [London Paying Agent] not later than the fifth Business Day after the date of such facsimile transmission or letter; provided, however, that such facsimile transmission or letter shall only be effective if this Note and duly completed form are received by the [Trustee] [London Paying Agent] by such fifth Business Day. Such option may be exercised by the registered holder hereof for less than the aggregate principal amount hereof then outstanding, provided that the principal amount hereof remaining outstanding after repayment is at least an Authorized Denomination as specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, [U.S.\$1,000] or its equivalent in the applicable Specified Currency, unless otherwise specified in the Pricing Supplement.

[OPTION TO ELECT REPAYMENT]

The undersigned hereby irrevocably request(s) and instruct(s) the Issuer to repay this Note (or portion hereof specified below) pursuant to its terms at a price equal to the principal amount hereof together with interest to the repayment date, to the undersigned, at

(Please print or typewrite name and address of the undersigned)

For this Note to be repaid, [the Trustee must receive at 101 Barclay Street, New York, New York, 10286] [the London Paying Agent must receive at One Canada Square, London, E14 5AL,] or at such other place or places of which the Issuer from time to time shall notify the registered holder of this Note, not less than 30 nor more than 60 calendar days prior to an Optional Repayment Date, if any, shown in the Pricing Supplement, this Note with this "Option to Elect Repayment" form duly completed.

If less than the entire principal amount of this Note is to be repaid, (a) specify the portion hereof which the registered holder elects to have repaid and (b) specify the portion hereof (which shall be a minimum amount equal to the minimum Authorized Denomination) which is not being repaid (in the absence of any such specification to the contrary, one such Note will be issued for the portion not being repaid).

Date: _____

NOTICE: The signature on this Option to Elect Repayment must correspond with the name as written upon the face of this Note in every particular, without alteration or enlargement or any change whatever.

Principal amount to be repaid, if amount to be repaid is less than the principal amount of this Note (principal amount remaining must be in the minimum authorized denomination or any authorized integral multiple in excess thereof):

[U.S.\$] _____

Amount to be Reissued (principal amount remaining must be in the minimum authorized denomination or any authorized integral multiples in excess thereof):

[U.S.\$] _____

[U.S.\$] _____

[Option To Use DTC Tender Procedures]

DTC Participant
Number: _____
DTC Participant
Name: _____
DTC Participant Telephone
Number: _____

Fill in registration of Notes if to be issued otherwise than to the registered holder:

Name _____
Address: _____

(Please print name and address including zip code)

SOCIAL SECURITY OR OTHER TAXPAYER ID NUMBER

[FORM OF REGISTERED GLOBAL SUBORDINATED NOTE]

**BANK OF AMERICA CORPORATION
Medium-Term Subordinated Note, Series L****REGISTERED GLOBAL SUBORDINATED NOTE**

This Note is a global security within the meaning of the Indenture dated as of January 1, 1995, as supplemented from time to time (the "Indenture"), between Bank of America Corporation and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee") under the Indenture and is registered in the name of [Cede & Co., as the nominee of The Depository Trust Company (the "Depository")] [The Bank of New York Mellon Depository (Nominees) Limited, as the nominee of The Bank of New York Mellon, the common depository (the "Common Depository") for Euroclear Bank S.A./N.V., as operator of the Euroclear system, and/or Clearstream Banking, société anonyme, Luxembourg]. This Note is not exchangeable for definitive or other Notes registered in the name of a person other than [the Depository or its nominee] [the Common Depository], except in the limited circumstances described in the Indenture or in this Note, and no transfer of this Note (other than a transfer as a whole by [the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor depository or a nominee of such successor depository] [the Common Depository to a successor common depository]) may be registered except in the limited circumstances described in the Indenture.

[Unless this Note is presented by an authorized representative of The Depository Trust Company (the "Depository") (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer, exchange or payment, and this Note is registered in the name of CEDE & CO., or such other name as requested by an authorized representative of The Depository Trust Company, and unless any payment is made to CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, since the registered owner hereof, CEDE & CO., has an interest herein.]¹

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

THE INDEBTEDNESS OF BANK OF AMERICA CORPORATION EVIDENCED BY THIS NOTES, INCLUDING THE PRINCIPAL HEREOF AND INTEREST HEREON, IS, TO THE EXTENT AND IN THE MANNER SET FORTH IN THE INDENTURE, SUBORDINATE AND JUNIOR IN RIGHT OF PAYMENT TO BANK OF AMERICA CORPORATION'S OBLIGATIONS TO HOLDERS OF SENIOR INDEBTEDNESS, AS DEFINED IN THE INDENTURE, AND EACH HOLDER OF THIS NOTE, BY THE ACCEPTANCE HEREOF, AGREES TO AND SHALL BE BOUND BY SUCH PROVISIONS OF THE INDENTURE.

¹ Modify in the case of all Registered Global Notes other than DTC Global Notes.

THIS NOTE IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA, N.A. OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA CORPORATION.

THIS NOTE IS SOLD IN MINIMUM DENOMINATIONS AS NOTED HEREIN AND IN THE PRICING SUPPLEMENT ATTACHED HERETO AND CANNOT BE EXCHANGED FOR NOTES IN SMALLER DENOMINATIONS. EACH OWNER OF A BENEFICIAL INTEREST IN THIS NOTE IS REQUIRED TO HOLD A BENEFICIAL INTEREST OF A PRINCIPAL AMOUNT OF THIS NOTE EQUAL TO THE MINIMUM AUTHORIZED DENOMINATION AT ALL TIMES.

No. R-
CUSIP No.:
ISIN:
Common Code:

Registered

Principal Amount: [\$] _____

BANK OF AMERICA CORPORATION
Medium-Term Subordinated Note, Series L

[INSERT SPECIFIC NAME OR DESIGNATION OF THE NOTES]
REGISTERED GLOBAL SUBORDINATED NOTE

ORIGINAL ISSUE DATE²:

STATED MATURITY DATE:

CURRENCY:

- U.S. Dollars
 Other (specify):

- This Note is an Extendible Note at the Holder's Option. [See attached Rider]
 This Note is an Extendible Note at the Issuer's Option. [See attached Rider]
 This Note is an Amortizing Note. [See payment schedule in attached Pricing Supplement]

- FIXED RATE NOTE
 FLOATING RATE NOTE
 FLOATING RATE/FIXED RATE NOTE

RECORD DATES:

[CALCULATION AGENT:]

BANK OF AMERICA CORPORATION, a Delaware corporation (herein called the "Issuer," which term includes any successor corporation), for value received, hereby promises to pay to [CEDE & CO., as nominee for The Depository Trust Company][THE BANK OF NEW YORK MELLON DEPOSITORY (NOMINEES) LIMITED, as nominee of The Bank of New York, the common depository for Euroclear Bank S.A./N.V., as operator of the Euroclear system, and/or Clearstream Banking, société anonyme, Luxembourg], or its registered assigns, the principal amount specified above or as set forth in the Pricing Supplement (the "Pricing Supplement") attached hereto, as adjusted in accordance with Schedule 1 hereto, on the Stated Maturity Date³ specified above (except to the extent redeemed or repaid prior to the Stated Maturity Date), and to pay interest thereon (i) in accordance with the provisions set forth on the reverse hereof in Section 2(a), if this Note is designated as a "Fixed Rate Note" above, (ii) in accordance with the provisions set forth on the reverse hereof under the Section 2(b), if this Note is designated as a "Floating Rate

² The form provides that interest, if any, will accrue from the Original Issue Date. In the event a series of Notes is reopened, interest will accrue from the Original Issue Date for all tranches of Notes of that series. However, in the event a series of Notes is reopened, the authentication date for each tranche of Notes will be the date that tranche of Notes is settled, which may be different from the Original Issue Date.

³ This form provides for Notes that will mature only on a specified date. If the Maturity of Notes of a series may be extended at the option of the holder, or if the Issuer may elect the extension of Maturity of the Notes of a series, the form, as used, will be modified by the applicable Rider attached to this Note to provide for additional terms relating to such renewal or extension, as the case may be, including the period or periods for which the Maturity may be extended, changes in the interest rate, if any, and requirements for notice.

Note” above, or (iii) in accordance with the provisions set forth on the reverse hereof in Section 2(c), if this Note is designated as a “Floating Rate/Fixed Rate Note” above, in each case as such provisions may be modified or supplemented by the terms and provisions set forth in the Pricing Supplement, and (to the extent that the payment of such interest shall be legally enforceable) to pay interest at the Default Rate per annum specified in the Pricing Supplement on any overdue principal and premium, if any, and on any overdue installment of interest. If no Default Rate is specified in the Pricing Supplement, the Default Rate shall be the fixed or floating Interest Rate or Interest Rates on this Note specified in the Pricing Supplement. “Maturity,” when used herein, means the date on which the principal of this Note or an installment of principal becomes due and payable in full in accordance with the terms of this Note and of the Indenture, whether at the Stated Maturity Date or by declaration of acceleration, call for redemption, prepayment at the holder’s option or otherwise.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will be paid to the person in whose name this Note (or one or more predecessor Notes evidencing all or a portion of the same debt as this Note) is registered, unless otherwise specified on the face hereof or in the Pricing Supplement (i) for book-entry only Notes denominated in U.S. dollars, at the close of business on the date that is one business day (in Charlotte, North Carolina and New York City) prior to such Interest Payment Date or (ii) for book-entry only Notes denominated in a currency other than U.S. dollars and for any Notes in definitive form, at the close of business on the fifteenth calendar day immediately preceding such Interest Payment Date (each, referred to herein as the “Regular Record Date”); provided, however, that the first payment of interest on any Note with an Original Issue Date between a Regular Record Date and an Interest Payment Date or on an Interest Payment Date will be made on the Interest Payment Date following the next Regular Record Date to the person in whose name this Note is registered at the close of business on such next Regular Record Date; and provided, further, that interest payable at Maturity (the “Maturity Date”) will be payable to the person to whom the principal hereof shall be payable. The principal so payable, and punctually paid or duly provided for, at Maturity will be paid to the person in whose name this Note (or one or more predecessor Notes evidencing all or a portion of the same debt as this Note) is registered at the close of business on the Maturity Date. Any such interest or principal not punctually paid or duly provided for shall be payable as provided in this Note and in the Indenture.

Payment of principal of, and premium, if any, and interest on, this Note due at Maturity will be made in immediately available funds upon presentation and surrender of this Note at the office of the applicable Paying Agent (as described on the reverse hereof) maintained for that purpose, and in accordance with the procedures of the depository or clearing system noted hereon; provided, that this Note is presented to the Paying Agent in time for the Paying Agent to make such payment in accordance with its normal procedures. Payments of interest on this Note (other than at Maturity) will be made by wire transfer to such account as has been appropriately designated to the Paying Agent by the person entitled to such payments.

The Issuer will pay any administrative costs imposed by any bank in making payments in immediately available funds, but any tax, assessment or governmental charge imposed upon payments hereunder, including, without limitation, any withholding tax, will be borne by the holder hereof.

Reference is made to the further provisions of this Note set forth on the reverse hereof and in the Pricing Supplement attached hereto, which shall have the same effect as though fully set forth at this place. In the event of any conflict between the provisions contained herein or on the reverse hereof and the provisions contained in the Pricing Supplement attached hereto, the latter shall control. References herein to “this Note,” “hereof,” “herein” and comparable terms shall include the Pricing Supplement attached hereto.

Unless the certificate of authentication hereon has been executed by the Trustee (or other authentication agent duly appointed in accordance with the Indenture), by manual signature of an authorized signatory, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, Bank of America Corporation has caused this instrument to be duly executed on its behalf, by manual or facsimile signature.

Dated: _____

BANK OF AMERICA CORPORATION

[CORPORATE SEAL]

ATTEST: _____

By: _____

Name:

Title:

By: _____

Title: [Assistant] Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Dated: _____

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee

By: _____
Authorized Signatory

[ATTACH PRICING SUPPLEMENT]

[Reverse of Note]

BANK OF AMERICA CORPORATION
Medium-Term Subordinated Note, Series L

REGISTERED GLOBAL SUBORDINATED NOTE

SECTION 1. *General.* This Note is one of a duly authorized issue of subordinated notes of the Issuer to be issued in one or more series under the Indenture dated January 1, 1995, as supplemented from time to time (the "Indenture"), between Bank of America Corporation (the "Issuer") and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), and to which Indenture reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Trustee and the London Paying Agent (as described below) thereunder and the holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms Trustee and London Paying Agent shall include any additional or successor trustee or agents appointed in such capacities by the Issuer in accordance with the terms of the Indenture.

This Note is also one of the Notes issued pursuant to the Prospectus Supplement dated April 21, 2009 to the Prospectus dated April 20, 2009, as either of such documents may be supplemented or amended from time to time, or pursuant to any document that supersedes or replaces either of such documents from time to time (referred to collectively herein as the "Prospectus"), for the offer and sale of the Issuer's senior and subordinated medium-term notes, Series L (the "Notes"). The Notes may have different issue and maturity dates, bear interest at different rates and vary in such other ways as provided in the Indenture and described in the Prospectus. The specific terms of each issuance of Notes will be described in a Pricing Supplement.

The Issuer has initially appointed the Trustee to act as the U.S. Issuing and Paying Agent, Security Registrar and Transfer Agent for the Notes and The Bank of New York Mellon to act as the London Paying Agent for certain of the Notes through its London branch (the "London Paying Agent" and, with the Trustee, each, a "Paying Agent"). This Note may be presented or surrendered for payment, and notices, designations or requests in respect of payments with respect to this Note may be served, at the corporate trust office of the Trustee, located at 101 Barclay Street, New York, New York, 10286, and/or at the office of the London Paying Agent located at One Canada Square, London, E14 5AL, as applicable, or such other locations as may be specified by the applicable Paying Agent and notified to the Issuer and the registered holder of this Note.

Unless specified otherwise in the Pricing Supplement, this Note will not be subject to a sinking fund.

SECTION 2. *Interest Provisions.*

(a) Fixed Rate Notes. If this Note is designated as a "*Fixed Rate Note*" on the face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified above, except as provided on the face hereof, until payment of such

principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from, and including, the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise specified in the Pricing Supplement, if no interest has been paid or duly provided for, from, and including, the Original Issue Date) to, but excluding, the relevant Interest Payment Date or Maturity Date, as the case may be.

Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity less than one year and is payable in U.S. dollars, interest (including payments for partial periods) will be computed and paid on the basis of the actual number of days elapsed divided by 360. Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity of one year or more and is payable in U.S. dollars, interest (including payments for partial periods) will be computed on the basis of a 360-day year of twelve 30-day months. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in a currency other than U.S. dollars or Canadian dollars, interest will be computed on the basis of the Actual/Actual (ISMA) Fixed Day Count Convention. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in Canadian dollars, interest will be calculated using Actual/Actual (Canadian Compound Method).

“**Actual/Actual (ISMA) Fixed Day Count Convention**” means:

- (a) in the case of fixed-rate notes where the number of days in the relevant period from and including the most recent Interest Payment Date (or, if none, from, and including, the interest commencement date, which unless specified otherwise in the Pricing Supplement shall be the Original Issue Date) to, but excluding, the relevant payment date (referred to as the “**accrual period**”) is equal to or shorter than the determination period (as defined below) during which the accrual period ends, the number of days in the accrual period divided by the product of (1) the number of days in that determination period and (2) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; or
- (b) in the case of fixed-rate notes where the accrual period is longer than the determination period during which the accrual period ends, the sum of:
 - (1) the number of days in that accrual period falling in the determination period in which the accrual period begins divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; and
 - (2) the number of days in that accrual period falling in the next determination period divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year.

“**Determination period**” means the period from, and including, a determination date to, but excluding, the next determination date (including, where either the interest commencement date or

the final Interest Payment Date is not a determination date, the period commencing on the first determination date prior to, and ending on the first determination date falling after, such date).

“**Determination date**” means each date specified in the Pricing Supplement or, if none is specified, each Interest Payment Date.

“**Actual/Actual (Canadian Compound Method)**” means, when calculating interest due on any Interest Payment Date for a full semi-annual interest period, the day count fraction will be 30/360, and, when calculating interest for any interest period that is shorter than a full semi-annual interest period, the day count fraction will be Actual/365 (Fixed).

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date or the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal, premium, if any, or interest on this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after such Interest Payment Date or the Maturity Date, as the case may be.

(b) Floating Rate Notes. If this Note is designated as a “*Floating Rate Note*” on face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified on the face hereof, unless the Original Issue Date occurs between a Regular Record Date and the next Interest Payment Date, in which case interest shall be payable commencing on the Interest Payment Date following the next Regular Record Date, at a rate per annum determined in accordance with the provisions hereof and the Pricing Supplement, until payment of such principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from, and including, the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise provided in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to, but excluding, the relevant Interest Payment Date or Maturity Date, as the case may be (each such period, an “Interest Period”).

As set forth in the Pricing Supplement, this Note may have either or both of the following: (i) a maximum numerical interest rate limitation, or ceiling, on the rate at which interest may accrue during any Interest Period (“Maximum Interest Rate”); or (ii) a minimum numerical interest rate limitation, or floor, on the rate at which interest may accrue during any interest period (“Minimum Interest Rate”); provided, however, that the interest rate on this Note will in no event be higher than the maximum rate permitted by applicable law.

The Base Rate (as defined herein) with respect to this Note may be (i) the federal funds rate, (ii) the London interbank offered rate, or “LIBOR,” (iii) the Euro-zone interbank offered rate, or “EURIBOR,” (iv) the prime rate, (v) the treasury rate or (vi) such other rate as is described in the Pricing Supplement.

Except as described below, this Note will bear interest at the rate determined by reference to the appropriate interest rate basis (the “Base Rate”) and Index Maturity, each as specified in the Pricing Supplement, (i) plus or minus the Spread, if any, specified in the Pricing Supplement and/or (ii) multiplied by the Spread Multiplier, if any, specified in the Pricing Supplement. The interest rate in effect during an Interest Period will be the rate determined by the Calculation Agent specified in the Pricing Supplement on the “calculation date” by reference to the Interest Determination Date (as described below).

The “calculation date” pertaining to any Interest Determination Date will be the date by which the Calculation Agent specified in the Pricing Supplement computes the amount of interest owed on this Note for the related Interest Period. Unless otherwise specified in the Pricing Supplement, the “calculation date” will be the earlier of (a) the tenth calendar day after the related Interest Determination Date or, if that date is not a Business Day, the next succeeding Business Day; or (b) the Business Day immediately preceding the applicable Interest Payment Date or the Stated Maturity Date or the date of redemption or the date of prepayment, as the case may be.

The interest rate in effect on each day shall be (a) if such day is an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to such Interest Reset Date or (b) if such day is not an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to the immediately preceding Interest Reset Date. Unless otherwise specified herein or in the Pricing Supplement, if any Interest Reset Date specified in the Pricing Supplement (including the Initial Interest Reset Date, as specified in the Pricing Supplement) falls on a day that is not a Business Day, the Interest Reset Date will be postponed to the next day that is a Business Day, except that, unless otherwise specified in the Pricing Supplement, in the case of a LIBOR note or a EURIBOR note, if the next Business Day is in the next succeeding calendar month, the Interest Reset Date will be the immediately preceding Business Day. The Interest Reset Dates are subject to adjustment as described below.

Unless otherwise specified in the Pricing Supplement: (i) the “Interest Determination Date” with respect to any Note that has as its Base Rate the federal funds rate or the prime rate will be the Business Day immediately preceding the related Interest Reset Date; (ii) the “Interest Determination Date” with respect to any Note that has LIBOR as its Base Rate will be the second London Banking Day preceding the related Interest Reset Date, unless the Index Currency specified in the Pricing Supplement is pounds sterling, in which case the Interest Determination Date will be the Interest Reset Date; (iii) the “Interest Determination Date” with respect to any Note that has EURIBOR as its Base Rate will be the second TARGET Settlement Date (as defined below) preceding the related Interest Reset Date; and (iv) the “Interest Determination Date” with respect to any Note that has as its Base Rate the treasury rate will be the day of the week in which the related Interest Reset Date falls on which Treasury bills of the Index Maturity specified in the Pricing Supplement normally would be auctioned; provided, however, that if an auction is held on the Friday of the week preceding the related Interest Reset Date, the related “Interest Determination Date” shall be such preceding Friday; and provided, further, that if an auction is held on any Interest Reset Date then the Interest Reset Date shall instead be the first Business Day following such auction.

For a Note whose interest rate is determined by reference to two or more Base Rates, unless otherwise specified in the Pricing Supplement, the “Interest Determination Date” shall be the most recent Business Day that is at least two Business Days prior to the applicable Interest Reset Date for the Note on which each Base Rate is determinable.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date falls on a day that is not a Business Day, the related payment of interest will be made on the next succeeding Business Day. However, unless otherwise specified in the Pricing Supplement, if this Note has as its Base Rate LIBOR or EURIBOR, as described below, if an Interest Payment Date falls on a date that is not a Business Day, and the next Business Day is in the next calendar month, the Interest Payment Date will be the immediately preceding Business Day. In each such case, except for the Interest Payment Date falling on the Maturity Date, the Interest Periods and the Interest Reset Dates will be adjusted accordingly to calculate the amount of interest payable on this Note. Unless otherwise specified in the Pricing Supplement, if the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after the Maturity Date.

Accrued interest on this Note is calculated by multiplying the principal amount of the Note by an accrued interest factor. The accrued interest factor is the sum of the interest factors calculated for each day in the period for which accrued interest is being calculated. Unless otherwise indicated in the Pricing Supplement, the daily interest factor will be computed on the basis of a 360-day year of twelve 30-day months if the Day Count Convention specified in the Pricing Supplement is "30/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 360 if the Day Count Convention specified in the Pricing Supplement is "Actual/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 365, or in the case of an Interest Payment Date falling in a leap year, 366, if the Day Count Convention specified in the Pricing Supplement is "Actual/Actual" for the period specified thereunder. If no Day Count Convention is specified in the Pricing Supplement, the daily interest factor will be computed and interest will be paid (including payments for partial periods) as follows: (i) for Notes that have as a Base Rate the federal funds rate, LIBOR, EURIBOR, the prime rate, or any other rate other than the treasury rate, as if "Actual/360" had been specified in the Pricing Supplement; (ii) for Notes that have the treasury rate as a Base Rate, as if "Actual/Actual" had been specified in the Pricing Supplement; and (iii) for Notes that are denominated in Canadian dollars, unless otherwise specified in the Pricing Supplement, as if "Actual/365" had been specified in the Pricing Supplement.

All amounts used in or resulting from any calculation on this Note will be rounded to the nearest cent, if the currency specified on the face hereof (referred to herein as the "Specified Currency") is U.S. dollars, or to the nearest corresponding hundredth of a unit, if the Specified Currency is other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward. Unless otherwise specified in the Pricing Supplement, all percentages resulting from any calculation are rounded to the nearest one hundred-thousandth of a percent, with five one-millionths of a percentage point rounded upward. For example, 9.876545% (or .09876545) will be rounded to 9.87655% (or .0987655).

Notwithstanding the calculations determined as specified below, the interest rate hereon shall not be greater than the Maximum Interest Rate, if any, or less than the Minimum Interest Rate, if any, specified in the Pricing Supplement.

The Calculation Agent shall calculate the interest rate hereon in accordance with the procedures described below on or before each calculation date. At the request of the registered holder hereof, the Calculation Agent will provide to such holder the interest rate hereon then in effect and, if determined, the interest rate which will become effective as of the next Interest Reset Date.

Determination of LIBOR. LIBOR for any Interest Determination Date will be the arithmetic mean of the offered rates for deposits in the relevant Index Currency having the Index Maturity described in the Pricing Supplement, commencing on the related Interest Reset Date, as the rates appear on the LIBOR Reuters page designated in the Pricing Supplement as of 11:00 A.M., London time, on that Interest Determination Date, if at least two offered rates appear on the designated LIBOR page, except that, if the designated LIBOR Reuters page only provides for a single rate, that single rate will be used.

If fewer than two of the rates described above appears on that page or no rate appears on any page on which only one rate normally appears, then the Calculation Agent will determine LIBOR as follows:

- The Calculation Agent will select four major banks in the London interbank market, after consultation with the Issuer. On the Interest Determination Date, those four banks will be requested to provide their offered quotations for deposits in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to prime banks in the London interbank market at approximately 11:00 A.M., London time.
- If at least two quotations are provided, the Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.
- If fewer than two quotations are provided, the Calculation Agent will select, after consultation with the Issuer, three major banks in New York City. On the Interest Determination Date, those three banks will be requested to provide their offered quotations for loans in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to leading European banks at approximately 11:00 A.M., New York time. The Calculation Agent will determine LIBOR as the average of those quotations.
- If fewer than three New York City banks selected by the Calculation Agent are quoting rates, LIBOR for that interest period will remain LIBOR then in effect on the Interest Determination Date.

Determination of EURIBOR. EURIBOR means, for any Interest Determination Date, the rate for deposits in euro as sponsored, calculated, and published jointly by the European Banking Federation and ACI—The Financial Market Association, or any company established by the joint sponsors for purposes of compiling and publishing those rates, having the Index Maturity specified in the Pricing Supplement, as that rate appears on the display on Reuters, or any successor service, on page EURIBOR01 or any other page as may replace such page (“**Reuters Page EURIBOR01**”), as of 11:00 A.M., Brussels time.

The following procedures will be followed if EURIBOR cannot be determined as described above:

- If no offered rate appears on Reuters Page EURIBOR01 on an Interest Determination Date at approximately 11:00 A.M., Brussels time, then the Calculation Agent, after consultation with the Issuer, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in euro having the Index Maturity specified in the Pricing Supplement are offered to prime banks in the Euro-zone interbank market, and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least two quotations are provided, EURIBOR will be the average of those quotations.
- If fewer than two quotations are provided, then the Calculation Agent, after consultation with the Issuer, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate offered by them, at approximately 11:00 A.M., Brussels time, on the Interest Determination Date, for loans in euro to prime banks in the Euro-zone interbank market for a period of time equivalent to the Index Maturity specified in the Pricing Supplement commencing on that Interest Reset Date and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least three quotations are provided, EURIBOR will be the average of those quotations.
- If three quotations are not provided, EURIBOR for that Interest Determination Date will be equal to EURIBOR for the immediately preceding interest period.

“**Euro-zone**” means the region comprising Member States of the European Union that have adopted the euro as their single currency in accordance with the Treaty establishing European Community, as amended.

Determination of Treasury Rate. The “treasury rate” for any Interest Determination Date is the rate set at the auction of direct obligations of the United States (**Treasury bills**) having the Index Maturity described in the Pricing Supplement, as specified under the caption “Investment Rate” on the display on Reuters, or any successor service, on page USAUCTION 10/11 or any other page as may replace such page.

The following procedures will be followed if the treasury rate cannot be determined as described above:

- If the rate is not displayed on Reuters on page USAUCTION 10/11 or any other page as may replace such page by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate of Treasury bills as published in H.15 Daily Update, or another recognized electronic source for the purpose of displaying the applicable rate, under the caption “U.S. Government Securities/Treasury Bills/Auction High.”
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the bond equivalent yield, as defined below, of the auction rate of the applicable Treasury bills as announced by the U.S. Department of the Treasury.

- If the alternative rate described in the paragraph immediately above is not announced by the U.S. Department of the Treasury, or if the auction is not held, the treasury rate will be the bond equivalent yield of the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15(519) under the caption “U.S. Government Securities/Treasury Bills/Secondary Market.”
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15 Daily Update, or another recognized electronic source used for the purpose of displaying the applicable rate, under the caption “U.S. Government Securities/Treasury Bills/Secondary Market.”
- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date calculated by the Calculation Agent as the bond equivalent yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 P.M., New York City time, on that Interest Determination Date, of three primary U.S. government securities dealers, selected by the Calculation Agent, after consultation with the Issuer, for the issue of Treasury bills with a remaining maturity closest to the particular Index Maturity.
- If the dealers selected by the Calculation Agent are not quoting as described in the paragraph immediately above, the treasury rate will be the treasury rate in effect on the particular Interest Determination Date.

The bond equivalent will be calculated using the following formula:

$$\text{Bond Equivalent Yield} = \frac{D \times N}{360 - (D \times M)} \times 100$$

where “D” refers to the applicable annual rate for Treasury bills quoted on a bank discount basis and expressed as a decimal, “N” refers to 365 or 366, as the case may be, and “M” refers to the actual number of days in the applicable interest period.

“**H.15(519)**” means the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Board.

“**H.15 Daily Update**” means the daily update of H.15(519), available through the website of the Federal Reserve Board at www.federalreserve.gov/releases/h15/update, or any successor site or publication.

Determination of Federal Funds Rate. The “federal funds rate” for any Interest Determination Date will be as follows:

- if “**Federal Funds (Effective) Rate**” is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds, as published in H.15(519) under the heading “Federal Funds (Effective)” and displayed on Reuters, or any successor service, on page FEDFUNDS1 or any other page as may replace the specified page on that service (“**Reuters Page FEDFUNDS1**”), or if such rate is not published in H.15(519) by 3:00 P.M., New York City time, on the

related calculation date or does not appear on Reuters Page FEDFUNDS1, the federal funds rate will be the rate on that Interest Determination Date, as published in H.15 Daily Update, or any other recognized electronic source for the purposes of displaying the applicable rate, under the caption “Federal Funds (Effective).” If the alternate rate described in the preceding sentence is not published in H.15 Daily Update, or other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on the business day following that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with the Issuer; provided, however, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if “**Federal Funds Open Rate**” is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds transactions among member of the U.S. Federal Reserve System arranged by federal funds brokers on such day, under the heading “Federal Funds” for the applicable Index Maturity and opposite the caption “Open” and displayed on Reuters, or any successor service, on page 5 or any other page as may replace the specified page on that service (“**Reuters Page 5**”), or if such rate does not appear on Reuters Page 5 by 3:00 P.M., New York City time, on the related calculation date, the federal funds rate will be the rate on that Interest Determination Date displayed on FFPREBON Index page on Bloomberg L.P. (“**Bloomberg**”), which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg. If the alternate rate described in the preceding sentence is not displayed on FFPREBON Index page on Bloomberg, or any other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with the Issuer; provided, however, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.
- if “**Federal Funds Target Rate**” is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds displayed on the FDTR Index page on Bloomberg. If such rate does not appear on the FDTR Index page on Bloomberg by 3:00 P.M., New York City time, on the calculation date, the federal funds rate for such Interest Determination Date will be the rate for that day appearing on Reuters, or any successor service, on page USFFTARGET= or any other page as may replace the specified page on that service (“**Reuters Page USFFTARGET=**”). If such rate does not appear on the FDTR Index page on Bloomberg or is not displayed on Reuters Page USFFTARGET= by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will

determine the federal funds rate to be the average of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with the Issuer; provided, however, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

Determination of Prime Rate. The “prime rate” for any Interest Determination Date is the prime rate or base lending rate on that date, as published in H.15(519) prior to 3:00 P.M., New York City time, on the related calculation date, under the caption “Bank Prime Loan.”

The following procedures will be followed if the prime rate cannot be determined as described above:

- If the rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date, then the prime rate will be the rate as published in H.15 Daily Update, or any other recognized electronic source used for the purpose of displaying the applicable rate, under the caption “Bank Prime Loan.”
- If the alternative rate described above is not published in H.15 Daily Update or another recognized electronic source by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the prime rate to be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters screen US PRIME 1, as defined below, as that bank’s prime rate or base lending rate as in effect as of 11:00 A.M., New York City time, on that Interest Determination Date.
- If fewer than four rates appear on the Reuters screen US PRIME 1 for that Interest Determination Date, by 3:00 P.M., New York City time, then the Calculation Agent will determine the prime rate to be the average of the prime rates or base lending rates furnished in New York City by three substitute banks or trust companies (all organized under the laws of the United States or any of its states and having total equity capital of at least U.S.\$500,000,000) selected by the Calculation Agent, after consultation with the Issuer.
- If the banks selected by the Calculation Agent are not quoting as described above, the prime rate will remain the prime rate then in effect on the Interest Determination Date.

“**Reuters screen US PRIME 1**” means the display designated as page “US PRIME 1” on the Reuters Monitor Money Rates Service (or any other page as may replace the US PRIME 1 page on that service for the purpose of displaying prime rates or base lending rates of major U.S. banks).

(c) Floating Rate/Fixed Rate Notes. If this Note is designated as a “Floating Rate/Fixed Rate Note” on the face hereof, this Note may bear interest at a fixed rate for a specified period and at a floating rate for a specified period, in each case calculated as set forth in (a) and (b) above, as applicable, and in the Pricing Supplement.

SECTION 3. Amortizing Notes. If this Note is designated as an “Amortizing Note” on the face hereof, the Issuer will make payments combining principal and interest on the dates and in the amounts set forth in the table included in the Pricing Supplement. If this Note is an Amortizing

Note, payments made hereon will be applied first to interest due and payable on each such payment date and then to the reduction of the Outstanding Face Amount. The term “Outstanding Face Amount” means, at any time, the amount of unpaid principal hereof at such time.

SECTION 4. *Optional Redemption.* If so specified in the Pricing Supplement, this Note may be redeemed at the option of the Issuer on any Interest Payment Date (unless otherwise specified in the Pricing Supplement) on and after the Initial Redemption Date, if any, specified in the Pricing Supplement (each, a “Redemption Date”). **IF NO INITIAL REDEMPTION DATE IS SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE REDEEMED AT THE OPTION OF THE ISSUER PRIOR TO THE STATED MATURITY DATE, EXCEPT AS PROVIDED BELOW IN THE EVENT THAT ANY ADDITIONAL AMOUNTS (AS DEFINED BELOW) ARE REQUIRED TO BE PAID BY THE ISSUER WITH RESPECT TO THIS NOTE.** If so specified in the Pricing Supplement, on and after the Initial Redemption Date, if any, this Note may be redeemed at any time in whole or from time to time in part at the option of the Issuer at the Redemption Price (as defined below), together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the Redemption Date, on notice given in accordance with the Indenture not less than 30 nor more than 60 calendar days (unless otherwise specified in the Pricing Supplement) prior to the Redemption Date. The notice will take the form of a certificate signed by the Issuer specifying:

- the date fixed for redemption;
- the redemption price;
- the securities identification number(s) of the Notes to be redeemed;
- the amount to be redeemed, if less than all of the series of Notes is to be redeemed;
- the place of payment for the Notes to be redeemed; and
- that on and after the date fixed for redemption, interest will cease to accrue on the Notes to be redeemed.

So long as a depository is the record holder of this Note, the Issuer will deliver any redemption notice only to that depository.

In the event of redemption of this Note in part only, the unredeemed portion hereof shall be at least the minimum authorized denomination (the “Authorized Denomination”) specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. \$1,000 or its equivalent in the Specified Currency. In the event of redemption of this Note in part only, a new Note for the unredeemed portion hereof shall be issued in the name of the registered holder hereof upon the surrender of this Note or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Unless otherwise specified above, if less than all of the Notes with like tenor and terms are to be redeemed, the Trustee shall select, pro rata or by lot or in such other manner as the Trustee shall deem fair and appropriate, the Notes to be redeemed. If this Note is redeemable at the option of the Issuer, then if so specified in the Pricing Supplement, the “Redemption Price” initially shall be the Initial Redemption Percentage specified in the Pricing Supplement of the principal amount of this Note to be redeemed, which shall be 100% of the principal amount of the Note to be redeemed, unless otherwise specified in the Pricing Supplement.

From and after any Redemption Date, if monies for the redemption of this Note (or portion hereof) shall have been made available for redemption on such Redemption Date, this Note (or such

portion hereof) shall cease to bear interest and the holder's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being redeemed (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

SECTION 5. *Optional Repayment.* If so specified in the Pricing Supplement, this Note will be repayable prior to the Stated Maturity Date at the option of the registered holder on the Optional Repayment Date(s), if any, specified in the Pricing Supplement. **IF NO OPTIONAL REPAYMENT DATES ARE SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE SO REPAID AT THE OPTION OF THE HOLDER HEREOF PRIOR TO THE STATED MATURITY DATE.** Unless otherwise specified in the Pricing Supplement, on any Optional Repayment Date, this Note shall be repayable in whole or in part at the option of the holder hereof at a repayment price equal to 100% of the principal amount to be repaid, together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the date of repayment; provided, however, that, in the event of repayment of this Note in part only, the unrepaid portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. \$1,000 or its equivalent in the Specified Currency. For this Note to be repaid in whole or in part at the option of the holder hereof on any Optional Repayment Date, this Note must be received, with the form attached hereto entitled "Option to Elect Repayment" duly completed, by the applicable Paying Agent (as appropriate in accordance with such attached form), at the applicable address set forth on such form or at such other address which the Issuer shall from time to time notify the holders of the Notes not less than 30 nor more than 60 calendar days prior to such holder's Optional Repayment Date. In the event of repayment of this Note in part only, a new Note for the unrepaid portion hereof shall be issued in the name of the registered holder hereof upon the surrender hereof or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Exercise of such repayment option by the holder hereof shall be irrevocable.

From and after any Optional Repayment Date, if monies for the repayment of this Note (or portion hereof) shall have been made available for repayment on such Optional Repayment Date, this Note (or such portion hereof) shall cease to bear interest and the holder's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being repaid (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such Optional Repayment Date.

SECTION 6. *Additional Amounts.* All payments of principal, premium, if any, and interest with respect to this Note will be made without withholding or deduction at source for, or on account of, any present or future taxes, fees, duties, assessments, or governmental charges of whatever nature imposed or levied by the United States or any political subdivision or taxing authority thereof or therein, except to the extent such withholding or deduction is required by (i) the laws (or any regulations or rulings promulgated thereunder) of the United States or any political subdivision or taxing authority thereof or therein or (ii) an official position regarding the application, administration, interpretation, or enforcement of any such laws, regulations, or rulings (including, without limitation, a holding by a court of competent jurisdiction or by a taxing authority in the United States or any political subdivision thereof). If so specified in the Pricing Supplement, if a

withholding or deduction at source is required, the Issuer will, subject to the exceptions and limitations set forth below, pay to the beneficial owner of this Note that is a “non-U.S. person” (as defined below) additional amounts (“**Additional Amounts**”) to ensure that every net payment on this Note will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. For this purpose, a “**net payment**” on this Note means a payment by the Issuer or any Paying Agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States (other than a territory or possession). These Additional Amounts will constitute additional interest on this Note. For this purpose, “**U.S. withholding tax**” means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding the Issuer’s obligation, if so specified in the Pricing Supplement, to pay Additional Amounts, the Issuer will not be required to pay Additional Amounts in any of the circumstances described in items (1) through (13) below, unless otherwise specified in the Pricing Supplement.

(1) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- having a relationship with the United States as a citizen, resident, or otherwise;
- having had such a relationship in the past; or
- being considered as having had such a relationship.

(2) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- being treated as present in or engaged in a trade or business in the United States;
- being treated as having been present in or engaged in a trade or business in the United States in the past;
- having or having had a permanent establishment in the United States; or
- having or having had a qualified business unit which has the U.S. dollar as its functional currency.

(3) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being or having been a:

- personal holding company;
- foreign personal holding company;
- private foundation or other tax-exempt organization;
- passive foreign investment company;

- controlled foreign corporation; or
- corporation which has accumulated earnings to avoid U.S. federal income tax.

(4) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of the Issuer's stock entitled to vote.

(5) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being a bank extending credit under a loan agreement entered into in the ordinary course of business.

For purposes of items (1) through (5) above, "**beneficial owner**" includes, without limitation, a holder and a fiduciary, settlor, partner, member, shareholder, or beneficiary of the holder if the holder is an estate, trust, partnership, limited liability company, corporation, or other entity, or a person holding a power over an estate or trust administered by a fiduciary holder.

(6) Additional Amounts will not be payable to any beneficial owner of this Note that is:

- a fiduciary;
- a partnership;
- a limited liability company;
- another fiscally transparent entity; or
- not the sole beneficial owner of this Note or any portion of this Note.

However, this exception to the obligation to pay Additional Amounts will apply only to the extent that a beneficiary or settlor in relation to the fiduciary, or a beneficial owner, partner, or member of the partnership, limited liability company, or other fiscally transparent entity, would not have been entitled to the payment of an additional amount had the beneficiary, settlor, beneficial owner, partner, or member received directly its beneficial or distributive share of the payment.

(7) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner of this Note or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay Additional Amounts will apply only if compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.

(8) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on this Note by the Issuer or any Paying Agent.

(9) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

(10) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner of this Note for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.

(11) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any:

- estate tax;
- inheritance tax;
- gift tax;
- sales tax;
- excise tax;
- transfer tax;
- wealth tax;
- personal property tax; or
- any similar tax, assessment, or other governmental charge.

(12) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any Paying Agent from a payment of principal or interest on the this Note if such payment can be made without such withholding by any other Paying Agent.

(13) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any combination of items (1) through (12) above.

Except as specifically provided in this section or in the Pricing Supplement, the Issuer will not be required to make any payment of any tax, assessment, or other governmental charge with respect to this Note imposed by any government, political subdivision, or taxing authority of that government.

For purposes of determining whether the payment of Additional Amounts is required, the term “**U.S. person**” means any individual who is a citizen or resident of the United States; any corporation, partnership, or other entity created or organized in or under the laws of the United States; any estate if the income of such estate falls within the federal income tax jurisdiction of the United States regardless of the source of that income; and any trust if a U.S. court is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of the substantial decisions of the trust. Additionally, for this purpose, “**non-U.S. person**” means a person who is not a U.S. person, and “**United States**” means the United States of America, including each state of the United States and the District of Columbia, its territories, its possessions, and other areas within its jurisdiction.

SECTION 7. Redemption for Tax Reasons. If so specified in the Pricing Supplement, the Issuer may redeem this Note in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), after giving not less than 30 nor more than 60 calendar days’ notice to the applicable Paying Agent and to the registered holder of this Note, if the Issuer has or will become obligated to pay Additional Amounts, as described above, as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United States having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of the Pricing Supplement, and the Issuer cannot avoid such obligation by taking reasonable measures available to it.

Before the Issuer delivers or publishes any notice of redemption for tax reasons, it will deliver to the Trustee and any other applicable Paying Agent an officers’ certificate complying with the applicable provisions of the Indenture.

Unless otherwise specified in the Pricing Supplement, any Note redeemed for tax reasons will be redeemed at 100% of its principal amount (or, in the case of an Original Issue Discount Note, the amortized face amount hereof determined as of the date of redemption), together with any interest accrued up to, but excluding, the redemption date.

From and after any redemption date, if monies for the redemption of this Note shall have been made available for redemption on such redemption date, this Note shall cease to bear interest and the holder’s only right with respect to this Note shall be to receive payment of the principal amount of the Note (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

SECTION 8. Modification and Waivers. The Indenture permits, with certain exceptions as therein provided, the amendment of the Indenture and the modification of the rights and obligations of the Issuer and the rights of the holders of the Notes under the Indenture at any time by the Issuer with the consent of the holders of not less than $66\frac{2}{3}\%$ in aggregate principal amount of the series of Notes of which this Note is a part then outstanding and all other Securities (as defined in the Indenture) then outstanding under the Indenture and affected by such amendment and modification. The Indenture also contains provisions permitting the holders of a majority in aggregate principal amount of the series of Notes of which this Note is a part then outstanding and all other Securities then outstanding under the Indenture and affected thereby, on behalf of the holders of all such Securities, to waive compliance by the Issuer with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the holder

of this Note shall be conclusive and binding upon such holder and upon all future holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Note. The determination of whether particular Securities are “outstanding” will be made in accordance with the Indenture.

Any action by the holder of this Note shall bind all future holders of this Note, and of any Note issued in exchange or substitution hereof or in place hereof, in respect of anything done or permitted by the Issuer or by the Trustee in pursuance of such action.

New Notes authenticated and delivered after the execution of any agreement modifying, amending or supplementing this Note may bear a notation in a form approved by the Issuer as to any matter provided for in such modification, amendment or supplement to the Indenture or the Notes. New Notes so modified as to conform, in the opinion of the Issuer, to any provisions contained in any such modification, amendment or supplement may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for this Note.

SECTION 9. *Obligations Unconditional.* No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal, premium, if any, and interest on this Note at the times, place and rate, and in the coin or currency, herein prescribed.

SECTION 10. *Successor to Issuer.* The Issuer may not consolidate or merge with or into any other person, or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless (i) the resulting or acquiring entity, if other than the Issuer, is organized and validly existing under the laws of the United States, any state thereof or the District of Columbia, and shall expressly assume all the Issuer’s obligations under the Indenture; and (ii) immediately after giving effect to such transaction, the Issuer (or any resulting or acquiring entity, if other than the Issuer) is not in default in the performance of any covenant or condition under the Indenture.

Upon consolidation, merger, sale or transfer as described above, the resulting or acquiring entity shall be substituted for the Issuer in the Indenture with the same effect as if it had been an original party to the Indenture, and the successor entity may exercise the Issuer’s right and powers under the Indenture.

SECTION 11. *Authorized Denominations.* This Note, and any Note issued in exchange or substitution hereof or in place hereof, or upon registration of transfer, exchange or partial redemption or repayment of this Note, may be issued only in an Authorized Denomination as specified in the Pricing Supplement, or if no Authorized Denomination is so specified, in minimum denominations of U.S.\$1,000 and any integral multiple of U.S.\$1,000 in excess thereof (or equivalent denominations in other currencies, subject to any other statutory or regulatory minimums).

SECTION 12. *Registration of Transfer.* As provided in the Indenture and subject to certain limitations as therein set forth, the transfer of this Note is registrable in the register maintained by the Security Registrar, upon surrender of this Note for registration of transfer at the office or agency of the Issuer designated by it pursuant to the Indenture, duly endorsed by, or accompanied by a

written instrument of transfer in form satisfactory to the Issuer and the Trustee or the Security Registrar requiring such written instrument of transfer duly executed by, the registered holder hereof or his attorney duly authorized in writing, and thereupon one or more new Notes of this series, of Authorized Denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

This Note may be exchanged in whole, but not in part, for security-printed definitive Notes, only under the circumstances described in the Indenture and (a) if this Note is a global note clearing initially through The Depository Trust Company ("DTC"), DTC notifies the Issuer that it is unwilling or unable to continue as depository for the DTC global note or DTC ceases to be a clearing agency registered under the United States Securities Exchange Act of 1934, as amended, if so required by applicable law or regulation, and, in either case, a successor depository is not appointed by the Issuer within 90 days after receiving such notice or becoming aware that DTC is no longer so registered; or (b) in the case of any other registered global note, if the Issuer is notified that any clearing system through which this Note is cleared and settled has been closed for business for a continuous period of 14 days (other than by reason of holidays, whether statutory or otherwise) after the original issuance of the relevant notes or has announced an intention to cease business permanently or has in fact done so and no alternative clearance system approved by the applicable noteholders is available; or (c) the Issuer, in its sole discretion, elects to issue definitive registered notes; or (d) after the occurrence of an Event of Default with respect to this Note, beneficial owners representing a majority in principal amount of the Notes represented by this Note advise the relevant clearing system through its participants to cease acting as a depository for this Note.

In any such instance, an owner of a beneficial interest in this Note will be entitled to physical delivery in definitive form of Notes equal in principal amount to such beneficial interest and to have such Notes registered in its name. Unless otherwise set forth above, Notes so issued in definitive form will be issued in Authorized Denominations only and will be issued in registered form only, without coupons.

Subject to the terms of the Indenture, if the Notes are held in definitive form, a holder may exchange its Notes for other Notes of the same series in an equal aggregate principal amount and in Authorized Denominations.

Notes in definitive form may be presented for registration of transfer at the office of the Security Registrar or at the office of any transfer agent that the Issuer may designate and maintain. The Security Registrar or the transfer agent will make the transfer or registration only if it is satisfied with the documents of title and identity of the person making the request. The Issuer may change the Security Registrar or the transfer agent or approve a change in the location through which the Security Registrar or transfer agent acts at any time, except that the Issuer will be required to maintain a security registrar and transfer agent in each place of payment for the Notes of this series. At any time, the Issuer may designate additional transfer agents for the Notes of this series.

The Issuer will not be required to (a) issue, exchange, or register the transfer of this Note if it has exercised its right to redeem the Notes of the series of which this Note is a part for a period of 15 calendar days before the redemption date, or (b) exchange or register the transfer of any Notes of the series of which this Note is a part that were selected, called, or are being called for redemption,

except the unredeemed portion of the Notes of the series of which this Note is a part, if being redeemed in part.

No service charge shall be made for any such registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Issuer, the Trustee, and any agent of the Issuer or the Trustee may treat the person in whose name this Note is registered as the owner hereof for all purposes, whether not this Note be overdue, and neither the Issuer, the Trustee, nor any such agent shall be affected by notice to the contrary, except as required by applicable law.

[The Notes represented by this global certificate are being issued by means of a book-entry system with no physical distribution of certificates to be made except as provided in the Indenture. The book-entry system maintained by Euroclear Bank S.A./N.V., as operator of the Euroclear system ("Euroclear"), and/or Clearstream Banking, société anonyme, Luxembourg ("Clearstream, Luxembourg"), will evidence ownership of the Notes represented by this global certificate, with transfers of ownership effected on the records of Euroclear and Clearstream, Luxembourg and their participants pursuant to rules and procedures established by Euroclear and Clearstream, Luxembourg and their participants. So long as this Note is registered in the name of the Common Depository or its nominee, the Issuer will recognize Euroclear and Clearstream, Luxembourg, as the depositories of the Notes represented hereby, as the owner of the Notes represented by this global certificate for all purposes, including payment of principal, premium (if any) and interest, notices, and voting.

Transfers of the Notes represented by this global certificate will be effected through the facilities of Euroclear and Clearstream, Luxembourg, in accordance with the rules and procedures established by those depositories. The Issuer has no responsibility for any aspect of the records kept by Euroclear and Clearstream, Luxembourg or any of their direct or indirect participants. The Issuer does not supervise these systems in any way.]⁴

SECTION 13. *Events of Default*. If an Event of Default (defined in the Indenture as certain events involving the bankruptcy of the Issuer) shall occur with respect to this Note, the principal of this Note may be declared due and payable in the manner and with the effect provided in the Indenture. THERE IS NO RIGHT OF ACCELERATION PROVIDED IN THE INDENTURE IN CASE OF A DEFAULT IN THE PAYMENT OF INTEREST ON THIS NOTE OR THE PERFORMANCE OF ANY OTHER COVENANT BY THE CORPORATION.

SECTION 14. *Defeasance*. Unless otherwise specified in the Pricing Supplement, the provisions of Article Fourteen of the Indenture do not apply to this Note.

SECTION 15. *Subordination*. The indebtedness of the Issuer evidenced by this Note, including the principal, premium (if any), interest, or other amounts payable (if any), shall be, to the extent set forth in the Indenture, subordinate and junior in right of payment to its obligation to

⁴ These two paragraphs should be deleted if the Note is a DTC Note.

holders of Senior Indebtedness (as defined in the Indenture), and each holder of this Note, by the acceptance hereof, agrees to and shall be bound by such provisions of the Indenture.

SECTION 16. *Specified Currency.* Unless otherwise provided herein or in the Pricing Supplement, the principal, premium, if any, and interest on this Note are payable in the Specified Currency indicated on the face hereof (or, if such Specified Currency is not at the time of such payment legal tender for the payment of public and private debts, in (a) such other coin or currency of the country that issued such Specified Currency or (b) (if such Specified Currency is the euro) the successor currency under applicable law, in each case as at the time of such payment is legal tender for the payment of debts).

In the event the Specified Currency indicated on the face hereof has been replaced by another currency (a "Replacement Currency"), any amount due pursuant to this Note may be repaid, at the option of the Issuer, in the Replacement Currency or in U.S. dollars, at a rate of exchange which takes into account the conversion, at the rate prevailing on the most recent date on which official conversion rates were quoted or set by the national government or other authority responsible for issuing the Replacement Currency, from the Specified Currency to the Replacement Currency and, if necessary, the conversion of the Replacement Currency into U.S. dollars at the rate prevailing on the date of such conversion. Notwithstanding the foregoing, if this Note originally was issued in a domestic currency of a state that is or subsequently becomes a Member State of the European Union, then this Note may be redenominated in euro, if subsequent to the issuance of this Note, such state participates in the European monetary union. This Note may be redenominated as a matter of law whether or not the Pricing Supplement provides for redenomination.

If the Specified Currency indicated on the face hereof is other than U.S. dollars (referred to in this Section 16 as a "Foreign Currency"), the Issuer generally will pay principal, premium (if any), interest and other amounts payable (if any) in the Foreign Currency. Holders of beneficial interests in this Note through a participant in DTC (other than Euroclear or Clearstream, Luxembourg) will receive payments in U.S. dollars, regardless of the Foreign Currency, unless those holders elect to receive payments on this Note in the Foreign Currency, which election shall be made pursuant to procedures and arrangements in place between DTC and its participants. DTC shall notify the Trustee of any such election in accordance with arrangements in place between DTC and the Trustee.

If holders of beneficial interests in this Note do not elect to receive payments in the Foreign Currency, the Trustee or an affiliate or other agent of the Trustee performing currency exchange transactions and procedures on its behalf (collectively referred to herein as the "Exchange Agent") will convert any payments due to those holders of beneficial interests in this Note into U.S. dollars. The U.S. dollar amount of any such payment shall be the amount of the Foreign Currency otherwise payable converted into U.S. dollars at the applicable exchange rate, determined as described below. All costs of those conversions will be shared pro rata among the holders of beneficial interests not electing to receive payments in the Foreign Currency in proportion to their respective holdings by deduction from the applicable payments.

The conversion described above will be made by the Exchange Agent using the exchange rate for the Foreign Currency into U.S. dollars prevailing as of 11:00 a.m. (New York City time) on the second Business Day (in Charlotte, North Carolina and New York City) prior to the relevant

payment date. If the applicable exchange rate quotation is unavailable from the entity or source ordinarily used by the Exchange Agent in the normal course of business, the Exchange Agent will obtain a quotation from a leading foreign exchange bank in New York City, which may be an affiliate of the Trustee or another entity selected by the Trustee for that purpose after consultation with the Issuer. If no quotation is available from a leading foreign exchange bank, payment will be made in the applicable Foreign Currency to the account or accounts specified by DTC to the Trustee, unless the applicable Foreign Currency is unavailable as described below.

If the Issuer determines that a payment hereon cannot be made in the Foreign Currency, due to the imposition of exchange controls or other circumstances beyond the Issuer's control, or the Foreign Currency is unavailable because that currency is no longer used by the government of the relevant country or for the settlement of transactions by public institutions or within the international banking community, such payment will be made in U.S. dollars. The Trustee and/or the London Paying Agent, on receipt of the Issuer's written instructions and at the Issuer's expense, will give prompt notice to the beneficial holders of this Note if such determination is made. The U.S. dollar amount of any payment described in this paragraph shall be the amount of the Foreign Currency otherwise payable converted into U.S. dollars using the most recently available market exchange rate for the applicable Foreign Currency.

Any payment made under such circumstances in U.S. dollars, where the payment is required to be made in the Foreign Currency, will not constitute an "Event of Default" with respect to this Note.

SECTION 17. *Original Issue Discount Note.* If this Note is identified as an Original Issue Discount Note in the Pricing Supplement, then unless otherwise specified therein, the amount payable to the holder of this Note in the event of redemption, repayment or acceleration of Maturity will be the Amortized Face Amount of this Note (as defined below) as of the date of such event. The "Amortized Face Amount" shall be the amount equal to (a) the Issue Price (as set forth in the Pricing Supplement) plus (b) the original issue discount amortized from the Original Issue Date to the date as of which the Amortized Face Amount is calculated, as specified in the Pricing Supplement.

SECTION 18. *Dual Currency Note.* If this Note is identified as a Dual Currency Note in the Pricing Supplement, the Issuer has the option of making each scheduled payment of principal and interest, if any, due on this Note either in the Specified Currency designated on the face hereof or in the optional payment currency specified in the Pricing Supplement. If the Issuer elects to make a payment in the optional payment currency, the amount payable in such optional payment currency shall be determined using the exchange rate specified in the Pricing Supplement, on the terms specified in the Pricing Supplement.

SECTION 19. *Mutilated, Defaced, Destroyed, Lost or Stolen Notes.* In case this Note shall at any time become mutilated, defaced, destroyed, lost or stolen, and this Note or evidence of the loss, theft or destruction hereof satisfactory to the Issuer and the Security Registrar and such other documents or proof as may be required by the Issuer and the Security Registrar shall be delivered to the Security Registrar, the Security Registrar shall issue a new Note of like tenor and principal amount, having a serial number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Note or in lieu of the Note destroyed, lost or stolen but, in the case of any destroyed, lost or stolen Note, only upon receipt of evidence satisfactory to the Issuer and the

Security Registrar that this Note was destroyed, stolen or lost, and, if required, upon receipt of indemnity satisfactory to the Issuer and the Security Registrar. Upon the issuance of any substituted Note, the Issuer may require the payment of a sum sufficient to cover all expenses and reasonable charges connected with the preparation and delivery of a new Note. If any Note which has matured or has been redeemed or repaid or is about to mature or to be redeemed or repaid shall become mutilated, defaced, destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Note, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Note) upon compliance by the holder with the provisions of this paragraph.

SECTION 20. *Miscellaneous*. No recourse shall be had for the payment of principal of (and premium, if any) or interest on, this Note for any claim based hereon, or otherwise in respect hereof, against any shareholder, employee, agent, officer or director, as such, past, present or future, of the Issuer or of any successor organization, either directly or through the Issuer or any successor organization, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

SECTION 21. *Defined Terms*. All terms used in this Note which are defined in the Indenture or the Prospectus and are not otherwise defined in this Note shall have the meanings assigned to them in the Indenture or the Prospectus, as applicable.

Unless specified otherwise in the Pricing Supplement, “Business Day” means, a day that meets all the following requirements:

(a) for all Notes, is any weekday that is not a legal holiday in New York City or Charlotte, North Carolina, or any other place of payment of the applicable Note, and is not a date on which banking institutions in those cities are authorized or required by law or regulation to be closed;

(b) for any Note where the base rate is LIBOR, also is a day on which commercial banks are open for business (including dealings in the Index Currency specified in the Pricing Supplement) in London, England;

(c) for any Note denominated in euro or any Note where the base rate is EURIBOR, also is a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System or any successor is operating (a “Target Settlement Date”); and

(d) for any Note that has a Specified Currency other than U.S. dollars or euro, also is not a day on which banking institutions generally are authorized or obligated by law, regulation, or executive order to close in the Principal Financial Center of the country of the Specified Currency.

Unless specified otherwise in the Pricing Supplement, “Principal Financial Center” means (i) the capital city of the country issuing the Specified Currency, except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the “Principal Financial Center” shall be New York City, Sydney and Melbourne, Toronto, Johannesburg, and Zurich, respectively; and (ii) the capital city of the country to which the Index Currency relates,

except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the “Principal Financial Center” shall be New York City, Sydney, Toronto, Johannesburg and Zurich, respectively.

SECTION 22. *GOVERNING LAW*. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, NOTWITHSTANDING ANY OTHERWISE APPLICABLE CONFLICTS OF LAWS PROVISIONS AND ALL APPLICABLE UNITED STATES FEDERAL LAWS AND REGULATIONS.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

- TEN COM — as tenants in common
- TEN ENT — as tenants by the entireties
- JT TEN — as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT — _____ as Custodian for _____
 (Cust) (Minor)
 Under Uniform Gifts to Minors Act

 (State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____/_____/_____

Please print or type name and address, including zip code of assignee

the within Note of BANK OF AMERICA CORPORATION and all rights thereunder and does hereby irrevocably constitute and appoint

_____ Attorney

to transfer the said Note on the books of the within-named Issuer, with full power of substitution in the premises

Dated: _____

SIGNATURE GUARANTEED: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of this Note

Schedule 1

SCHEDULE OF TRANSFERS, EXCHANGES AND EXTENSIONS

The following increases and decreases in the principal amount of this Note have been made:

Date of Transfer, Redemption, Repayment or Extension, as Applicable	Increase (Decrease) in Principal Amount of this Note Due to Transfer Among Global Notes or Redemption, Repayment or Non- Election of Extension of Maturity Date of a Portion of Global Note, as Applicable	Principal Amount of this Note After Transfer, Redemption, Repayment or Extension, as Applicable	Notation made by or on behalf of the Issuer
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**[EXTENDIBLE NOTE RIDER FOR
EXTENSION OF MATURITY AT HOLDER'S OPTION]**

This Note is an Extendible Note, whereby the registered holder has the option to extend the Maturity Date of the principal amount of this Note held by such registered holder (whether in whole or in part) for one or more periods, as specified in the Pricing Supplement, up to but not beyond the Final Maturity Date specified in the Pricing Supplement, under the terms of this Note as supplemented by this Extendible Note Rider.

Unless otherwise specified in the Pricing Supplement, the following provisions will apply to this Note:

This Note will mature on _____, or if that day is not a Business Day, the immediately preceding Business Day, unless the Maturity Date of all or any portion of the principal amount of this Note is extended in accordance with the procedures described below. In no event will the Maturity Date of this Note be extended beyond the Final Maturity Date.

During the Election Notice Period (as defined below) for each Election Date (as defined below), the registered holder of this Note may elect to extend the Maturity Date of all or any portion of the principal amount of this Note. If the holder so elects to extend the Maturity Date of all or any portion of the principal amount of this Note, the Maturity Date of the principal amount for which the election has been made will be extended [to the ___ day of the ___ calendar month]⁵ following the applicable Election Date (each, an "Additional Maturity Date"), up to but not beyond the Final Maturity Date. [If that day is not a Business Day, the Maturity Date of the applicable principal amount will be extended to the immediately preceding Business Day.]⁶ The holder may elect to extend the Maturity Date of all or the applicable portion of the principal amount of this Note having a principal amount of at least [\$1,000] or any integral multiple of [\$1,000] in excess of [\$1,000], provided that the principal amount of any portion of this Note not so extended shall be at least [\$1,000].

[The "Election Dates" will be the ___ of each month from, and including, ___ to, and including, ___, whether or not such day is a Business Day.] To make an election effective on any Election Date, the registered holder of this Note must deliver (a) a notice of election during the Election Notice Period for that Election Date and, in the event of an election to extend the Maturity Date of only a portion of the principal amount of this Note, this Note, or (b) a facsimile transmission or a letter from a member of a national securities exchange or the Financial Industry Regulatory Authority, Inc. or a commercial bank or a trust company in the United States setting forth the name of the holder of this Note, the principal amount hereof, the certificate number of this Note or a description of this Note's tenor or terms, a statement that the option to elect extension of Maturity Date is being exercised thereby, the principal amount hereof with respect to which such option is being exercised and a guarantee that the notice of election form included below duly completed and, in the event of an election to extend the Maturity Date of only a portion

⁵ This form of rider contemplates the option to extend maturity of the notes on a monthly basis. If the applicable notes are not extendible monthly, this language will be modified to reflect semi-annual, quarterly or other periods for extension.

⁶ Modify as necessary for applicable business day convention.

of the principal amount of this Note, this Note, will be delivered to the [Trustee] [London Paying Agent] as required hereby. A form of notice of election to extend the Maturity Date is set forth below.

The "Election Notice Period" for each Election Date will begin on the ___ Business Day prior to the applicable Election Date, and will end at [12:00 noon, New York City time,] on that Election Date. However, if that Election Date is not a Business Day, the Election Notice Period will be extended to [12:00 noon, New York City time,] on the next following day that is a Business Day. The election notice must be delivered to the [Trustee] [London Paying Agent] no later than 12:00 noon, New York City time, on the last Business Day in the Election Notice Period. Upon delivery to the [Trustee] [London Paying Agent] of a notice of election to extend the Maturity Date of the Notes or any portion thereof during any Election Notice Period, that election will be revocable during each day of that Election Notice Period, until [12:00 noon, New York City time,] on the last Business Day in the applicable Election Notice Period, at which time the notice will become irrevocable.

If on any Election Date, the registered holder of this Note does not make a timely or proper election to extend the Maturity Date of all or any portion of the principal amount of this Note, the principal amount of this Note for which an election has not been made will become due and payable on the Initial Maturity Date, or the applicable Additional Maturity Date to which the Maturity of this Note has previously been extended, as applicable. The principal amount of this Note for which an election is not exercised will be represented by a non-extendible substitute note, [substantially in the form attached hereto as Annex A,]⁷ which will be completed by the [Trustee] [London Paying Agent] in consultation with the Issuer, and issued by the [Trustee] [London Paying Agent] in the name of the holder hereof on that Election Date in accordance with the terms of the Indenture, subject to the delivery of this Note to the [Trustee] [London Paying Agent]. In such a case, Schedule 1 hereto will be annotated as of that Election Date to reflect the corresponding decrease in the principal amount of this Note. The non-extendible substitute note so issued will have the same terms as this Note, except that such note:

- will not be extendible;
- will have a new CUSIP number [and ISIN and Common Code]; and
- will retain the then-current Maturity Date of this Note.

Interest on a non-extendible substitute note will accrue from, and including, the last Interest Payment Date on this Note as to which interest was duly paid or provided by the Issuer.

The failure to elect to extend the Maturity Date of all or any portion of this Note will be irrevocable, and will be binding upon any subsequent holder of this Note or any applicable replacement note. The holder of a non-extendible substitute note received as a consequence of the failure to make such an election may not elect to exchange that non-extendible substitute note for an interest in this Note. The Issuer and the [Trustee] [London Paying Agent] will deem this Note cancelled as to any portion of the principal amount hereof for which a duly completed form of

⁷ The form of non-extendible substitute note will be annexed to the global note at the time of issuance of notes extendible at the holder's option.

notice of election to extend the Maturity Date and, if applicable, this Note are not delivered to the [Trustee] [London Paying Agent] within the applicable Election Notice Period in accordance with the terms of this Note.

Form of Notice of Election to Extend Maturity Date

The undersigned hereby elects to extend the Maturity Date of the Bank of America Corporation [*insert name of specific notes*] (CUSIP Number _____ [ISIN _____ and Common Code _____]) (or the portion thereof specified below) with the effect provided in the Note by surrendering such Note to the [the Trustee at 101 Barclay Street, New York, New York, 10286] [the London Paying Agent at One Canada Square, London, E14 5AL,], or such other address of which the Issuer shall from time to time notify the registered holders of the Note, in the event of an election to extend the Maturity Date of only a portion of the principal amount of the Note, together with this form of "Notice of Election to Extend Maturity Date" duly completed by the holder.

If the option to extend the Maturity Date of less than the entire principal amount of the Note is elected, specify the portion of the Note (which shall be [U.S.\$1,000] or an integral multiple of [U.S.\$1,000] in excess thereof) as to which the holder elects to extend the Maturity Date: [U.S.\$]_____; and specify the principal amount or amounts (which shall be [\$1,000] or an integral multiple of [U.S.\$1,000] in excess thereof) of the non-extendible substitute note or notes, [substantially in the form attached to the Note as Annex A,] to be issued to the holder for the portion of the principal amount of the Note for which the option to extend the Maturity Date is not being elected (in the absence of any such specification, one non-extendible substitute note, [substantially in the form of Annex A,] will be issued for the portion of the principal amount of the Note as to which the option to extend Maturity Date is not being made): [U.S.\$]_____.

Dated: _____

[NOTICE: The signature on this Notice of Election to Extend Maturity Date must correspond with the name as written upon the face of the Note in every particular, without alteration or enlargement or any change whatever.]

**[EXTENDIBLE NOTE RIDER
FOR EXTENSION OF MATURITY AT ISSUER'S OPTION]**

This Note is an Extendible Note, whereby the Issuer has the option to extend the maturity of this Note for one or more periods, as specified in the Pricing Supplement (each, an "Extension Period"), up to but not beyond the Final Maturity Date specified in the Pricing Supplement, under the terms of this Note as supplemented by this Extendible Note Rider.

Unless otherwise specified in the Pricing Supplement, the following provisions will apply to this Note:

The Issuer may exercise its option with respect hereto by delivery to the [Trustee] [London Paying Agent] a notice of such exercise at least 45, but not more than 60, calendar days prior to the Stated Maturity Date originally in effect with respect hereto or, if the Stated Maturity Date has already been extended, prior to the maturity date then in effect (each, an "Extended Maturity Date"). After such receipt and not later than 40 calendar days prior to the Stated Maturity Date or an Extended Maturity Date, as the case may be (each, an "Existing Maturity Date"), the [Trustee] [London Paying Agent] (or any duly appointed paying agent) will mail by first class mail, postage prepaid, to the registered holder hereof a notice (the "Extension Notice") relating to such extension period (the "Extension Period") setting forth (i) the election of the Issuer to extend the Maturity hereof, (ii) the new Extended Maturity Date, (iii) the interest rate applicable to the Extension Period (which interest rate may be higher during the Extension Period), and (iv) the provisions, if any, for redemption during the Extension Period, including the date or dates on which, the period or periods during which and the price or prices at which such redemption may occur during the Extension Period. Upon the mailing by the [Trustee] [London Paying Agent] (or any duly appointed paying agent) of an Extension Notice to the registered holder hereof, the maturity shall be extended automatically as set forth in the Extension Notice, and, except as modified by the Extension Notice and as described in the next paragraph, this Note will have the same terms as prior to the mailing of such Extension Notice.

Notwithstanding the foregoing, not later than 20 calendar days prior to the Existing Maturity Date hereof (or, if such date is not a Business Day, on the immediately succeeding Business Day), the Issuer, at its option, may revoke the interest rate provided for in the Extension Notice and establish a higher interest rate for the Extension Period by mailing or causing the applicable Paying Agent to mail notice of such higher interest rate, by first class mail, postage prepaid, to the registered holder hereof. Such notice shall be irrevocable. Thereafter, this Note will bear such higher interest rate for the Extension Period.

[If the Issuer elects to extend the maturity hereof, the registered holder hereof will have the option to elect repayment hereof in whole or in part by the Issuer on the Existing Maturity Date then in effect at a price equal to the principal amount hereof plus any accrued and unpaid interest to such date. In order for this Note to be so repaid on the Existing Maturity Date, the Issuer must receive, at least 15 days but not more than 30 calendar days prior to the Existing Maturity Date then in effect with respect hereto: (i) this Note with the form "Option to Elect Repayment" below duly completed, or (ii) a facsimile transmission or a letter from a member of a national securities exchange or the Financial Industry Regulatory Authority, Inc. or a commercial bank or a trust company in the United States setting forth the name of the registered holder hereof, the principal amount hereof to

be repaid, the certificate number, or a description of the tenor and terms hereof, a statement that the option to elect repayment is being exercised thereby, and a guarantee that this Note, together with the duly completed form entitled "Option to Elect Repayment" attached hereto, will be received by the [Trustee] [London Paying Agent] not later than the fifth Business Day after the date of such facsimile transmission or letter; provided, however, that such facsimile transmission or letter shall only be effective if this Note and duly completed form are received by the [Trustee] [London Paying Agent] by such fifth Business Day. Such option may be exercised by the registered holder hereof for less than the aggregate principal amount hereof then outstanding, provided that the principal amount hereof remaining outstanding after repayment is at least an Authorized Denomination as specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, [U.S.\$1,000] or its equivalent in the applicable Specified Currency, unless otherwise specified in the Pricing Supplement.

[OPTION TO ELECT REPAYMENT]

The undersigned hereby irrevocably request(s) and instruct(s) the Issuer to repay this Note (or portion hereof specified below) pursuant to its terms at a price equal to the principal amount hereof together with interest to the repayment date, to the undersigned, at

(Please print or typewrite name and address of the undersigned)

For this Note to be repaid, [the Trustee must receive at 101 Barclay Street, New York, New York, 10286] [the London Paying Agent must receive at One Canada Square, London, E14 5AL,] or at such other place or places of which the Issuer from time to time shall notify the registered holder of this Note, not less than 30 nor more than 60 calendar days prior to an Optional Repayment Date, if any, shown in the Pricing Supplement, this Note with this "Option to Elect Repayment" form duly completed.

If less than the entire principal amount of this Note is to be repaid, (a) specify the portion hereof which the registered holder elects to have repaid and (b) specify the portion hereof (which shall be a minimum amount equal to the minimum Authorized Denomination) which is not being repaid (in the absence of any such specification to the contrary, one such Note will be issued for the portion not being repaid).

Date: _____

NOTICE: The signature on this Option to Elect Repayment must correspond with the name as written upon the face of this Note in every particular, without alteration or enlargement or any change whatever.

Principal amount to be repaid, if amount to be repaid is less than the principal amount of this Note (principal amount remaining must be in the minimum authorized denomination or any authorized integral multiple in excess thereof):
[U.S.\$] _____

Amount to be Reissued (principal amount remaining must be in the minimum authorized denomination or any authorized integral multiples in excess thereof):
[U.S.\$] _____

[U.S.\$] _____

[Option To Use DTC Tender Procedures]

DTC Participant
Number: _____
DTC Participant
Name: _____
DTC Participant Telephone
Number: _____

Fill in registration of Notes if to be issued otherwise than to the registered holder:

Name _____

Address: _____

(Please print name and address including zip code)

SOCIAL SECURITY OR OTHER TAXPAYER ID NUMBER

DEPOSIT AGREEMENT

among

BANK OF AMERICA CORPORATION,

_____, as Depository,

and

THE HOLDERS FROM TIME TO TIME OF

THE DEPOSITARY RECEIPTS DESCRIBED HEREIN

Dated as of _____, 20__

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THIS DEPOSIT AGREEMENT dated as of _____, 20__ (this "Agreement"), among (i) BANK OF AMERICA CORPORATION, a Delaware corporation (the "Corporation"), (ii) _____ (the "Depository"), and (iii) the Holders from time to time of the Receipts described in this Agreement.

RECITALS

WHEREAS, the parties desire to provide, as set forth in this Agreement, for the deposit of shares of the Corporation's [insert designation of preferred stock], from time to time with the Depository for the purposes set forth in this Agreement and for the issuance hereunder of Receipts (as defined herein) evidencing Depository Shares (as defined herein) in respect of the Stock (as defined herein) so deposited; and

WHEREAS, the Receipts are to be substantially in the form of Exhibit A annexed hereto, with appropriate insertions, modifications and omissions, as hereinafter provided in this Agreement;

NOW, THEREFORE, in consideration of the premises, the parties hereto agree as follows:

ARTICLE I DEFINED TERMS

Section 1.1. Definitions.

The following definitions shall for all purposes, unless otherwise indicated, apply to the respective terms used in this Agreement:

"Certificate" shall mean the Certificate of Designations filed with the Secretary of State of the State of Delaware establishing the Stock as a series of preferred stock of the Corporation.

"Corporation" shall mean Bank of America Corporation, a Delaware corporation, and its successors.

"Deposit Agreement" shall mean this Agreement, as amended or supplemented from time to time in accordance with the terms hereof.

"Depository" shall have the meaning set forth in the Preamble of this Agreement.

"Depository Shares" shall mean the depository shares, each representing [specify fraction] of a share of the Stock and evidenced by a Receipt.

"Depository's Agent" shall mean an agent appointed by the Depository pursuant to Section 5.1.

"Depository's Office" shall mean the principal office of the Depository in [New York, New York], at which at any particular time its depository receipt business shall be administered.

“Receipt” shall mean one of the depositary receipts issued hereunder, substantially in the form set forth as Exhibit A hereto, whether in definitive or temporary form, and evidencing the number of Depositary Shares held of record by the Record Holder of those Depositary Shares and shall include the DTC Receipt, as defined in Section 2.2, where appropriate.

“Record Holder” or “Holder” as applied to a Receipt shall mean the person in whose name that Receipt is registered on the books of the Depository maintained for such purpose.

“Registrar” shall mean any bank or trust company which shall be appointed by the Corporation to register ownership and transfers of Receipts as herein provided.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Stock” shall mean the shares of the Corporation’s [insert designation of preferred stock], designated in the Certificate.

ARTICLE II
APPOINTMENT OF DEPOSITORY; BOOK-ENTRY SYSTEM; FORM OF RECEIPTS; DEPOSIT OF STOCK; EXECUTION
AND DELIVERY; TRANSFER, SURRENDER AND REDEMPTION OF RECEIPTS

Section 2.1. Appointment of Depository

The Corporation hereby appoints _____, as depository for the Stock, and _____ hereby accepts such appointment as depository for the Stock, on the terms and conditions set forth in this Agreement.

Section 2.2. Book-Entry System; Form and Transfer of Receipts.

The Corporation and the Depository shall make application to The Depository Trust Company (“DTC”) for acceptance of all of the Receipts for its book-entry settlement system. The Corporation hereby appoints the Depository acting through any authorized officer thereof as its attorney-in-fact, with full power to delegate, for purposes of executing any agreements, certifications or other instruments or documents necessary or desirable in order to effect the acceptance of such Receipts for DTC eligibility. So long as the Receipts are eligible for book-entry settlement with DTC, unless otherwise required by law, all Depositary Shares with book-entry settlement through DTC shall be represented by a single receipt (the “DTC Receipt”), which shall be deposited with DTC (or its designee) evidencing all such Depositary Shares and registered in the name of the nominee of DTC (initially expected to be Cede & Co.). The Depository or such other entity as is agreed to by DTC may hold the DTC Receipt as custodian for DTC. Ownership of beneficial interests in the DTC Receipt shall be shown on, and the transfer of such ownership shall be effected through, records maintained by (i) DTC or its nominee for such DTC Receipt or (ii) institutions that have accounts with DTC. The DTC Receipt shall bear such legend or legends as may be required by DTC in order for it to accept the Depositary Shares for its book-entry settlement system.

If DTC subsequently ceases to make its book-entry settlement system available for the Receipts, the Corporation may instruct the Depository regarding making other arrangements for

book-entry settlement. If the Receipts are not eligible for book-entry form, the Depository shall provide written instructions to DTC to deliver the DTC Receipt to the Depository for cancellation and the Corporation shall instruct the Depository to deliver to the beneficial owners of the Depository Shares previously evidenced by the DTC Receipt definitive Receipts in physical form evidencing such Depository Shares.

Beneficial owners of Depository Shares through DTC will not be entitled to receive Receipts in physical, certificated form or have Depository Shares registered in their name, except in the event DTC ceases to make its book-entry settlement system available, as described in the preceding paragraph.

Receipts shall be in denominations of any number of whole Depository Shares. The Corporation shall deliver to the Depository from time to time such quantities of Receipts as the Depository may request to enable the Depository to perform its obligations under this Agreement.

The DTC Receipt and definitive Receipts, if any, shall be substantially in the form set forth in Exhibit A annexed to this Agreement and incorporated herein by reference, with appropriate insertions, modifications and omissions, as hereinafter provided and shall be engraved or otherwise prepared so as to comply with applicable rules of any securities exchange on which the Depository Shares are then listed. In the event DTC ceases to make its book-entry system of settlement available and the Corporation and the Depository are unable to make other arrangements for book-entry settlement, the Depository, pending preparation of definitive Receipts and upon the written order of the Corporation, delivered in compliance with Section 2.3, shall execute and deliver temporary Receipts which may be printed, lithographed or otherwise substantially of the tenor of the definitive Receipts in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the persons executing such Receipts may determine, as evidenced by their execution of such Receipts. If temporary Receipts are issued, the Corporation and the Depository will cause definitive Receipts to be prepared without unreasonable delay. After the preparation of definitive Receipts, the temporary Receipts shall be exchangeable by the Holder for definitive Receipts upon surrender of the temporary Receipts at an office described in the first paragraph of Section 2.3, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Receipts, the Depository shall execute and deliver in exchange therefor definitive Receipts representing the same number of Depository Shares as represented by the surrendered temporary Receipt or Receipts. Such exchange shall be made at the Corporation's expense and without any charge therefor to the Holder or the Depository. Until so exchanged, the temporary Receipts shall in all respects be entitled to the same benefits under this Agreement as definitive Receipts.

Receipts shall be executed by the Depository by the manual signature of a duly authorized officer of the Depository; provided, that such signature may be a facsimile if a Registrar for the Receipts (other than the Depository) shall have been appointed and such Receipts are countersigned by manual signature by a duly authorized officer of the Registrar. No Receipt shall be entitled to any benefits under this Agreement or be valid or obligatory for any purpose unless it shall have been executed manually by a duly authorized officer of the Depository or, if a Registrar for the Receipts (other than the Depository) shall have been appointed, by manual or facsimile signature of a duly authorized officer of the Depository and

countersigned by manual signature by a duly authorized officer of such Registrar. The Depository shall record on its books each Receipt so signed and delivered as hereinafter provided.

Receipts may be endorsed with, or have incorporated in the text thereof, such legends or recitals or changes not inconsistent with the provisions of this Agreement all as may be required by the Corporation or required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange upon which the Stock, the Depository Shares or the Receipts may be listed or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Receipts are subject.

Title to Depository Shares evidenced by a Receipt which is properly endorsed, or accompanied by a properly executed instrument of transfer, shall be transferable by delivery with the same effect as in the case of a negotiable instrument; provided, however, that until transfer of any particular Receipt shall be registered on the books of the Depository as provided in Section 2.4, the Depository may, notwithstanding any notice to the contrary, treat the Record Holder thereof at such time as the absolute owner thereof for the purpose of determining the person entitled to distributions of dividends or other distributions or to any notice provided for in this Agreement and for all other purposes.

Section 2.3. Deposit of Stock; Execution and Delivery of Receipts.

Subject to the terms and conditions of this Agreement, the Corporation may from time to time deposit shares of Stock under this Agreement by delivery to the Depository of a certificate or certificates for such shares of Stock to be deposited, properly endorsed or accompanied, if required by the Depository, by a duly executed instrument of transfer or endorsement, in form satisfactory to the Depository, together with (i) all such certifications as may be required by the Depository in accordance with the provisions of this Agreement, including the resolutions of the Board of Directors of the Corporation or a committee of the Board of Directors, as certified by the Secretary or any Assistant Secretary of the Corporation on the date thereof as being complete, accurate and in effect, relating to issuance and sale of the Stock, (ii) a letter of counsel to the Corporation authorizing reliance on such counsel's opinions delivered to the underwriters named therein relating to (A) the existence and good standing of the Corporation, (B) the due authorization of the Depository Shares and the status of the Depository Shares as validly issued, fully paid and non-assessable, and (C) the effectiveness of any registration statement under the Securities Act relating to the Depository Shares, and (iii) a written order of the Corporation, directing the Depository to execute and deliver to, or upon the written order of, the person or persons stated in such order a Receipt or Receipts for the number of Depository Shares representing such deposited Stock. Deposited Stock shall be held by the Depository at the Depository's Office or at such other place or places as the Depository shall determine.

Upon receipt by the Depository of a certificate or certificates for Stock deposited in accordance with the provisions of this Section 2.3, together with the other documents required as above specified, and upon recordation of the Stock on the books of the Corporation (or its duly appointed transfer agent) in the name of the Depository or its nominee, the Depository, subject to the terms and conditions of this Agreement, shall execute and deliver to, or upon the order of, the person or persons named in the written order delivered to the Depository referred to in the first

paragraph of this Section 2.3, a Receipt or Receipts evidencing in the aggregate the number of Depositary Shares representing the Stock so deposited and registered in such name or names as may be requested by such person or persons. The Depository shall execute and deliver such Receipt or Receipts at the Depository's Office or such other offices, if any, as the Depository may designate. Delivery at other offices shall be at the risk and expense of the person requesting such delivery.

Section 2.4. Registration of Transfer of Receipts.

Subject to the terms and conditions of this Agreement, the Depository shall register on its books from time to time transfers of Receipts upon any surrender thereof by the Holder in person or by duly authorized attorney, properly endorsed or accompanied by a properly executed instrument of transfer, including a guarantee of the signature thereon by a participant in a signature guarantee medallion program approved by the Securities Transfer Association, Inc. (the "Signature Guarantee"). Thereupon, the Depository shall execute a new Receipt or Receipts evidencing the same aggregate number of Depositary Shares as those evidenced by the Receipt or Receipts surrendered and deliver such new Receipt or Receipts to or upon the order of the person entitled thereto.

Section 2.5. Split-ups and Combinations of Receipts; Surrender of Receipts and Withdrawal of Stock.

Upon surrender of a Receipt or Receipts at the Depository's Office or at such other offices as it may designate for the purpose of effecting a split-up or combination of such Receipt or Receipts, and subject to the terms and conditions of this Agreement, the Depository shall execute a new Receipt or Receipts in the authorized denomination or denominations requested, evidencing the aggregate number of Depositary Shares evidenced by the Receipt or Receipts surrendered, and shall deliver such new Receipt or Receipts to or upon the order of the Holder of the Receipt or Receipts so surrendered.

In the event DTC ceases to make its book-entry system of settlement available, and the Corporation and the Depository are unable to make other arrangements for book-entry settlement and definitive Receipts have been issued, as further described in Section 2.2, any Holder of a Receipt or Receipts may withdraw the number of whole shares of Stock and all money represented thereby by surrendering such Receipt or Depositary Shares represented by the Receipts at the Depository's Office or at such other offices as the Depository may designate for such withdrawals. Thereafter, without unreasonable delay, the Depository shall deliver to such Holder, or to the person or persons designated by such Holder as hereinafter provided, the number of whole shares of Stock and all money represented by the Receipt or Receipts, or Depositary Shares represented by such Receipt or Receipts, so surrendered for withdrawal, but Holders of such whole shares of Stock will not thereafter be entitled to deposit such Stock hereunder or to receive a Receipt evidencing Depositary Shares therefor. If a Receipt delivered by the Holder to the Depository in connection with such withdrawal shall evidence a number of Depositary Shares in excess of the number of Depositary Shares representing the number of whole shares of Stock to be withdrawn, the Depository shall at the same time, in addition to such number of whole shares of Stock and such money to be so withdrawn, deliver to such Holder, or subject to Section 2.4 upon his order, a new Receipt evidencing such excess number of

Depository Shares; provided, however, that the Depository shall not issue any Receipt evidencing a fractional Depository Share.

Delivery of the Stock and money being withdrawn may be made by the delivery of such certificates, documents of title and other instruments as the Depository may deem appropriate, which, if required by the Depository, shall be properly endorsed or accompanied by proper instruments of transfer including, but not limited to, a Signature Guarantee.

If the Stock and the money being withdrawn are to be delivered to a person or persons other than the Record Holder of the related Receipt or Receipts being surrendered for withdrawal of such Stock, such Holder shall execute and deliver to the Depository a written order so directing the Depository, and the Depository may require that the Receipt or Receipts surrendered by such Holder for withdrawal of such shares of Stock be properly endorsed in blank or accompanied by a properly executed instrument of transfer in blank.

Delivery of the Stock and the money represented by Receipts surrendered for withdrawal shall be made by the Depository at the Depository's Office, except that, at the request, risk and expense of the Holder surrendering such Receipt or Receipts and for the account of the Holder thereof, such delivery may be made at such other place as may be designated by such Holder.

Section 2.6. Limitations on Execution and Delivery, Transfer, Surrender and Exchange of Receipts.

As a condition precedent to the execution and delivery, registration of transfer, split-up, combination, surrender or exchange of any Receipt, the Depository, any of the Depository's Agents or the Corporation may require payment to it of a sum sufficient for the payment (or, in the event that the Depository or the Corporation shall have made such payment, the reimbursement to it) of any charges or expenses payable by the Holder of a Receipt pursuant to Sections 3.2 and 5.7, may require the production of evidence satisfactory to it as to the identity and genuineness of any signature, including a Signature Guarantee, and may also require compliance with such regulations, if any, as the Depository or the Corporation may establish consistent with the provisions of this Agreement and applicable law.

The deposit of the Stock may be refused, the delivery of Receipts against Stock may be suspended, the registration of transfer of Receipts may be refused and the registration of transfer, surrender or exchange of outstanding Receipts may be suspended (i) during any period when the register of stockholders of the Corporation is closed or (ii) if any such action is deemed necessary or advisable by the Depository, any of the Depository's Agents or the Corporation at any time or from time to time because of any requirement of law or of any government or governmental body or commission or under any provision of this Agreement.

Section 2.7. Lost Receipts, etc.

In case any Receipt shall be mutilated, destroyed, lost or stolen, the Depository in its discretion may execute and deliver a Receipt of like form and tenor in exchange and substitution for such mutilated Receipt upon cancellation thereof, or in lieu of and in substitution for such destroyed, lost or stolen Receipt, upon (i) the filing by the Holder thereof with the Depository of evidence satisfactory to the Depository of such destruction or loss or theft of such Receipt, of the

authenticity thereof and of his or her ownership thereof; (ii) the Holder thereof furnishing of the Depository with reasonable indemnification satisfactory to the Depository and the provision of an open penalty surety bond satisfactory to the Depository and holding it and the Corporation harmless; and (iii) the payment of any reasonable expense (including reasonable fees, charges and expenses of the Depository) in connection with such execution and delivery.

Section 2.8. Cancellation and Destruction of Surrendered Receipts.

All Receipts surrendered to the Depository or any Depository's Agent shall be cancelled by the Depository. Except as prohibited by applicable law or regulation, the Depository is authorized and directed to destroy all Receipts so cancelled.

Section 2.9. Redemption of Stock.

Whenever the Corporation shall be permitted and shall elect to redeem shares of Stock in accordance with the terms of the Certificate, it shall (unless otherwise agreed to in writing with the Depository) give or cause to be given to the Depository, not less than 30 days and not more than 60 days prior to the Redemption Date (as defined below), notice of the date of such proposed redemption of Stock and of the number of such shares held by the Depository to be so redeemed and the applicable redemption price, which notice shall be accompanied by a certificate from the Corporation stating that such redemption of Stock is in accordance with the provisions of the Certificate. On the Redemption Date, provided that the Corporation shall then have paid or caused to be paid in full to the Depository the redemption price of the Stock to be redeemed, plus an amount equal to any declared and unpaid dividends thereon to the date fixed for redemption, in accordance with the provisions of the Certificate, the Depository shall redeem the number of Depository Shares representing such Stock. The Depository shall mail notice of the Corporation's redemption of Stock and the proposed simultaneous redemption of the number of Depository Shares representing the Stock to be redeemed by first-class mail, postage prepaid, not less than 30 days and not more than 60 days prior to the date fixed for redemption of such Stock and Depository Shares (the "Redemption Date"), to the Record Holders of the Receipts evidencing the Depository Shares to be so redeemed at their respective last addresses as they appear on the records of the Depository; but neither failure to mail any notice of redemption of Depository Shares to one or more Holders nor any defect in any notice of redemption of Depository Shares to one or more Holders shall affect the sufficiency of the proceedings for redemption as to the other Holders. Each notice shall be prepared by the Corporation and shall state: (i) the Redemption Date; (ii) the number of Depository Shares to be redeemed and, if less than all the Depository Shares held by any Holder are to be redeemed, the number of Depository Shares held by such Holder to be so redeemed; (iii) the redemption price; (iv) the place or places where Receipts evidencing such Depository Shares are to be surrendered for payment of the redemption price; and (v) that dividends in respect of the Stock represented by the Depository Shares to be redeemed will cease to accrue on such Redemption Date. In case less than all the outstanding Depository Shares are to be redeemed, the Depository Shares to be so redeemed shall be selected either pro rata or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of, or appointed by, the Board of Directors of the Corporation may determine to be fair and equitable.

Notice having been mailed by the Depository as aforesaid, from and after the Redemption Date (unless the Corporation shall have failed to provide the funds necessary to redeem the Stock evidenced by the Depository Shares called for redemption) (i) dividends on the shares of Stock so called for Redemption shall cease to accrue from and after such date, (ii) the Depository Shares being redeemed from such proceeds shall be deemed no longer to be outstanding, (iii) all rights of the Holders of Receipts evidencing such Depository Shares (except the right to receive the redemption price) shall, to the extent of such Depository Shares, cease and terminate, and (iv) upon surrender in accordance with such redemption notice of the Receipts evidencing any such Depository Shares called for redemption (properly endorsed or assigned for transfer, if the Depository or applicable law shall so require), such Depository Shares shall be redeemed by the Depository at a redemption price per Depository Share equal to [specify fraction] of the redemption price per share of Stock so redeemed plus all money represented by such Depository Shares, including all amounts paid by the Corporation in respect of dividends which on the Redemption Date have been declared on the shares of Stock to be so redeemed and have not theretofore been paid.

If fewer than all of the Depository Shares evidenced by a Receipt are called for redemption, the Depository will deliver to the Holder of such Receipt upon its surrender to the Depository, together with the redemption payment, a new Receipt evidencing the Depository Shares evidenced by such prior Receipt and not called for redemption; provided, however, that the Depository shall not issue any Receipt evidencing a fractional Depository Share.

The Depository shall, to the extent permitted by law, release or repay to the Corporation any funds deposited by or for the account of the Corporation for the purpose of redeeming any Depository Shares that remain unclaimed at the end of three years from the redemption date, without further action necessary on the part of the Corporation.

ARTICLE III
CERTAIN OBLIGATIONS OF HOLDERS OF RECEIPTS AND THE CORPORATION

Section 3.1. Filing Proofs; Certificates and Other Information.

Any Holder of a Receipt may be required from time to time to file proof of residence, or other matters or other information, to execute certificates and to make such representations and warranties as the Depository or the Corporation may reasonably deem necessary or proper. The Depository or the Corporation may withhold the delivery, or delay the registration of transfer or redemption, of any Receipt or the withdrawal of the Stock represented by the Depository Shares and evidenced by a Receipt or the distribution of any dividend or other distribution or the sale of any rights or of the proceeds thereof until such proof or other information is filed or such certificates are executed or such representations and warranties are made.

Section 3.2. Payment of Taxes or Other Governmental Charges.

Holders of Receipts shall be obligated to make payments to the Depository of certain charges and expenses, as provided in Section 5.7. Registration of transfer of any Receipt or any withdrawal of Stock and all money represented by the Depository Shares evidenced by such

Receipt may be refused until any such payment due is made, and any dividends, interest payments or other distributions may be withheld or any part of or all the Stock represented by the Depositary Shares evidenced by such Receipt and not theretofore sold may be sold for the account of the Holder thereof (after attempting by reasonable means to notify such Holder prior to such sale), and such dividends, interest payments or other distributions or the proceeds of any such sale may be applied to any payment of such charges or expenses, the Holder of such Receipt remaining liable for any deficiency.

Section 3.3. Warranty as to Stock.

The Corporation hereby represents and warrants that the Stock, when issued, will be duly authorized, validly issued, fully paid and nonassessable. Such representation and warranty shall survive the deposit of the Stock and the issuance of the related Receipts.

Section 3.4. Warranty as to Receipts.

The Corporation hereby represents and warrants that the Receipts, when issued, will represent legal and valid interests in the Stock. Such representation and warranty shall survive the deposit of the Stock and the issuance of the Receipts.

**ARTICLE IV
THE DEPOSITED SECURITIES; NOTICES**

Section 4.1. Cash Distributions.

Whenever [name of distribution agent], as distribution agent, shall receive any cash dividend or other cash distribution on the Stock, [name of distribution agent] shall, subject to Sections 3.1 and 3.2, distribute to Record Holders of Receipts on the record date fixed pursuant to Section 4.4 such amounts of such dividend or distribution as are, as nearly as practicable, in proportion to the respective numbers of Depositary Shares evidenced by the Receipts held by such Holders; provided, however, that in case the Corporation or [name of distribution agent] shall be required to withhold, and shall withhold, from any cash dividend or other cash distribution in respect of the Stock an amount on account of taxes, the amount made available for distribution or distributed in respect of Depositary Shares shall be reduced accordingly. In the event that the calculation of any such cash dividend or other cash distribution to be paid to any Record Holder on the aggregate number of Depositary Shares held by such Record Holder results in an amount that is a fraction of a cent and that fraction of a cent is equal to or greater than \$0.005, the amount [name of distribution agent] shall distribute to such record holder shall be rounded up to the next highest whole cent; otherwise, such fractional amount shall be disregarded by the Depository; provided, however, upon the Depository's request, the Corporation shall pay the additional amount to the Depository for distribution.

Each Holder of a Receipt shall provide [name of distribution agent] with its certified tax identification number on a properly completed Form W-8 or W-9, as may be applicable. Each Holder of a Receipt acknowledges that, in the event of non-compliance with the preceding sentence, the Internal Revenue Code of 1986, as amended, may require withholding by [name of distribution agent] of a portion of any of the distributions to be made hereunder.

Section 4.2. Distributions Other than Cash, Rights, Preferences or Privileges.

Whenever [name of distribution agent] shall receive any distribution other than cash, rights, preferences or privileges upon the Stock, [name of distribution agent] shall, subject to Sections 3.1 and 3.2, distribute to Record Holders of Receipts on the record date fixed pursuant to Section 4.4 such amounts of the securities or property received by it as are, as nearly as practicable, in proportion to the respective numbers of Depositary Shares evidenced by such Receipts held by such Holders, in any manner that [name of distribution agent] may deem equitable and practicable for accomplishing such distribution. If in the opinion of [name of distribution agent] such distribution cannot be made proportionately among such Record Holders, or if for any other reason (including any requirement that the Corporation or [name of distribution agent] withhold an amount on account of taxes or governmental charges) [name of distribution agent] deems, after consultation with the Corporation, such distribution not to be feasible, [name of distribution agent] may, with the approval of the Corporation, adopt such method as it deems equitable and practicable for the purpose of effecting such distribution, including the sale (at public or private sale) of the securities or property thus received, or any part thereof, in a commercially reasonable manner. The net proceeds of any such sale shall, subject to Sections 3.1 and 3.2, be distributed or made available for distribution, as the case may be, by [name of distribution agent] to Record Holders of Receipts as provided by Section 4.1 in the case of a distribution received in cash. The Corporation shall not make any distribution of such securities or property to [name of distribution agent], and [name of distribution agent] shall not make any distribution of such securities or property to the Holders of Receipts, unless the Corporation shall have provided an opinion of counsel stating that such securities or property have been registered under the Securities Act or do not need to be registered in connection with such distributions.

Section 4.3. Subscription Rights, Preferences or Privileges.

If the Corporation shall at any time offer or cause to be offered to the persons in whose names the Stock is recorded on the books of the Corporation any rights, preferences or privileges to subscribe for or to purchase any securities or any rights, preferences or privileges of any other nature, such rights, preferences or privileges shall in each such instance be communicated to the Depository and thereafter made available by the Depository to the Record Holders of Receipts in such manner as the Depository may determine, either by the issue to such Record Holders of warrants representing such rights, preferences or privileges or by such other method as may be approved by the Depository in its discretion with the approval of the Corporation; provided, however, that (i) if at the time of issue or offer of any such rights, preferences or privileges the Depository determines that it is not lawful or (after consultation with the Corporation) not feasible to make such rights, preferences or privileges available to Holders of Receipts by the issue of warrants or otherwise, or (ii) if and to the extent so instructed by Holders of Receipts who do not desire to exercise such rights, preferences or privileges, then [name of distribution agent], in its discretion (with approval of the Corporation, in any case where the Depository has determined that it is not feasible to make such rights, preferences or privileges available), may, if applicable laws or the terms of such rights, preferences or privileges permit such transfer, sell such rights, preferences or privileges at public or private sale, at such place or places and upon such terms as it may deem proper. The net proceeds of any such sale shall, subject to Sections

3.1 and 3.2, be distributed by [name of distribution agent] to the Record Holders of Receipts entitled thereto as provided by Section 4.1 in the case of a distribution received in cash.

The Corporation shall notify the Depository whether registration under the Securities Act of the securities to which any rights, preferences or privileges relate is required in order for Holders of Receipts to be offered or sold the securities to which such rights, preferences or privileges relate, and the Corporation agrees with the Depository that it will file promptly a registration statement pursuant to the Securities Act with respect to such rights, preferences or privileges and securities and use its best efforts and take all steps available to it to cause such registration statement to become effective sufficiently in advance of the expiration of such rights, preferences or privileges to enable such Holders to exercise such rights, preferences or privileges. In no event shall the Depository make available to the Holders of Receipts any right, preference or privilege to subscribe for or to purchase any securities unless and until such registration statement shall have become effective, or the Corporation shall have provided to the Depository an opinion of counsel to the effect that the offering and sale of such securities to the Holders are exempt from registration under the provisions of the Securities Act.

The Corporation shall notify the Depository whether any other action under the laws of any jurisdiction or any governmental or administrative authorization, consent or permit is required in order for such rights, preferences or privileges to be made available to Holders of Receipts, and the Corporation agrees with the Depository that the Corporation will use its reasonable best efforts to take such action or obtain such authorization, consent or permit sufficiently in advance of the expiration of such rights, preferences or privileges to enable such Holders to exercise such rights, preferences or privileges.

Section 4.4. Notice of Dividends, etc.; Fixing Record Date for Holders of Receipts.

Whenever any cash dividend or other cash distribution shall become payable or any distribution other than cash shall be made, or if rights, preferences or privileges shall at any time be offered, with respect to the Stock, or whenever the Depository shall receive notice of any meeting at which holders of the Stock are entitled to vote or of which holders of the Stock are entitled to notice, or whenever the Depository and the Corporation shall decide it is appropriate, the Depository shall in each such instance fix a record date (which shall be the same date as the record date fixed by the Corporation with respect to or otherwise in accordance with the terms of the Stock) for the determination of the Holders of Receipts who shall be entitled to receive such dividend, distribution, rights, preferences or privileges or the net proceeds of the sale thereof, or to give instructions for the exercise of voting rights at any such meeting, or who shall be entitled to notice of such meeting or for any other appropriate reasons.

Section 4.5. Voting Rights.

Subject to the provisions of the Certificate, upon receipt of notice of any meeting at which the holders of the Stock are entitled to vote, the Depository shall, as soon as practicable thereafter, mail to the Record Holders of Receipts, determined on the record date as set forth in Section 4.4, a notice prepared by the Corporation which shall contain (i) such information as is contained in such notice of meeting and (ii) a statement that the Holders may, subject to any

applicable restrictions, instruct the Depository as to the exercise of the voting rights pertaining to the amount of Stock represented by their respective Depository Shares (including an express indication that instructions may be given to the Depository to give a discretionary proxy to a person designated by the Corporation) and a brief statement as to the manner in which such instructions may be given. Upon the written request of the Holders of Receipts on the relevant record date, the Depository shall endeavor insofar as practicable to vote or cause to be voted, in accordance with the instructions set forth in such requests, the maximum number of whole shares of Stock represented by the Depository Shares evidenced by all Receipts as to which any particular voting instructions are received. The Corporation hereby agrees to take all reasonable action which may be deemed necessary by the Depository in order to enable the Depository to vote such Stock or cause such Stock to be voted. In the absence of specific instructions from Holders of Receipts, the Depository will vote the Stock represented by the Depository Shares evidenced by the Receipts of such Holders proportionately with votes cast pursuant to instructions received from the other Holders.

Section 4.6. Changes Affecting Deposited Securities and Reclassifications, Recapitalizations, etc.

Upon any change in par or stated value, split-up, combination or any other reclassification of the Stock, subject to the provisions of the Certificate, or upon any recapitalization, reorganization, merger or consolidation affecting the Corporation or to which it is a party, the Depository may in its discretion with the approval of, and shall upon the instructions of, the Corporation, and (in either case) in such manner as the Depository may deem equitable, (i) make such adjustments as are certified by the Corporation in the fraction of an interest represented by one Depository Share in one share of Stock and in the ratio of the redemption price per Depository Share to the redemption price per share of Stock, in each case as may be necessary fully to reflect the effects of such change in par or stated value, split-up, combination or other reclassification of the Stock, or of such recapitalization, reorganization, merger or consolidation and (ii) treat any securities which shall be received by the Depository in exchange for or upon conversion of or in respect of the Stock as new deposited securities so received in exchange for or upon conversion or in respect of such Stock. In any such case the Corporation may in its discretion direct the Depository to execute and deliver additional Receipts or may call for the surrender of all outstanding Receipts to be exchanged for new Receipts specifically describing such new deposited securities. Anything to the contrary herein notwithstanding, Holders of Receipts shall have the right from and after the effective date of any such change in par or stated value, split-up, combination or other reclassification of the Stock or any such recapitalization, reorganization, merger or consolidation to surrender such Receipts to the Depository with instructions to convert, exchange or surrender the Stock represented thereby only into or for, as the case may be, the kind and amount of shares and other securities and property and cash into which the Stock represented by such Receipts might have been converted or for which such Stock might have been exchanged or surrendered immediately prior to the effective date of such transaction.

Section 4.7. Delivery of Reports.

The Depository shall furnish to Holders of Receipts any reports and communications received from the Corporation which are received by the Depository, as the holder of the Stock, and which the Corporation is required to furnish to the holders of the Stock.

Section 4.8. Lists of Receipt Holders.

Reasonably promptly upon request from time to time by the Corporation, at the sole expense of the Corporation, the Depository shall furnish to it a list, as of the most recent practicable date, of the names, addresses and holdings of Depository Shares of all registered Holders of Receipts.

ARTICLE V

THE DEPOSITORY, THE DEPOSITORY'S AGENTS, THE REGISTRAR AND THE CORPORATION

Section 5.1. Maintenance of Offices, Agencies and Transfer Books by the Depository; Registrar; Depository's Agents.

Upon execution of this Agreement, the Depository shall maintain at the Depository's Office, facilities for the execution and delivery, registration and registration of transfer, surrender and exchange of Receipts, and at the offices of the Depository's Agents, if any, facilities for the delivery, registration of transfer, surrender and exchange of Receipts, all in accordance with the provisions of this Agreement; provided that, to the extent provisions of this Agreement regarding transfer or registration functions performed by the Depository conflict with the terms of any transfer agency agreement between the Corporation and the Depository, the terms of such transfer agency agreement shall control.

The Depository shall keep books at the Depository's Office for the registration and transfer of Receipts. Upon direction by the Corporation and with reasonable notice to the Depository, the Depository shall open its books for inspection by the Record Holders of Receipts as directed by the Corporation; provided that any Holder shall be granted such right by the Corporation only after certifying that such inspection shall be for a proper purpose reasonably related to such person's interest as an owner of Depository Shares evidenced by the Receipts.

The Depository may close such books, at any time or from time to time, when deemed expedient by it in connection with the performance of its duties hereunder.

The Depository may, with the approval of the Corporation, appoint a Registrar for registration of the Receipts or the Depository Shares evidenced thereby. If the Receipts or the Depository Shares evidenced thereby or the Stock represented by such Depository Shares shall be listed on one or more national securities exchanges, the Depository will appoint a Registrar (acceptable to the Corporation) for registration of the Receipts or Depository Shares in accordance with any requirements of such exchange. Such Registrar (which may be the Depository if so permitted by the requirements of any such exchange) may be removed and a substitute registrar appointed by the Depository upon the request or with the approval of the Corporation. If the Receipts, Depository Shares or Stock are listed on one or more other

securities exchanges, the Depository will, at the request of the Corporation, arrange such facilities for the delivery, registration, registration of transfer, surrender and exchange of the Receipts, Depository Shares or Stock as may be required by law or applicable securities exchange regulation.

The Depository may from time to time appoint Depository's Agents to act in any respect for the Depository for the purposes of this Agreement and may from time to time appoint additional Depository's Agents and vary or terminate the appointment of such Depository's Agents, provided that the Depository will notify the Corporation of any such appointment or variation or termination of such appointment.

Section 5.2. Prevention of or Delay in Performance by the Depository, the Depository's Agents, the Registrar or the Corporation.

Neither the Depository nor any Depository's Agent nor any Registrar nor the Corporation shall incur any liability to any Holder of a Receipt if by reason of any provision of any present or future law, or regulation thereunder, of the United States of America or of any other governmental authority or, in the case of the Depository, the Depository's Agent or the Registrar, by reason of any provision, present or future, of the Corporation's Amended and Restated Certificate of Incorporation (including the Certificate) or by reason of any act of God or war or other circumstance beyond the control of the relevant party, the Depository, the Depository's Agent, the Registrar or the Corporation shall be prevented, delayed or forbidden from, or subjected to any penalty on account of, doing or performing any act or thing which the terms of this Agreement provide shall be done or performed. Nor shall the Depository, any Depository's Agent, any Registrar or the Corporation incur liability to any Holder of a Receipt (i) by reason of any nonperformance or delay, caused as aforesaid, in the performance of any act or thing which the terms of this Agreement shall provide shall or may be done or performed, or (ii) by reason of any exercise of, or failure to exercise, any discretion provided for in this Agreement except, in case of any such exercise or failure to exercise discretion not caused as aforesaid, if caused by the gross negligence or willful misconduct of the party charged with such exercise or failure to exercise, or as otherwise explicitly set forth in this Agreement.

Section 5.3. Obligations of the Depository, the Depository's Agents, the Registrar and the Corporation.

Neither the Depository nor any Depository's Agent nor any Registrar nor the Corporation assumes any obligation or shall be subject to any liability under this Agreement to Holders of Receipts other than for its gross negligence, willful misconduct or bad faith.

Neither the Depository nor any Depository's Agent nor any Registrar nor the Corporation shall be under any obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of the Stock, the Depository Shares or the Receipts, which, in its opinion, may involve it in expense or liability, unless indemnity satisfactory to it against all expense and liability be furnished as often as may be reasonably required.

Neither the Depository nor any Depository's Agent nor any Registrar nor the Corporation shall be liable for any action or any failure to act by it in reliance upon the written advice of legal

counsel or accountants, or information from any person presenting Stock for deposit, any Holder of a Receipt or any other person believed by it in good faith to be competent to give such information. The Depository, any Depository's Agent, any Registrar and the Corporation may each rely, and shall each be protected in acting upon or omitting to act upon any written notice, request, direction or other document believed by it to be genuine and to have been signed or presented by the proper party or parties.

The Depository shall indemnify the Corporation against any liability which may directly arise out of acts performed or omitted by the Depository or any Depository's Agent due to its or their gross negligence, willful misconduct or bad faith.

The Depository shall not be responsible for any failure to carry out any instruction to vote any of the shares of Stock or for the manner or effect of any such vote made, as long as any such action or inaction is not taken or omitted to be taken in bad faith. The Depository undertakes, and any Registrar shall be required to undertake, to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Depository or any Registrar.

The Depository, its parent, affiliates or subsidiaries, the Depository's Agents and the Registrar may own, buy, sell and deal in any class of securities of the Corporation and its affiliates and in Receipts or Depository Shares or become pecuniarily interested in any transaction in which the Corporation or its affiliates may be interested or contract with or lend money to any such person or otherwise act as fully or as freely as if it were not the Depository, the parent, affiliate or subsidiary or the Depository's Agent or the Registrar hereunder. The Depository may also act as trustee, transfer agent or registrar of any of the securities of the Corporation and its affiliates.

It is intended that neither the Depository nor any Depository's Agent nor the Registrar, acting as the Depository's Agent or Registrar, as the case may be, shall be deemed to be an "issuer" of the securities under the federal securities laws or applicable state securities laws, it being expressly understood and agreed that the Depository, any Depository's Agent and the Registrar are acting only in a ministerial capacity as Depository or Registrar for the Stock.

Neither the Depository (or its officers, directors, employees or agents) nor any Depository's Agent nor the Registrar makes any representation or has any responsibility as to the validity of the registration statement pursuant to which the Depository Shares are registered under the Securities Act, the Stock, the Depository Shares or the Receipts (except for its counter-signatures thereon) or any instruments referred to therein or herein, or as to the correctness of any statement made therein or herein.

The Depository assumes no responsibility for the correctness of the description that appears in the Receipts. Notwithstanding any other provision herein or in the Receipts, the Depository makes no warranties or representations as to the validity or genuineness of any Stock at any time deposited with the Depository hereunder or of the Depository Shares, as to the validity or sufficiency of this Agreement, as to the value of the Depository Shares or as to any right, title or interest of the record holders of Receipts in and to the Depository Shares. The

Depository shall not be accountable for the use or application by the Corporation of the Depository Shares or the Receipts or the proceeds thereof.

Notwithstanding anything to the contrary herein, no party to this Agreement shall be liable for any incidental, indirect, special or consequential damages of any nature whatsoever, including, but not limited to, loss of anticipated profits, occasioned by breach of any provision of this Agreement even if apprised of the possibility of such damages.

The Depository shall not be under any liability for interest on any monies at any time received by it pursuant to any of the provisions of this Agreement or of the Receipts, the Depository Shares or the Stock nor shall it be obligated to segregate such monies from other monies held by it, except as required by law. The Depository shall not be responsible for advancing funds on behalf of the Corporation and shall have no duty or obligation to make any payments if it has not timely received sufficient funds to make timely payments.

In the event the Depository believes any ambiguity or uncertainty exists hereunder or in any notice, instruction, direction, request or other communication, paper or document received by the Depository hereunder, or in the administration of any of the provisions of this Agreement, the Depository shall deem it necessary or desirable that a matter be proved or established prior to taking, omitting or suffering to take any action hereunder, the Depository may, in its sole discretion upon written notice to the Corporation, refrain from taking any action and shall be fully protected and shall not be liable in any way to the Corporation, any Holders of Receipts or any other person or entity for refraining from taking such action, unless the Depository receives written instructions or a certificate signed by the Corporation which eliminates such ambiguity or uncertainty to the satisfaction of the Depository or which proves or establishes the applicable matter to the satisfaction of the Depository.

The Depository undertakes not to issue any Receipt other than to evidence the Depository Shares that have been delivered to and are then on deposit with the Depository. The Depository also undertakes not to sell, except as provided herein, pledge or lend Depository Shares by it as Depository.

Section 5.4. Resignation and Removal of the Depository; Appointment of Successor Depository.

The Depository may at any time resign as Depository hereunder by delivering notice of its election to do so to the Corporation, such resignation to take effect upon the appointment of a successor Depository and its acceptance of such appointment as hereinafter provided.

The Depository may at any time be removed by the Corporation by notice of such removal delivered to the Depository, such removal to take effect upon the appointment of a successor Depository hereunder and its acceptance of such appointment as hereinafter provided.

In case at any time the Depository acting hereunder shall resign or be removed, the Corporation shall, within 60 days after the delivery of the notice of resignation or removal, as the case may be, appoint a successor Depository, which shall be a bank or trust company having its principal office in the United States of America and having a combined capital and surplus of at least \$50,000,000. If no successor Depository shall have been so appointed and have accepted

appointment within 60 days after delivery of such notice, the resigning or removed Depository may petition any court of competent jurisdiction for the appointment of a successor Depository. Every successor Depository shall execute and deliver to its predecessor and to the Corporation an instrument in writing accepting its appointment hereunder, and thereupon such successor Depository, without any further act or deed, shall become fully vested with all the rights, powers, duties and obligations of its predecessor and for all purposes shall be the Depository under this Agreement, and such predecessor, upon payment of all sums due it and on the written request of the Corporation, shall promptly execute and deliver an instrument transferring to such successor all rights and powers of such predecessor hereunder, shall duly assign, transfer and deliver all right, title and interest in the Stock and any moneys held hereunder to such successor, and shall deliver to such successor a list of the Record Holders of all outstanding Receipts and such records, books and other information in its possession relating thereto. Any successor Depository shall promptly mail notice of its appointment to the Record Holders of Receipts.

Any entity into or with which the Depository may be merged, consolidated or converted shall be the successor of the Depository without the execution or filing of any document or any further act, and notice thereof shall not be required hereunder. Such successor Depository may authenticate the Receipts in the name of the predecessor Depository or its own name as successor Depository.

Section 5.5. Corporate Notices and Reports.

The Corporation agrees that it will deliver to the Depository, and the Depository will, promptly after receipt thereof, transmit to the Record Holders of Receipts, in each case at the addresses recorded in the Depository's books, copies of all notices and reports (including without limitation financial statements) required by law, by the rules of any national securities exchange upon which the Stock, the Depository Shares or the Receipts are listed or by the Corporation's Amended and Restated Certificate of Incorporation (including the Certificate), to be furnished to the Record Holders of Receipts. Such transmission will be at the Corporation's expense and the Corporation will provide the Depository with such number of copies of such documents as the Depository may reasonably request. In addition, the Depository will transmit to the Record Holders of Receipts at the Corporation's expense, including applicable fees, such other documents as may be requested by the Corporation.

Section 5.6. Indemnification by the Corporation.

Subject to Section 5.3, the Corporation shall indemnify the Depository, any Depository's Agent and any Registrar (including each of their officers, directors, agents and employees) against, and hold each of them harmless from, any loss, damage, cost, penalty, liability or expense (including the reasonable costs and expenses of defending itself) which may arise out of acts performed, suffered or omitted to be taken in connection with this Agreement and the Receipts by the Depository, any Registrar or any of their respective agents (including any Depository's Agent) and any transactions or documents contemplated hereby, except for any liability arising out of negligence, willful misconduct or bad faith on the respective parts of any such person or persons. The obligations of the Corporation set forth in this Section 5.6 shall survive any succession of any Depository, Registrar or Depository's Agent.

Section 5.7. Fees, Charges and Expenses.

The Corporation agrees promptly to pay the Depository the compensation to be agreed upon with the Corporation for all services rendered by the Depository hereunder and to reimburse the Depository for its reasonable out-of-pocket expenses (including reasonable counsel fees and expenses) incurred by the Depository without negligence, willful misconduct or bad faith on its part (or on the part of any agent or Depository's Agent) in connection with the services rendered by it (or such agent or Depository's Agent) hereunder. The Corporation shall pay all charges of the Depository in connection with the initial deposit of the Stock and the initial issuance of the Depository Shares and any redemption or exchange of the Stock at the option of the Corporation. The Corporation shall pay all transfer and other taxes and governmental charges arising solely from the existence of the depository arrangements. All other transfer and other taxes and governmental charges shall be at the expense of Holders of Depository Shares evidenced by Receipts. If, at the request of a Holder of Receipts, the Depository incurs charges or expenses for which the Corporation is not otherwise liable hereunder, such Holder will be liable for such charges and expenses; provided, however, that the Depository may, at its sole option, request that the Corporation direct a Holder of a Receipt to prepay the Depository any charge or expense the Depository has been asked to incur at the request of such Holder of Receipts. The Depository shall present its statement for charges and expenses to the Corporation at such intervals as the Corporation and the Depository may agree.

Section 5.8. Tax Compliance.

The Depository, on its own behalf and on behalf of the Corporation, will comply with all applicable certification, information reporting and withholding (including "backup" withholding) requirements imposed by applicable tax laws, regulations or administrative practice with respect to (i) any payments made with respect to the Depository Shares or (ii) the issuance, delivery, holding, transfer, redemption or exercise of rights under the Depository Receipts or the Depository Shares. Such compliance shall include, without limitation, the preparation and timely filing of required returns and the timely payment of all amounts required to be withheld to the appropriate taxing authority or its designated agent.

The Depository shall comply with any direction received from the Corporation with respect to the application of such requirements to particular payments or holders or in other particular circumstances, and may for purposes of this Agreement rely on any such direction in accordance with the provisions of Section 5.3 hereof.

The Depository shall maintain all appropriate records documenting compliance with such requirements, and shall make such records available on request to the Corporation or to its authorized representatives.

**ARTICLE VI
AMENDMENT AND TERMINATION**

Section 6.1. Amendment.

The form of the Receipts and any provisions of this Agreement may at any time and from time to time be amended by agreement between the Corporation and the Depository in any

respect which they may deem necessary or desirable; provided, however, that no such amendment (other than a change in fees) which shall materially and adversely alter the rights of the Holders of Receipts shall be effective unless such amendment shall have been approved by the holders of at least a majority of the Depositary Shares then outstanding. Every Holder of an outstanding Receipt at the time any such amendment becomes effective shall be deemed, by continuing to hold such Receipt, to consent and agree to such amendment and to be bound by this Agreement.

Notwithstanding the foregoing, in no event shall the Corporation be required to execute any amendment which may impair the right, subject to the provisions of Sections 2.6 and 2.7 and Article III, of any owner of Depositary Shares to surrender any Receipt evidencing such Depositary Shares to the Depository with instructions to deliver to the Holder the Stock and all money represented thereby, except in order to comply with mandatory provisions of applicable law or the rules and regulations of any governmental body, agency or commission, or any applicable securities exchange.

Section 6.2. Termination.

This Agreement may be terminated by the Corporation or the Depository only if (i) all outstanding Depositary Shares issued hereunder have been redeemed pursuant to Section 2.9, or (ii) there shall have been made a final distribution in respect of the Stock in connection with any liquidation, dissolution or winding up of the Corporation and such distribution shall have been distributed to the Holders of Receipts representing Depositary Shares pursuant to Section 4.1 or 4.2, as applicable.

Upon the termination of this Agreement, the Corporation shall be discharged from all obligations under this Agreement except for its obligations to the Depository, any Depository's Agent and any Registrar under Sections 5.6 and 5.7.

**ARTICLE VII
MISCELLANEOUS**

Section 7.1. Counterparts.

This Agreement may be executed in any number of counterparts, and by each of the parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument.

Section 7.2. Exclusive Benefit of Parties.

This Agreement is for the exclusive benefit of the parties hereto, and their respective successors hereunder, and shall not be deemed to give any legal or equitable right, remedy or claim to any other person whatsoever.

Section 7.3. Invalidity of Provisions.

In case any one or more of the provisions contained in this Agreement or in the Receipts should be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or therein shall in no way be affected, prejudiced or disturbed thereby.

Section 7.4. Notices.

Any and all notices to be given to the Corporation hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail, or by facsimile transmission or electronic mail, confirmed by letter, addressed to the Corporation at

Bank of America Corporation
Bank of America Corporate Center
NC1-007-07-13
100 North Tryon Street
Charlotte, North Carolina 28255
Attn: Corporate Treasury — Securities Administration
Facsimile: 980-387-8794
Email: securities.administration@bankofamerica.com

or at any other addresses of which the Corporation shall have notified the Depository in writing.

Any and all notices to be given to the Depository hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail, or by facsimile transmission confirmed by letter, addressed to the Depository at the Depository's Office at

Attention: _____
Facsimile: _____

or at any other address of which the Depository shall have notified the Corporation in writing.

The Depository shall give any and all notices directed to be given by the Corporation to any Record Holder of a Receipt in writing, which notices shall be deemed to have been duly given if personally delivered or sent by mail or facsimile transmission or confirmed by letter, addressed to such Record Holder at the address of such Record Holder as it appears on the books of the Depository.

Delivery of a notice sent by mail or by facsimile transmission shall be deemed to be effected at the time when a duly addressed letter containing the same (or a confirmation thereof in the case of a facsimile transmission) is deposited, postage prepaid, in a post office letter box.

The Depository or the Corporation may, however, act upon any facsimile transmission received by it from the other, notwithstanding that such facsimile transmission shall not subsequently be confirmed by letter or as aforesaid.

Section 7.5. [Appointment of Registrar, Dividend Disbursing Agent and Redemption Agent.

Unless otherwise set forth on a certificate duly executed by an authorized officer of the Corporation, the Corporation hereby appoints [name of registrar] as registrar and [name of dividend disbursing agent] as dividend disbursing agent and redemption agent in respect of the Stock deposited with the Depository hereunder, and [name of registrar] and [name of dividend disbursing agent] hereby accept their respective appointments. With respect to the appointments of [name of registrar] as registrar and [name of dividend disbursing agent] as dividend disbursing agent and redemption agent in respect of the Stock, each of the Corporation, [name of registrar] and [name of dividend disbursing agent], in their respective capacities under such appointments, shall be entitled to the same rights, indemnities, immunities and benefits as the Corporation and Depository hereunder, respectively, as if explicitly named in each such provision.]

Section 7.6. Holders of Receipts Are Parties.

The Holders of Receipts from time to time shall be parties to this Agreement and shall be bound by all of the terms and conditions hereof and of the Receipts. The provisions of this Agreement are intended to benefit only the parties hereto and their respective permitted successors and assigns, and no rights shall be granted to any other person by virtue of this Agreement.

Section 7.7. Governing Law.

This Agreement and the Receipts of each series and all rights hereunder and thereunder and provisions hereof and thereof shall be governed by, and construed in accordance with, the laws of the State of [New York] without giving effect to applicable conflicts of law principles.

Section 7.8. Headings.

The headings of articles and sections in this Agreement and in the form of the Receipt set forth in Exhibit A hereto have been inserted for convenience only and are not to be regarded as a part of this Agreement or the Receipts or to have any bearing upon the meaning or interpretation of any provision contained herein or in the Receipts.

[Signature page follows.]

IN WITNESS WHEREOF, the Corporation and the Depository have duly executed this Agreement as of the day and year first above set forth.

BANK OF AMERICA CORPORATION

By: _____
Name: _____
Title: _____

[DEPOSITORY]

By: _____
Name: _____
Title: _____

Deposit Agreement
Signature Page

EXHIBIT A

[FORM OF FACE OF RECEIPT]

THE DEPOSITARY SHARES REPRESENTED BY THIS RECEIPT ARE NOT SAVINGS ACCOUNTS, DEPOSITS OR OTHER OBLIGATIONS OF A BANK AND ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENT AGENCY.

UNLESS THIS RECEIPT IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO _____ (THE "DEPOSITARY") OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY RECEIPT ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

Number DR-

_____ Shares
(CUSIP)

DEPOSITARY RECEIPT FOR DEPOSITARY SHARES,
EACH REPRESENTING [specify fraction] OF ONE SHARE OF
_____ PREFERRED STOCK, SERIES _____, OF
BANK OF AMERICA CORPORATION
Incorporated under the laws of the State of Delaware
(See reverse for certain definitions.)

_____, as Depository (the "Depository"), hereby certifies that CEDE & CO. is the registered owner of _____ (_____) DEPOSITARY SHARES ("Depository Shares"), each Depository Share representing [specify fraction] of one share of _____ Preferred Stock, Series _____, liquidation preference \$ per share, par value \$ per share (the "Stock"), of BANK OF AMERICA CORPORATION, a Delaware corporation (the "Corporation"), on deposit with the Depository, subject to the terms and entitled to the benefits of the Deposit Agreement dated as of _____, 20__ (the "Deposit Agreement"), among the Corporation, the Depository and the Holders (as defined in the Deposit Agreement) from time to time of the Depository Receipts. By accepting this Depository Receipt, the Holder hereof becomes a party to and agrees to be bound by all the terms and conditions of the Deposit Agreement. [The Stock and Depository Shares are redeemable on and after _____, 20__]. This Depository Receipt shall not be valid or obligatory for any purpose or entitled to any benefits under the Deposit Agreement unless it shall have been executed by the Depository by the manual signature of a duly authorized officer or, if executed in facsimile by the Depository, countersigned by a Registrar in respect of the Depository Receipts by the manual signature of a duly authorized officer thereof.

Dated:

Depository

By: _____
Authorized Officer

Countersigned and Registered:

Registrar

By: _____
Authorized Signatory

Transfer Agent

By: _____
Authorized Signatory

[FORM OF REVERSE OF RECEIPT]

BANK OF AMERICA CORPORATION

UPON REQUEST, BANK OF AMERICA CORPORATION WILL FURNISH WITHOUT CHARGE TO EACH HOLDER OF A DEPOSITARY RECEIPT WHO SO REQUESTS A COPY OF THE DEPOSIT AGREEMENT AND A COPY OR SUMMARY OF THE CERTIFICATE OF DESIGNATIONS OF THE _____ PREFERRED STOCK, SERIES ____, OF BANK OF AMERICA CORPORATION. ANY SUCH REQUEST IS TO BE ADDRESSED TO THE DEPOSITARY NAMED ON THE FACE OF THIS RECEIPT.

The Corporation will furnish without charge to each holder of a depositary receipt who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof of the Corporation, and the qualifications, limitations or restrictions of such preferences or rights. Such request may be made to the Corporation or to the Registrar.

KEEP THIS RECEIPT IN A SAFE PLACE. IF IT IS LOST, STOLEN OR DESTROYED THE CORPORATION WILL REQUIRE A BOND OF INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT RECEIPT.

The following abbreviations, when used in the inscription on the face of this receipt, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM — as tenants in common

UNIF GIFT MIN ACT -
____Custodian_____

TEN ENT — as tenants by the entireties

(Cust)

JT TEN — as joint tenants with right of

(Minor)

Under Uniform Gifts to

survivorship and not as tenants in
Common

Minors

Act _____
(State)

Additional abbreviations may also be used though not in the above list.

For value received, _____ hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER

IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

_____ Depository Shares represented by the within receipt, and do hereby irrevocably constitute and appoint _____ Attorney to transfer the Depository Shares on the books of the within named Depository with full power of substitution in the premises.

Dated _____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE RECEIPT IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

SIGNATURE(S) GUARANTEED: THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO SEC RULE 14Ad-15.

FORM OF AMENDED & RESTATED DECLARATION OF TRUST

AMENDED AND RESTATED DECLARATION

OF TRUST

BAC CAPITAL TRUST []

Dated as of [,]

CROSS-REFERENCE TABLE*

Section of Trust Indenture Act of 1939, as amended	Section of Declaration
310(a)	5.3(a)
310(c)	Inapplicable
311(c)	Inapplicable
312(a)	2.2(a)
312(b)	2.2(b)
313	2.3
314(a)	2.4
314(b)	Inapplicable
314(c)	2.5
314(d)	Inapplicable
314(f)	Inapplicable
315(a)	3.9(b)
315(c)	3.9(a)
315(d)	3.9(b)
316(a)	Annex I
316(c)	3.6(e)

* This Cross-Reference Table does not constitute part of the Declaration and shall not affect the interpretation of any of its terms or provisions.

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**AMENDED AND RESTATED
DECLARATION OF TRUST
OF
BAC CAPITAL TRUST []**

THIS AMENDED AND RESTATED DECLARATION OF TRUST (“Declaration”) dated and effective as of [,] by the Trustees (as defined herein), the Sponsor (as defined herein) and by the holders, from time to time, of undivided beneficial interests in the assets of the Trust to be issued pursuant to this Declaration;

WHEREAS, the Trustees and the Sponsor established BAC CAPITAL TRUST [] (the “Trust”), a Delaware statutory trust under the Statutory Trust Act (as defined herein), pursuant to a Declaration of Trust dated as of [,] (the “Original Declaration”), and an accompanying Certificate of Trust filed with the Secretary of State of the State of Delaware, for the sole purpose of issuing and selling securities representing undivided beneficial interests in the assets of the Trust and investing the gross proceeds thereof in Notes of the Note Issuer (each as defined herein);

WHEREAS, as of the date hereof, no interests in the Trust have been issued;

WHEREAS, all of the Trustees and the Sponsor, by this Declaration, amend and restate each and every term and provision of the Original Declaration; and

NOW, THEREFORE, it being the intention of the parties hereto to continue the Trust as a statutory trust under the Statutory Trust Act and that this Declaration constitute the governing instrument of such statutory trust, the Trustees declare that all assets contributed to the Trust will be held in trust for the benefit of the holders, from time to time, of the securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

**ARTICLE 1
INTERPRETATION AND DEFINITIONS**

SECTION 1.1 Definitions.

Unless the context otherwise requires:

- (a) Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;
 - (b) a term defined anywhere in this Declaration has the same meaning throughout;
 - (c) all references to “the Declaration” or “this Declaration” are to this Declaration as modified, supplemented or amended from time to time, and Annex I and Exhibits A-1 and A-2 shall be a part of this Declaration;
-

(d) all references in this Declaration to Articles and Sections and Annexes and Exhibits are to Articles and Sections of and Annexes and Exhibits to this Declaration unless otherwise specified;

(e) a term defined in the Trust Indenture Act (as defined herein) has the same meaning when used in this Declaration unless otherwise defined in this Declaration; and

(f) a reference to the singular includes the plural and vice versa.

["Additional Securities" means any Capital Securities purchased by the Underwriters in connection with the Option contained in the Underwriting Agreement and any additional Common Securities purchased by the Sponsor in connection with the exercise of such Option.]

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

"Authorized Officer" of a Person means the Chief Executive Officer, President, Chief Financial Officer, any Senior or other Vice President, Treasurer, Assistant Treasurer or Deputy or Associate General Counsel of a Person, a Regular Trustee or any other Person that is authorized to bind such Person.

"Book-Entry" means a book entry by a Clearing Agency as described in Section 9.4.

"Book-Entry Interest" means a beneficial interest in a Global Security, ownership and transfers of which shall be maintained and made through Book Entries by a Clearing Agency as described in Section 9.4.

"Business Day" means any day other than a day on which federal or state banking institutions in New York, New York or Charlotte, North Carolina are authorized or obligated by law, executive order or regulation to close [and that also is a London Banking Day].

["Calculation Agent" means The Bank of New York Mellon Trust Company, N.A., or its successor, or any other calculation agent appointed by the Company.]

"Capital Securities" shall mean the undivided preferred beneficial interests in the assets of the Trust denominated as "BAC Capital Trust [] [%] [Floating Rate] Capital Securities" (liquidation amount \$[] per Capital Security), the terms of which are further described in Annex I heretof, including those Capital Securities issued upon exercise of the Option].

"Capital Security Beneficial Owner" means, with respect to a Book-Entry Interest, a Person who is the beneficial owner of such Book-Entry Interest, as reflected on the books of the Clearing Agency, or on the books of a Person maintaining an account with such Clearing Agency (directly as a Clearing Agency Participant or as an Indirect Participant, in each case in accordance with the rules of such Clearing Agency).

“Capital Security Certificate” means a certificate representing a Capital Security substantially in the form of Exhibit A-1.

“Capital Securities Guarantee” means the guarantee agreement to be dated as of [], of the Sponsor in respect of the Capital Securities.

“Capital Treatment Event” means the reasonable determination by the Company that, as a result of the occurrence of any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision thereof, or as a result of any official or administrative pronouncement or action or judicial decision interpreting or applying such laws or regulations, which amendment or change is effective or such pronouncement, action or decision is announced on or after the date of original issuance of the Capital Securities, there is more than an insubstantial risk that the Company will not be entitled to treat an amount equal to the aggregate liquidation amount of the Capital Securities as Tier 1 capital (or the then equivalent thereof) for purposes of the capital adequacy guidelines of the Federal Reserve Board, as then in effect and applicable to the Company.

“Certificate” means a Common Security Certificate or a Capital Security Certificate.

“Clearing Agency” means an organization registered as a “Clearing Agency” pursuant to Section 17A of the Exchange Act that is acting as depository for the Capital Securities and in whose name or in the name of a nominee of that organization shall be registered a Global Security and which shall undertake to effect Book-Entry transfers and pledges of the Capital Securities.

“Clearing Agency Participant” means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Clearing Agency effects Book-Entry transfers and pledges of securities deposited with the Clearing Agency.

“Closing Date” means the “Closing Time” under the Underwriting Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, or any successor legislation.

“Commission” means the Securities and Exchange Commission.

“Common Securities” shall mean the undivided common beneficial interests in the assets of the Trust denominated as “BAC Capital Trust [] [%] [Floating Rate] Common Securities” (having an aggregate liquidation amount equal to \$[]), the terms of which are further described in Annex I hereto [, including those Common Securities purchased by the Sponsor upon exercise of the Option].

“Common Securities Guarantee” means the guarantee agreement to be dated as of [], of the Sponsor in respect of the Common Securities.

“Common Security Certificate” means a definitive certificate in fully registered form representing a Common Security substantially in the form of Exhibit A-2 hereto.

“Company” means Bank of America Corporation, a Delaware corporation, or any successor thereto.

“Company Indemnified Person” means (a) any Regular Trustee; (b) any Affiliate of any Regular Trustee; (c) any officers, directors, shareholders, members, partners, employees, representatives or agents of any Regular Trustee; or (d) any officer, employee or agent of the Trust or its Affiliates.

“Corporate Trust Office” means the office of the Property Trustee at which the corporate trust business of the Property Trustee shall, at any particular time, be principally administered, which office at the date of execution of this Agreement is located at 101 Barclay Street, Floor 21 West, New York, New York 10286.

“Covered Person” means: (a) any officer, director, shareholder, partner, member, representative, employee or agent of (i) the Trust or (ii) the Trust’s Affiliates; and (b) any Holder of Securities.

“Definitive Capital Security Certificates” has the meaning set forth in Section 9.4.

“Delaware Trustee” has the meaning set forth in Section 5.1.

“Depository” means The Depository Trust Company or any successor Clearing Agency.

“Designation of Terms” has the meaning set forth in Section 7.1(a).

“Direct Action” has the meaning specified in Section 3.8(e).

“Distribution” means a distribution payable to Holders of Securities in accordance with Section 6.1.

“Distribution Payment Date” means [_____, _____], [_____, _____], [_____, _____], and [_____, _____] of each year, beginning on [_____, _____].

“Distribution Period” means the period beginning on the original issue date of the Capital Securities or a Distribution Payment Date, as applicable, and ending on the date immediately preceding the next following Distribution Payment Date or the Maturity Date of the Notes, as applicable; and the first Distribution Period will be [_____, _____] to, but excluding, [_____, _____], and the final Distribution Period will be [_____, _____] through [_____, _____].

“Event of Default” in respect of the Securities means an Event of Default (as defined in the Indenture) has occurred and is continuing in respect of the Notes.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, or any successor legislation.

“Fiduciary Indemnified Person” has the meaning set forth in Section 10.4(b).

“Global Security” has the meaning set forth in Section 9.4.

“Holder” means a Person in whose name a Security is registered (including, in the case of a Book-Entry Security, the Depository), such Person being a beneficial owner within the meaning of the Statutory Trust Act.

“Indemnified Person” means a Company Indemnified Person or a Fiduciary Indemnified Person.

“Indenture” means collectively the Restated Indenture dated as of November 1, 2001, between the Note Issuer and the Note Trustee and the Supplemental Indenture and any board resolution pursuant to which the Notes are to be issued.

“Indirect Participant” has the meaning set forth in Section 2(c) of Annex I hereto.

[“Interest Determination Date” means the date that is the second London Banking Day prior to each Distribution Payment Date, beginning on [_____].]

“Investment Company” means an investment company as defined in the Investment Company Act.

“Investment Company Act” means the Investment Company Act of 1940, as amended from time to time, or any successor legislation.

“Investment Company Event” means the receipt by the Trust of an opinion of counsel experienced in such matters to the effect that, as a result of the occurrence of a change in law or regulation or a change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority (a “Change in 1940 Act Law”), the Trust is or will be considered an investment company that is required to be registered under the Investment Company Act of 1940, as amended, which Change in 1940 Act Law becomes effective on or after the date of original issuance of the Capital Securities.

“Legal Action” has the meaning set forth in Section 3.6(g).

[“London Banking Day” means any day on which commercial banks are open for business (including dealings in deposits of U.S. dollars) in London, England.]

“Majority in liquidation amount of the Securities” means, except as provided in the terms of the Capital Securities or by the Trust Indenture Act, Holders of outstanding Securities voting together as a single class or, as the context may require, Holders of outstanding Capital Securities or Holders of outstanding Common Securities voting separately as a class, who are the record owners of more than 50% of the aggregate liquidation amount (including the stated

amount that would be paid on redemption, liquidation or otherwise, plus accrued and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class.

“Maturity Redemption Price” shall mean, for a redemption of the Securities at the Stated Maturity of the Notes, a redemption price equal to the principal amount of, plus accrued interest on, the Notes.

“Nonpayment” has the meaning set forth in Section 2.7(a).

“Note Issuer” means Bank of America Corporation, a Delaware corporation, or any successor entity in a merger or consolidation, in its capacity as issuer of the Notes under the Indenture.

“Note Trustee” means The Bank of New York Mellon Trust Company, N.A., a national banking association, formerly known as The Bank of New York Trust Company, N.A. (as successor trustee to The Bank of New York) under the Indenture, or any successor appointed thereunder.

“Notes” means the series of junior subordinated notes to be issued by the Note Issuer under the Indenture to be held by the Property Trustee on behalf of the Trust.

“Officers’ Certificate” means, with respect to any Person, a certificate signed by two Authorized Officers of such Person. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Declaration shall include:

- (a) a statement that each officer signing the certificate has read the covenant or condition and the definitions relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the certificate;
- (c) a statement that each such officer has made such examination or investigation as, in such officer’s opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

[“Option” means the option to purchase up to [] additional Capital Securities granted to the Underwriters named in an Underwriting Agreement.]

“Optional Prepayment Price” shall mean with respect to the Notes, a prepayment price equal to 100% of the outstanding principal amount of the Notes to be prepaid, plus any accrued and unpaid interest thereon up to, but excluding, the date of such prepayment.

“Optional Redemption Price” shall mean with respect to the Securities to be redeemed, a redemption price equal to the Optional Prepayment Price.

“Paying Agent” has the meaning specified in Section 7.2.

“Payment Amount” has the meaning set forth in Section 6.1.

“Person” means any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

“Property Trustee” means the Trustee with the powers described in Article 3 and elsewhere herein and meeting the eligibility requirements set forth in Section 5.3.

“Property Trustee Account” has the meaning set forth in Section 3.8(c).

“Quorum” means a majority of the Regular Trustees or, if there are only two Regular Trustees, both of them.

“Redemption/Distribution Notice” means a notice of any redemption of, or a notice of any distribution of, Notes in exchange for Securities.

“Redemption Price” shall mean any or all of the Maturity Redemption Price, the Special Event Redemption Price and the Optional Redemption Price.

“Regular Trustee” has the meaning set forth in Section 5.1.

“Related Party” means, with respect to the Sponsor, any direct or indirect wholly-owned subsidiary of the Sponsor or any other Person that owns, directly or indirectly, 100% of the outstanding voting securities of the Sponsor.

“Responsible Officer” means, with respect to the Property Trustee, any officer within the Corporate Trust Office of the Property Trustee, including any vice-president, any assistant vice-president, any assistant treasurer or other officer of the Corporate Trust Office of the Property Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

“Rule 3a-5” means Rule 3a-5 under the Investment Company Act.

“Securities” means the Common Securities and the Capital Securities.

“Securities Act” means the Securities Act of 1933, as amended from time to time, or any successor legislation.

“Securities Guarantees” means the Common Securities Guarantee and the Capital Securities Guarantee.

“Special Event” means a Tax Event, a Capital Treatment Event or an Investment Company Event.

“Special Event Prepayment Price” shall mean with respect to the Notes, a prepayment price equal to 100% of the outstanding principal amount of the Notes to be prepaid, plus any accrued and unpaid interest thereon up to, but excluding, the date of prepayment.

“Special Event Redemption Price” shall mean with respect to the Securities, a redemption price equal to the Special Event Prepayment Price.

“Sponsor” means Bank of America Corporation, a Delaware corporation, or any successor entity in a merger or consolidation, in its capacity as sponsor of the Trust.

“Stated Maturity” shall mean [], the date on which the Notes shall mature, unless [(a)] previously prepaid or redeemed or [(b)] that date has been extended].

“Statutory Trust Act” means Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code Section 3801 et seq., as it may be amended from time to time, or any successor legislation.

“Successor Delaware Trustee” has the meaning set forth in Section 5.7(b)(ii).

“Successor Entity” has the meaning set forth in Section 3.15(b)(i).

“Successor Property Trustee” has the meaning set forth in Section 5.7(b)(i).

“Successor Securities” has the meaning set forth in Section 3.15(b)(i)(B).

“Super Majority” has the meaning set forth in Section 2.6(a)(ii).

“Supplemental Indenture” means the [] supplemental indenture to the Indenture to be dated as of [,] between the Company and the Note Trustee.

“Tax Event” means that (i) the Company shall have received an opinion of a nationally recognized independent tax counsel experienced in such matters to the effect that, as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws or any regulations thereunder of the United States or any political subdivision or taxing authority thereof or (b) any official administrative pronouncement or judicial decision interpreting or, applying such laws or regulations, which amendment or change is effective or such pronouncement or decision is announced on or after the date of original issuance of the Capital Securities, there is more than an insubstantial risk that interest payable on the Notes is not, or within 90 days of the date thereof, will not be deductible, in whole or in part, by the Company for United States federal income tax purposes, or (ii) the Regular Trustees have been informed by a nationally recognized independent tax counsel that a No Recognition Opinion cannot be delivered. “No Recognition Opinion” means an opinion of a nationally recognized independent

tax counsel experienced in such matters, which opinion may rely on published revenue rulings of the Internal Revenue Service, to the effect that the holders of the Capital Securities and Common Securities will not recognize any gain or loss for United States federal income tax purposes as a result of the dissolution of the Trust and the distribution of the Notes.

“10% in liquidation amount of the Securities” means, except as provided in the terms of the Capital Securities or by the Trust Indenture Act, Holders of outstanding Securities voting together as a single class or, as the context may require, Holders of outstanding Capital Securities or Holders of outstanding Common Securities voting separately as a class, who are the record owners of 10% or more of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accrued and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class.

“Treasury Regulations” means the income tax regulations, including temporary and proposed regulations, promulgated under the Code by the United States Treasury, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Trustee” or “Trustees” means each Person who has signed this Declaration as a trustee (including each Regular Trustee), so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

“Underwriting Agreement” means the Underwriting Agreement for the offering and sale of the Capital Securities and related Capital Securities Guarantee among the Sponsor, the Trust and the Underwriters named therein.

ARTICLE 2 TRUST INDENTURE ACT

SECTION 2.1 Trust Indenture Act; Application.

(a) This Declaration is subject to the provisions of the Trust Indenture Act that are required to be part of this Declaration and shall, to the extent applicable, be governed by such provisions.

(b) The Property Trustee shall be the only Trustee which is a Trustee for the purposes of the Trust Indenture Act.

(c) If and to the extent that any provision of this Declaration limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

(d) The application of the Trust Indenture Act to this Declaration shall not affect the nature of the Securities as equity securities representing undivided beneficial interests in the assets of the Trust.

SECTION 2.2 Lists of Holders of Securities.

(a) Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide the Property Trustee (i) within 10 days after each record date for payment of Distributions, a list, in such form as the Property Trustee may reasonably require, of the names and addresses of the Holders of the Securities (“List of Holders”) as of such record date, provided that neither the Sponsor nor the Regular Trustees on behalf of the Trust shall be obligated to provide such List of Holders at any time the List of Holders does not differ from the most recent List of Holders given to the Property Trustee by the Sponsor and the Regular Trustees on behalf of the Trust, and (ii) at any other time, within 30 days of receipt by the Trust of a written request for a List of Holders as of a date no more than 10 days before such List of Holders is given to the Property Trustee. The Property Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in Lists of Holders given to it or which it receives in the capacity as Paying Agent (if acting in such capacity) provided that the Property Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Property Trustee shall comply with its obligations under Sections 311(a), 311(b) and 312(b) of the Trust Indenture Act.

SECTION 2.3 Reports by the Property Trustee.

Within 60 days after [] of each year, the Property Trustee shall provide to the Holders of the Capital Securities such reports as are required by Section 313 of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Property Trustee shall also comply with the requirements of Section 313(d) of the Trust Indenture Act.

SECTION 2.4 Periodic Reports to Property Trustee.

Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide to the Property Trustee such documents, reports and information as required by Section 314 (if any) and the compliance certificate required by Section 314 of the Trust Indenture Act in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act, with such compliance certificate of the Sponsor to be executed by the Sponsor’s principal executive officer, principal financial officer or principal accounting officer, and such compliance certificate of the Trust to be executed by any Regular Trustee.

SECTION 2.5 Evidence of Compliance with Conditions Precedent.

Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide to the Property Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Declaration that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate.

SECTION 2.6 Events of Default: Waiver.

(a) The Holders of a Majority in liquidation amount of Capital Securities, by vote, on behalf of the Holders of all of the Capital Securities, may waive any past Event of Default in respect of the Capital Securities and its consequences, provided that, if the underlying Event of Default under the Indenture:

(i) is not waivable under the Indenture, the Event of Default under the Declaration shall not be waivable; or

(ii) requires the consent or vote of greater than a majority in principal amount of the holders of the Notes (a "Super Majority") to be waived under the Indenture, the Event of Default under the Declaration may only be waived by the vote of the Holders of at least the proportion in liquidation amount of the Capital Securities that the relevant Super Majority represents of the aggregate principal amount of the Notes outstanding.

The foregoing provisions of this Section 2.6(a) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act. Upon such waiver, any such default shall cease to exist, and any Event of Default with respect to the Capital Securities arising therefrom shall be deemed to have been cured, for every purpose of this Declaration, but no such waiver shall extend to any subsequent or other default or an Event of Default with respect to the Capital Securities or impair any right consequent thereon. Any waiver by the Holders of the Capital Securities of an Event of Default with respect to the Capital Securities also shall be deemed to constitute a waiver by the Holders of the Common Securities of any such Event of Default with respect to the Common Securities for all purposes of this Declaration without any further act, vote or consent of the Holders of the Common Securities.

(b) The Holders of a Majority in liquidation amount of the Common Securities, by vote, on behalf of the Holders of all of the Common Securities, may waive any past Event of Default with respect to the Common Securities and its consequences, provided that, if the underlying Event of Default under the Indenture:

(i) is not waivable under the Indenture, except where the Holders of the Common Securities are deemed to have waived such Event of Default under

the Declaration as provided below in this Section 2.6(b), the Event of Default under the Declaration shall also not be waivable; or

(ii) requires the consent or vote of the holders of a Super Majority of the Notes to be waived under the Indenture, except where the Holders of the Common Securities are deemed to have waived such Event of Default under the Declaration as provided below in this Section 2.6(b), the Event of Default under the Declaration only may be waived by the vote of the Holders of at least the proportion in liquidation amount of the Common Securities that the relevant Super Majority represents of the aggregate principal amount of the Notes outstanding;

provided further, each Holder of Common Securities will be deemed to have waived any such Event of Default and all Events of Default with respect to the Common Securities and its consequences until all Events of Default with respect to the Capital Securities have been cured, waived or otherwise eliminated, and until such Events of Default with respect to the Capital Securities have been so cured, waived or otherwise eliminated, the Property Trustee will be deemed to be acting solely on behalf of the Holders of the Capital Securities and only the Holders of the Capital Securities will have the right to direct the Property Trustee in accordance with the terms of the Securities. The foregoing provisions of this Section 2.6(b) shall be in lieu of Sections 316(a)(1)(A) and 316(a)(1)(B) of the Trust Indenture Act and such Sections 316(a)(1)(A) and 316(a)(1)(B) of the Trust Indenture Act are hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act. Subject to the foregoing provisions of this Section 2.6(b), upon such waiver by the Holders of the Common Securities, any such default shall cease to exist and any Event of Default with respect to the Common Securities arising therefrom shall be deemed to have been cured for every purpose of this Declaration, but no such waiver shall extend to any subsequent or other default or Event of Default with respect to the Common Securities or impair any right consequent thereon.

(c) A waiver of an Event of Default under the Indenture by the Property Trustee at the direction of the Holders of the Capital Securities constitutes a waiver of the corresponding Event of Default under this Declaration. The foregoing provisions of this Section 2.6(c) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act.

SECTION 2.7 Event of Default or Nonpayment Notice.

(a) The Property Trustee shall, within 90 days after the occurrence of an Event of Default or a nonpayment of principal, premium, if any, or interest, when due, on the Notes ("Nonpayment") transmit by mail, first class postage prepaid, to the Holders of the Securities, notices of all Events of Default or Nonpayments with respect to the Securities actually known to a Responsible Officer of the Property Trustee, unless such Events of Default or Nonpayments have been cured before the giving of such notice;

(b) The Property Trustee shall not be deemed to have knowledge of any default except:

(i) an Event of Default under the Indenture or a Nonpayment; or

(ii) any default as to which a Responsible Officer of the Property Trustee shall have received written notice or of which a Responsible Officer of the Property Trustee charged with the administration of the Declaration shall have actual knowledge.

ARTICLE 3 ORGANIZATION

SECTION 3.1 Name.

The Trust is named "BAC Capital Trust [_____]," as such name may be modified from time to time by the Regular Trustees following written notice to the Holders of Securities. The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Regular Trustees.

SECTION 3.2 Office.

The address of the principal office of the Trust is c/o Bank of America Corporation, Bank of America Corporate Center, NC1-007-07-13, Attention: Corporate Treasury—Securities Administration, 100 North Tryon Street, Charlotte, North Carolina 28255. On 10 Business Days' written notice to the Holders of Securities, the Regular Trustees may designate another principal office.

SECTION 3.3 Purpose.

The exclusive purposes and functions of the Trust are (a) to issue and sell Securities and use the proceeds from such sale to acquire the Notes, and (b) except as otherwise limited herein, to engage in only those other activities necessary or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments, pledge any of its assets or otherwise undertake (or permit to be undertaken) any activity that would cause the Trust not to be classified for United States federal income tax purposes as a grantor trust.

SECTION 3.4 Authority.

Subject to the limitations provided in this Declaration and to the specific duties of the Property Trustee, the Regular Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Regular Trustees in accordance with their powers shall constitute the act of and serve to bind the Trust, and an action taken by the Property Trustee on behalf of the Trust in accordance with its powers shall constitute the act of and serve to bind the Trust. In dealing with the Trustees acting on behalf of the Trust, no person shall be required to inquire into the authority of the Trustees to bind the Trust. Persons dealing with the

Trust are entitled to rely conclusively on the power and authority of the Trustees as set forth in this Declaration.

SECTION 3.5 Title to Property of the Trust.

Except as provided in Section 3.8 with respect to the Notes and the Property Trustee Account or as otherwise provided in this Declaration, legal title to all assets of the Trust shall be vested in the Trust. The Holders shall not have legal title to any part of the assets of the Trust, but shall have an undivided beneficial interest in the assets of the Trust.

SECTION 3.6 Powers and Duties of the Regular Trustees.

The Regular Trustees shall have the exclusive power, duty and authority to cause the Trust to engage in the following activities:

(a) to issue and sell the Capital Securities and the Common Securities in accordance with this Declaration; provided, however, that the Trust may issue no more than one series of Capital Securities and no more than one series of Common Securities, and, provided further, that there shall be no interests in the Trust other than the Securities, and the issuance of Securities shall be limited to a simultaneous issuance of both Capital Securities and Common Securities on the Closing Date;

(b) in connection with the issue and sale of the Capital Securities, at the direction of the Sponsor, to:

(i) execute and file with the Commission one or more registration statements on Form S-3 prepared by the Sponsor, including any amendments thereto, pertaining to the Capital Securities;

(ii) execute and file any documents prepared by the Sponsor, or take any acts as determined by the Sponsor to be necessary in order to qualify or register all or part of the Capital Securities in any state or jurisdiction in which the Sponsor has determined to qualify or register such Capital Securities for sale;

(iii) to determine whether to list Capital Securities and to execute and file applications, prepared by the Sponsor, to any national or international securities exchange for listing upon notice of issuance of any Capital Securities;

(iv) (A) execute and file with the Commission registration statements on Form 8-A, if required, including any amendments thereto, prepared by the Sponsor, relating to the registration of the Capital Securities under Section 12(b) or 12 (g) of the Exchange Act and (B) execute and file with the Commission any other filings which may be required under the Exchange Act; and

(v) from time to time execute and enter into underwriting agreements providing for the sale of the Capital Securities, including the Underwriting Agreement; [and]

- [(vi) to enter into one or more agreements with the Calculation Agent for the calculation of the distribution rate or rates for distributions payable to the holders of the Capital Securities, as such distributions are more particularly described in the Designation of Terms;]
- (c) to purchase the Notes with the proceeds of the sale of the Capital Securities and the Common Securities;
 - (d) to give the Sponsor and the Property Trustee prompt written notice of the occurrence of a Special Event;
 - (e) to establish a record date with respect to all actions to be taken hereunder that require a record date be established, including and with respect to, for the purposes of Section 316(c) of the Trust Indenture Act, Distributions, voting rights, redemptions and exchanges, and to issue relevant notices to the Holders of Capital Securities and Holders of Common Securities as to such actions and applicable record dates;
 - (f) to take all actions and perform such duties as may be required of the Regular Trustees pursuant to the terms of the Securities;
 - (g) to bring or defend, pay, collect, compromise, arbitrate, resort to legal action, or otherwise adjust claims or demands of or against the Trust (“Legal Action”);
 - (h) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors and consultants and pay reasonable compensation for such services;
 - (i) to cause the Trust to comply with the Trust’s obligations under the Trust Indenture Act;
 - (j) to give the certificate required by Section 314(a)(4) of the Trust Indenture Act to the Property Trustee, which certificate may be executed by any Regular Trustee;
 - (k) to incur expenses that are necessary or incidental to carry out any of the purposes of the Trust;
 - (l) to act as, or appoint another Person to act as, registrar and transfer agent for the Securities;
 - (m) to give prompt written notice to the Holders of the Securities of any notice received from the Note Issuer of its election to defer payments of interest on the Notes by extending the interest payment period under the Indenture;
 - (n) to execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing;
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(o) to take all action that may be necessary or appropriate for the preservation and the continuation of the Trust's valid existence, rights, franchises and privileges as a statutory trust under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Holders of the Capital Securities or to enable the Trust to effect the purposes for which the Trust was created;

(p) to take any action, not inconsistent with this Declaration or with applicable law, that the Regular Trustees determine in their discretion to be necessary or desirable in carrying out the activities of the Trust as set out in this Section 3.6, including, but not limited to:

(i) causing the Trust not to be deemed to be an Investment Company required to be registered under the Investment Company Act;

(ii) causing the Trust to be classified for United States federal income tax purposes as a grantor trust; and

(iii) cooperating with the Note Issuer to ensure that the Notes will be treated as indebtedness of the Note Issuer for United States federal income tax purposes, provided that such action does not adversely affect the interests of Holders; and

(q) to take all action necessary to cause all applicable tax returns and tax information reports that are required to be filed with respect to the Trust to be duly prepared and filed by the Regular Trustees, on behalf of the Trust.

The Regular Trustees must exercise the powers set forth in this Section 3.6 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.3, and the Regular Trustees shall not take any action that is inconsistent with the purposes and functions of the Trust set forth in Section 3.3.

Subject to this Section 3.6, the Regular Trustees shall have none of the powers or the authority of the Property Trustee set forth in Section 3.8.

Any expenses incurred by the Regular Trustees pursuant to this Section 3.6 shall be reimbursed by the Note Issuer.

SECTION 3.7 Prohibition of Actions by the Trust and the Trustees.

(a) The Trust shall not, and the Trustees (including the Property Trustee) shall not, engage in any activity other than as required or authorized by this Declaration. In particular, the Trust shall not and the Trustees (including the Property Trustee) shall cause the Trust not to:

(i) invest any proceeds received by the Trust from holding the Notes, but shall distribute all such proceeds to Holders of Securities pursuant to the terms of this Declaration and of the Securities;

(ii) acquire any assets other than as expressly provided herein;

(iii) possess Trust property for other than a Trust purpose;

(iv) make any loans or incur any indebtedness other than loans represented by the Notes;

(v) possess any power or otherwise act in such a way as to vary the Trust assets or the terms of the Securities in any way whatsoever;

(vi) issue any securities or other evidences of beneficial ownership of, or beneficial interest in, the Trust other than the Securities; or

(vii) other than as provided in this Declaration, (A) direct the time, method and place of exercising any trust or power conferred upon the Note Trustee with respect to the Notes, (B) waive any past default that is waivable under the Indenture, (C) exercise any right to rescind or annul any declaration that the principal of all the Notes shall be due and payable, or (D) consent to any amendment, modification or termination of the Indenture or the Notes where such consent shall be required unless the Trust shall have received an opinion of counsel to the effect that such modification will not cause more than an insubstantial risk that for United States federal income tax purposes the Trust will not be classified as a grantor trust.

SECTION 3.8 Powers and Duties of the Property Trustee.

(a) The legal title to the Notes shall be owned by and held of record in the name of the Property Trustee in trust for the benefit of the Holders of the Securities. The right, title and interest of the Property Trustee to the Notes shall vest automatically in each Person who may hereafter be appointed as Property Trustee in accordance with Section 5.7. Such vesting and cessation of title shall be effective whether or not conveyancing documents with regard to the Notes have been executed and delivered.

(b) The Property Trustee shall not transfer its right, title and interest in the Notes to the Regular Trustees or to the Delaware Trustee (if the Property Trustee does not also act as Delaware Trustee).

(c) The Property Trustee shall:

(i) establish and maintain a segregated non-interest bearing trust account (the "Property Trustee Account") in the name of and under the exclusive control of the Property Trustee on behalf of the Holders of the Securities and, upon the receipt of payments of funds made in respect of the Notes held by the

Property Trustee, deposit such funds into the Property Trustee Account and make payments to the Holders of the Capital Securities and Holders of the Common Securities from the Property Trustee Account in accordance with Section 6.1. Funds in the Property Trustee Account shall be held uninvested until disbursed in accordance with this Declaration. The Property Trustee Account shall be an account that is maintained with a banking institution the rating of whose long-term unsecured indebtedness is at least equal to the rating assigned to the Capital Securities by a “nationally recognized statistical rating organization,” as that term is defined for purposes of Rule 436(g)(2) under the Securities Act;

(ii) engage in such ministerial activities as shall be necessary or appropriate to effect the redemption of the Capital Securities and the Common Securities to the extent the Notes are prepaid or mature; and

(iii) upon written notice of distribution issued by the Regular Trustees in accordance with the terms of the Securities, engage in such ministerial activities as shall be necessary or appropriate to effect the distribution of the Notes to Holders of Securities upon the occurrence of a Special Event or other specified circumstances pursuant to the terms of the Securities.

(d) The Property Trustee shall take all actions and perform such duties as may be specifically required of the Property Trustee pursuant to the terms of the Securities.

(e) The Property Trustee shall take any Legal Action which arises out of or in connection with an Event of Default of which a Responsible Officer of the Property Trustee has actual knowledge or the Property Trustee’s duties and obligations under this Declaration or the Trust Indenture Act; provided however, that if a Nonpayment has occurred and is continuing, a Holder of Capital Securities may institute directly a proceeding for enforcement of payment to such Holder of the principal of, premium, if any, or interest on the Notes having a principal amount equal to the aggregate liquidation amount of the Capital Securities of such Holder (a “Direct Action”) after the respective due date specified in the Notes. In connection with such Direct Action, the rights of the Holders of the Common Securities will be subrogated to the rights of such Holder of Capital Securities to the extent of any payment made by the Note Issuer to such Holder of Capital Securities in such Direct Action.

(f) The Property Trustee shall not resign as a Trustee unless either:

(i) the Trust has been completely liquidated and the proceeds of the liquidation distributed to the Holders of Securities pursuant to the terms of the Securities; or

(ii) a Successor Property Trustee has been appointed and has accepted that appointment in accordance with Section 5.7.

(g) The Property Trustee shall have the legal power to exercise all of the rights, powers and privileges of a holder of Notes under the Indenture and, if an Event of Default actually known to a Responsible Officer of the Property Trustee occurs and is continuing, the Property Trustee shall, for the benefit of Holders of the Securities, enforce its rights as holder of the Notes subject to the rights of the Holders pursuant to the terms of such Securities.

(h) The Property Trustee may authorize one or more Paying Agents to pay Distributions, redemption payments or liquidation payments on behalf of the Trust with respect to all Securities and any such Paying Agent shall comply with Section 317(b) of the Trust Indenture Act. Any Paying Agent may be removed by the Property Trustee at any time and a successor Paying Agent or additional Paying Agents may be appointed at any time by the Property Trustee.

(i) Subject to this Section 3.8, the Property Trustee shall have none of the duties, liabilities, powers or the authority of the Regular Trustees set forth in Section 3.6.

The Property Trustee must exercise the powers set forth in this Section 3.8 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.3, and the Property Trustee shall not take any action that is inconsistent with the purposes and functions of the Trust set out in Section 3.3.

SECTION 3.9 Certain Duties and Responsibilities of the Property Trustee.

(a) The Property Trustee, before the occurrence of any Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Declaration and no implied covenants shall be read into this Declaration against the Property Trustee. In case an Event of Default has occurred (that has not been cured or waived pursuant to Section 2.6) of which a Responsible Officer of the Property Trustee has actual knowledge, the Property Trustee shall exercise such of the rights and powers vested in it by this Declaration, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) No provision of this Declaration shall be construed to relieve the Property Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) prior to the occurrence of an Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Property Trustee shall be determined solely by the express provisions of this Declaration and the Property Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Declaration, and

no implied covenants or obligations shall be read into this Declaration against the Property Trustee; and

(B) in the absence of bad faith on the part of the Property Trustee, the Property Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Property Trustee and conforming to the requirements of this Declaration; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Property Trustee, the Property Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Declaration;

(ii) the Property Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Property Trustee, unless it shall be proved that the Property Trustee was negligent in ascertaining the pertinent facts;

(iii) the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in liquidation amount of the Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under this Declaration;

(iv) no provision of this Declaration shall require the Property Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Declaration or indemnity reasonably satisfactory to the Property Trustee against such risk or liability is not reasonably assured to it;

(v) the Property Trustee's sole duty with respect to the custody, safekeeping and physical preservation of the Notes and the Property Trustee Account shall be to deal with such property in a similar manner as the Property Trustee deals with similar property for its own account, subject to the protections and limitations on liability afforded to the Property Trustee under this Declaration and the Trust Indenture Act;

(vi) the Property Trustee shall have no duty or liability for or with respect to the value, genuineness, existence or sufficiency of the Notes or the payment of any taxes or assessments levied thereon or in connection therewith;

(vii) the Property Trustee shall not be liable for any interest on any money received by it except as it may otherwise agree in writing with the

Sponsor. Money held by the Property Trustee need not be segregated from other funds held by it except in relation to the Property Trustee Account maintained by the Property Trustee pursuant to Section 3.8(c)(i) and except to the extent otherwise required by law; and

(viii) the Property Trustee shall not be responsible for monitoring the compliance by the Regular Trustees or the Sponsor with their respective duties under this Declaration, nor shall the Property Trustee be liable for any default or misconduct of the Regular Trustees or the Sponsor.

SECTION 3.10 Certain Rights of Property Trustee.

(a) Subject to the provisions of Section 3.9:

(i) the Property Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Sponsor or the Regular Trustees contemplated by this Declaration shall be sufficiently evidenced by an Officers' Certificate;

(iii) whenever, in the administration of this Declaration, the Property Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Property Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Sponsor or the Regular Trustees;

(iv) the Property Trustee shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement or any filing under tax or securities laws) or any rerecording, refiling or registration thereof;

(v) the Property Trustee may consult with counsel or other experts of its selection and the advice or opinion of such counsel and experts with respect to legal matters or advice within the scope of such experts' area of expertise shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion, and such counsel may be counsel to the Sponsor or any of its Affiliates, and may include any of its employees. The Property Trustee shall have

the right at any time to seek instructions concerning the administration of this Declaration from any court of competent jurisdiction;

(vi) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Declaration at the request or direction of any Holder, unless such Holder shall have provided to the Property Trustee security and indemnity, reasonably satisfactory to the Property Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Property Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Property Trustee, provided, that, nothing contained in this Section 3.10(a)(vi) shall be taken to relieve the Property Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Declaration;

(vii) the Property Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Property Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(viii) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys;

(ix) any action taken by the Property Trustee or its agents hereunder shall bind the Trust and the Holders of the Securities, and the signature of the Property Trustee or its agents alone shall be sufficient and effective to perform any such action and no third party shall be required to inquire as to the authority of the Property Trustee to so act or as to its compliance with any of the terms and provisions of this Declaration, both of which shall be conclusively evidenced by the Property Trustee's or its agent's taking such action;

(x) whenever in the administration of this Declaration the Property Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Property Trustee (i) may request instructions from the Holders of the Securities which instructions may only be given by the Holders of the same proportion in liquidation amount of the Securities as would be entitled to direct the Property Trustee under the terms of the Securities in respect of such remedy, right or action, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (iii) shall be protected in conclusively relying on or acting in accordance with such instructions;

(xi) except as otherwise expressly provided by this Declaration, the Property Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Declaration; and

(xii) the Property Trustee shall not be liable for any action taken, suffered or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Declaration.

(b) No provision of this Declaration shall be deemed to impose any duty or obligation on the Property Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Property Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Property Trustee shall be construed to be a duty.

SECTION 3.11 Delaware Trustee.

Notwithstanding any other provision of this Declaration other than Section 5.2, the Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities of the Regular Trustees or the Property Trustee described in this Declaration. Except as set forth in Section 5.2, the Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807 of the Statutory Trust Act.

SECTION 3.12 Execution of Documents.

Unless otherwise determined by the Regular Trustees, and except as otherwise required by the Statutory Trust Act, any Regular Trustee is authorized to execute on behalf of the Trust any documents that the Regular Trustees have the power and authority to execute pursuant to Section 3.6; provided that, any registration statement referred to in Section 3.6(b), including any amendments thereto, shall be signed by a majority of the Regular Trustees holding office at the time of such signing.

SECTION 3.13 Not Responsible for Recitals or Issuance of Securities.

The recitals contained in this Declaration and the Securities shall be taken as the statements of the Sponsor, and the Trustees do not assume any responsibility for their correctness. The Trustees make no representations as to the value or condition of the property of the Trust or any part thereof. The Trustees make no representations as to the validity or sufficiency of this Declaration or the Securities.

SECTION 3.14 Duration of Trust.

The Trust, unless terminated pursuant to the provisions of Article 8, shall have existence until [_____].

SECTION 3.15 **Mergers.**

(a) The Trust may not consolidate, amalgamate or merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any corporation or other body, except as described in Section 3.15(b) and (c).

(b) The Trust may, with the consent of a majority of the Regular Trustees and without the consent of the Holders of the Securities, the Delaware Trustee or the Property Trustee, consolidate, amalgamate, merge with or into, or be replaced by a trust organized as such under the laws of any state; provided that:

(i) if the Trust is not the survivor, such successor entity (the "Successor Entity") either:

(A) expressly assumes all of the obligations of the Trust under the Securities; or

(B) substitutes for the Securities other securities having substantially the same terms as the Securities (the "Successor Securities") so long as the Successor Securities rank the same as the Securities rank with respect to Distributions and payments upon liquidation, redemption and otherwise;

(ii) the Note Issuer expressly acknowledges a trustee of the Successor Entity that possesses the same powers and duties as the Property Trustee as the Holder of the Notes;

(iii) the Capital Securities or any Successor Securities which are Capital Securities are listed, or any Successor Securities of the Capital Securities will be listed upon notification of issuance, on any national or international securities exchange or with another organization, if any, on which the Capital Securities are then listed or quoted;

(iv) such merger, consolidation, amalgamation or replacement does not cause the Capital Securities (including any Successor Securities of the Capital Securities) to be downgraded by any nationally recognized statistical rating organization;

(v) such merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the Holders of the Securities (including any Successor Securities) in any material respect (other than with respect to any dilution of such Holders' interests in the new or successor entity as a result of such merger, consolidation or replacement);

(vi) such Successor Entity has a purpose identical to that of the Trust;

(vii) prior to such merger, consolidation, amalgamation or replacement, the Sponsor has received an opinion of a nationally recognized independent counsel to the Trust experienced in such matters to the effect that:

(A) such merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the Holders of the Securities (including any Successor Securities) in any material respect (other than with respect to any dilution of the Holders' interest in the new entity);

(B) following such merger, consolidation, amalgamation or replacement, neither the Trust nor the Successor Entity will be required to register as an Investment Company; and

(C) following such merger, consolidation, amalgamation or replacement, the Trust (or the Successor Entity) will continue to be classified as a grantor trust for United States federal income tax purposes; and

(viii) the Sponsor guarantees the obligations of such Successor Entity under the Successor Securities at least to the extent provided by the Capital Securities Guarantee and the Common Securities Guarantee.

(c) Notwithstanding Section 3.15(b), the Trust shall not, except with the consent of Holders of 100% in liquidation amount of the Securities, consolidate, amalgamate, merge with or into, or be replaced by, any other entity or permit any other entity to consolidate, amalgamate, merge with or into or replace it if such consolidation, merger, amalgamation or replacement would cause the Trust or Successor Entity to be classified as other than a grantor trust for United States federal income tax purposes.

ARTICLE 4 SPONSOR

SECTION 4.1 Sponsor's Purchase of Common Securities.

On the Closing Date [(including the Closing Date upon exercise of the Option)] the Trust will issue, and the Sponsor will purchase, the Common Securities issued by the Trust with an aggregate liquidation amount equal to \$[_____] at the same time as any Capital Securities are sold.

SECTION 4.2 Responsibilities of the Sponsor.

In connection with the issuance and sale of the Capital Securities, the Sponsor shall have the exclusive right and responsibility to engage in the following activities:

(a) to prepare for filing by the Trust with the Commission one or more registration statements on Form S-3 in relation to the Capital Securities, including any amendments thereto;

(b) to determine the states in which to take appropriate action to qualify or register for sale all or part of the Capital Securities and to do any and all such acts, other than actions which must be taken by the Trust, and advise the Trust of actions it must take, and prepare for execution and filing any documents to be executed and filed by the Trust, as the Sponsor deems necessary or advisable in order to comply with the applicable laws of any such states;

(c) to prepare for filing when required by the Trust applications to any national or international securities exchange for listing upon notice of issuance of any Capital Securities if the Capital Securities are to be listed;

(d) to prepare for filing by the Trust with the Commission (i) any required registration statements on Form 8-A relating to the registration of the Capital Securities under Section 12(b) or 12 (g) of the Exchange Act, including any amendments thereto and (ii) any other filings required under the Exchange Act; and

(e) to negotiate the terms of the Underwriting Agreement providing for the sale of the Capital Securities and the Capital Securities Guarantee.

In addition, the Sponsor shall have the right at any time to cause the Trust to be dissolved and the Notes held by the Trust to be distributed to Holders of the Securities.

SECTION 4.3 Covenants of the Sponsor.

For so long as the Capital Securities remain outstanding, the Sponsor will covenant (a) to maintain 100% direct or indirect ownership of the Common Securities, (b) to use its reasonable best efforts to cause the Trust (i) to remain a statutory trust, except as permitted by this Declaration in connection with the Trust's liquidation, merger or consolidation, and (ii) to not be classified as an association taxable as a corporation or a publicly traded partnership taxable as a corporation for United States federal income tax purposes and (c) to use its reasonable best efforts to cause each Holder of Securities to be treated as owning an undivided beneficial ownership interest in the assets of the Trust.

**ARTICLE 5
TRUSTEES**

SECTION 5.1 Number of Trustees.

The number of Trustees of this Trust shall be five, and:

(a) at any time before the issuance of any Securities, the Sponsor may, by written instrument, increase or decrease the number of Trustees; and

(b) after the issuance of any Securities, the number of Trustees may be increased or decreased by vote of the Holders of a majority in liquidation amount of the Common Securities voting as a class at a meeting of the Holders of the Common Securities; provided, however, that, the number of Trustees shall in no event be less than two; provided further that (i) one Trustee, in the case of a natural person, shall be a person who is a resident of the State of Delaware or that, if not a natural person, is an entity which has its principal place of business in the State of Delaware (the "Delaware Trustee"); (ii) there shall be at least one Trustee who is an employee or officer of, or is affiliated with the Sponsor (a "Regular Trustee"); and (iii) one Trustee shall be the Property Trustee for so long as this Declaration is required to qualify as an indenture under the Trust Indenture Act, and such Trustee may also serve as Delaware Trustee if it meets the applicable requirements.

SECTION 5.2 Qualifications of Delaware Trustee.

If required by the Statutory Trust Act, the Delaware Trustee shall be:

(a) a natural person who is a resident of the State of Delaware; or

(b) if not a natural person, an entity which has its principal place of business in the State of Delaware, and otherwise meets the requirements of applicable law,

provided that, if the Property Trustee has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable law, then the Property Trustee shall also be the Delaware Trustee and Section 3.11 shall have no application.

SECTION 5.3 Property Trustee; Eligibility.

(a) There shall at all times be one Trustee which shall act as Property Trustee which shall:

(i) not be an Affiliate of the Sponsor; and

(ii) be a corporation organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia, or a corporation or Person permitted by the Commission to act as a Property Trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, and subject to supervision or examination by Federal, state, territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then for the purposes of this Section 5.3(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Property Trustee shall cease to be eligible to so act under Section 5.3(a), the Property Trustee shall immediately resign in the manner and with the effect set forth in Section 5.7(c).

(c) If the Property Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Property Trustee and the Holder of the Common Securities (as if it were the obligor referred to in Section 310(b) of the Trust Indenture Act) shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

(d) The Capital Securities Guarantee shall be deemed to be specifically described in this Declaration for purposes of clause (i) of the first provision contained in Section 310(b) of the Trust Indenture Act.

(e) The initial Property Trustee shall be The Bank of New York Mellon Trust Company, N.A.

SECTION 5.4 Certain Qualifications of Regular Trustees and Delaware Trustee Generally.

Each Regular Trustee and the Delaware Trustee (unless the Property Trustee also acts as Delaware Trustee) shall either be a natural person who is at least 21 years of age or a legal entity that shall act through one or more Authorized Officers.

SECTION 5.5 Regular Trustees.

As of the date of this Declaration, the Regular Trustees shall be [____], [____] and [_____].

(a) Except as expressly set forth in this Declaration and except if a meeting of the Regular Trustees is called with respect to any matter over which the Regular Trustees have power to act, any power of the Regular Trustees may be exercised by, or with the consent of, any one such Regular Trustee.

(b) Unless otherwise determined by the Regular Trustees, and except as otherwise required by the Statutory Trust Act or applicable law, any Regular Trustee is authorized to execute on behalf of the Trust any documents which the Regular Trustees have the power and authority to cause the Trust to execute pursuant to Section 3.6, provided, that, the registration statement referred to in Section 3.6, including any amendments thereto, shall be signed by a majority of the Regular Trustees (or, if there are only two Regular Trustees, by each such Regular Trustee); and

(c) A Regular Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purposes of signing any documents which the Regular Trustees have power and authority to cause the Trust to execute pursuant to Section 3.6.

SECTION 5.6 Appointment of Delaware Trustee.

The initial Delaware Trustee shall be BNY Mellon Trust of Delaware.

SECTION 5.7 Appointment, Removal and Resignation of Trustees.

(a) Subject to Section 5.7(b), Trustees may be appointed or removed without cause at any time:

(i) until the issuance of any Securities, by written instrument executed by the Sponsor; and

(ii) after the issuance of any Securities, by vote of the Holders of a Majority in liquidation amount of the Common Securities voting as a class at a meeting of the Holders of the Common Securities or by unanimous written consent of the Holders of the Common Securities or, in the case of the Regular Trustees, by other document or instrument in form and content acceptable to the remaining Regular Trustees and executed and delivered by the Sponsor (provided that the Sponsor is the Holder of a Majority in liquidation amount of the Common Securities).

(b) (i) the Property Trustee shall not be removed in accordance with Section 5.7(a) until a successor trustee possessing the qualifications to act as Property Trustee under Section 5.3 (a "Successor Property Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Property Trustee and delivered to the Regular Trustees and the Sponsor; and

(ii) the Delaware Trustee shall not be removed in accordance with Section 5.7(a) until a successor Trustee possessing the qualifications to act as Delaware Trustee under Sections 5.2 and 5.4 (a "Successor Delaware Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Regular Trustees and the Sponsor.

(c) A Trustee appointed to office shall hold office until his successor shall have been appointed or until his death, removal or resignation. Any Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the Sponsor and the Trust, which resignation shall take effect upon such delivery or upon such later date as is specified therein; provided, however, that:

(i) no such resignation of the Property Trustee shall be effective:

(A) until a Successor Property Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Property Trustee and delivered to the Trust, the Sponsor and the resigning Property Trustee; or

(B) until the assets of the Trust have been completely liquidated and the proceeds thereof distributed to the holders of the Securities; and

(ii) no such resignation of the Delaware Trustee shall be effective until a Successor Delaware Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Trust, the Sponsor and the resigning Delaware Trustee.

(d) The Holders of the Common Securities shall use their best efforts to promptly appoint a Successor Delaware Trustee or Successor Property Trustee as the case may be if the Property Trustee or the Delaware Trustee delivers an instrument of resignation in accordance with this Section 5.7.

(e) If no Successor Property Trustee or Successor Delaware Trustee shall have been appointed and accepted appointment as provided in this Section 5.7 within 60 days after delivery of an instrument of resignation or removal, the Property Trustee or Delaware Trustee resigning or being removed, as applicable, may petition any court of competent jurisdiction for appointment of a Successor Property Trustee or Successor Delaware Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper and prescribe, appoint a Successor Property Trustee or Successor Delaware Trustee, as the case may be.

(f) No Property Trustee or Delaware Trustee shall be liable for the acts or omissions to act of any Successor Property Trustee or successor Delaware Trustee, as the case may be.

(g) All Trustees shall at all times be "United States Persons" within the meaning of Section 7701(a)(30) of the Code.

SECTION 5.8 Vacancies Among Trustees.

If a Trustee ceases to hold office for any reason and the number of Trustees is not reduced pursuant to Section 5.1, or if the number of Trustees is increased pursuant to Section 5.1, a vacancy shall occur. A resolution certifying the existence of such vacancy by the Regular Trustees or, if there are more than two, a majority of the Regular Trustees shall be conclusive evidence of the existence of such vacancy. The vacancy shall be filled with a Trustee appointed in accordance with Section 5.7.

SECTION 5.9 Effect of Vacancies.

The death, resignation, retirement, removal, bankruptcy, dissolution, liquidation, incompetence or incapacity to perform the duties of a Trustee shall not operate to annul the Trust. Whenever a vacancy in the number of Regular Trustees shall occur, until such vacancy is filled by the appointment of a Regular Trustee in accordance with Section 5.7, the Regular Trustees in office, regardless of their number, shall have all the powers granted to the Regular

Trustees and shall discharge all the duties imposed upon the Regular Trustees by this Declaration.

SECTION 5.10 Meetings.

If there is more than one Regular Trustee, meetings of the Regular Trustees shall be held from time to time upon the call of any Regular Trustee. Regular meetings of the Regular Trustees may be held at a time and place fixed by resolution of the Regular Trustees. Notice of any in-person meetings of the Regular Trustees shall be hand delivered or otherwise delivered in writing (including by facsimile, with a hard copy by overnight courier) not less than 48 hours before such meeting. Notice of any telephonic meetings of the Regular Trustees or any committee thereof shall be hand delivered or otherwise delivered in writing (including by facsimile, with a hard copy by overnight courier) not less than 24 hours before a meeting. Notices shall contain a brief statement of the time, place and anticipated purposes of the meeting. The presence (whether in person or by telephone) of a Regular Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Regular Trustee attends a meeting for the express purpose of objecting to the transaction of any activity on the ground that the meeting has not been lawfully called or convened. Unless provided otherwise in this Declaration, any action of the Regular Trustees may be taken at a meeting by vote of a majority of the Regular Trustees present (whether in person or by telephone) and eligible to vote with respect to such matter, provided that a Quorum is present, or without a meeting by the unanimous written consent of the Regular Trustees. Any and all actions of the Regular Trustees also may be evidenced by a written consent of such Regular Trustee.

SECTION 5.11 Delegation of Power.

(a) Any Regular Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 3.6, including any registration statement or amendment thereto filed with the Commission, or making any other governmental filing; and

(b) The Regular Trustees shall have power to delegate from time to time to such of their number or to officers of the Trust the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Regular Trustees or otherwise as the Regular Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of the Trust, as set forth herein.

SECTION 5.12 Merger, Conversion, Consolidation, Amalgamation or Succession to Business.

Any Person into which the Property Trustee or the Delaware Trustee, as the case may be, may be merged or converted or with which either may be consolidated, or any Person resulting from any merger, conversion, consolidation or amalgamation to which the Property Trustee or the Delaware Trustee, as the case may be, shall be a party, or any Person succeeding to all or

substantially all the corporate trust business of the Property Trustee or the Delaware Trustee, as the case may be, shall be the successor of the Property Trustee or the Delaware Trustee, as the case may be, hereunder, provided such Person shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

ARTICLE 6 DISTRIBUTIONS

Holders shall receive Distributions at the times and in accordance with the applicable terms of the relevant Holder's Securities. If and to the extent that the Note Issuer makes a payment of interest (including Compounded Interest, as defined in the Indenture) and Additional Interest (as defined in the Indenture), premium or principal on the Notes held by the Property Trustee (the amount of any such payment being a "Payment Amount"), the Property Trustee shall and is directed, to the extent funds are available for that purpose and without further action by the Regular Trustees, to make a Distribution of the Payment Amount to Holders. The term "Distributions" as used herein includes such cash distributions and any such interest payable unless otherwise stated. Distributions shall be made on the Capital Securities and the Common Securities in accordance with the preferences set forth in their respective terms.

ARTICLE 7 ISSUANCE OF SECURITIES

SECTION 7.1 General Provisions Regarding Securities.

(a) The Regular Trustees shall on behalf of the Trust issue the Capital Securities which shall have such terms as are set forth in a completed Designation of Terms in the form attached hereto as Annex I, in the amounts, at the times and with such additions, deletions, modifications and completions as may be approved by the Regular Trustees (the "Designation of Terms"), and one class of Common Securities representing undivided beneficial interests in the assets of the Trust in the amounts, at the times and having such terms as are set forth in a completed Designation of Terms. The Trust shall issue no securities or other interests in the assets of the Trust other than the Capital Securities and the Common Securities.

(b) The Regular Trustees shall negotiate the terms of the Underwriting Agreement relating to the Capital Securities.

(c) The Securities are subject to redemption as provided in the Designation of Terms.

(d) In certain circumstances, the Securities may be exchanged by the Note Issuer (or any of its Affiliates) for Notes as provided in Section 9.9.

(e) The Certificates shall be signed on behalf of the Trust by a Regular Trustee. Such signature shall be the manual signature of any present or any future Regular Trustee. In case any Regular Trustee of the Trust who shall have signed any of

the Certificates shall cease to be such Regular Trustee before the Certificates so signed shall be delivered by the Trust, such Certificates nevertheless may be delivered as though the person who signed such Certificates had not ceased to be such Regular Trustee. Any Certificate may be signed on behalf of the Trust by such persons who, at the actual date of execution of such Security, shall be the Regular Trustees of the Trust, although at the date of the execution and delivery of the Declaration any such person was not such a Regular Trustee. Certificates shall be typed, printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Regular Trustees, as evidenced by their execution thereof, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements as the Regular Trustees may deem appropriate, or as may be required to comply with any law or with any rule or regulation of any stock exchange on which Securities may be listed, or to conform to usage.

(f) The consideration received by the Trust for the issuance of the Securities shall constitute a contribution to the capital of the Trust and shall not constitute a loan to the Trust.

(g) Upon issuance of the Securities as provided in this Declaration, the Securities so issued shall be deemed to be validly issued, fully paid and non-assessable.

(h) Every Person, by virtue of having become a Holder or a Capital Security Beneficial Owner in accordance with the terms of this Declaration, shall be deemed to have expressly assented and agreed to the terms of, and shall be bound by, this Declaration, including the Designation of Terms.

(i) The Securities are not, and shall not be deemed to be, savings accounts or bank deposits or an obligation of or guaranteed by any banking affiliate of the Note Issuer and are not insured by the Federal Deposit Insurance Corporation or any other governmental agency.

SECTION 7.2 Paying Agent.

In the event that the Capital Securities are not in Book-Entry only form, the Trust shall maintain in New York, New York, an office or agency where the Capital Securities may be presented for payment ("Paying Agent"). The Trust may appoint the Paying Agent and may appoint one or more additional paying agents in such other locations as it shall determine and shall make such appointment in any other location required by law or the rules of any securities exchange on which the Capital Securities may be listed. The term "Paying Agent" includes any additional paying agent. The Trust may change any Paying Agent without prior notice to any Holder. The Trust shall notify the Property Trustee of the name and address of any Paying Agent not a party to this Declaration. If the Trust fails to appoint or maintain another entity as Paying Agent, the Property Trustee shall act as such. The Trust or any of its Affiliates may act as Paying Agent. The Property Trustee shall initially act as Paying Agent for the Capital Securities and the Trust shall initially act as Paying Agent for the Common Securities.

ARTICLE 8
TERMINATION OF TRUST

SECTION 8.1 Termination of Trust.

(a) The Trust shall dissolve:

(i) upon the bankruptcy of the Sponsor;

(ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Sponsor; upon the consent of a Majority in liquidation amount of the Securities voting together as a single class to dissolve the Trust; or upon the revocation of the Sponsor's charter and the expiration of 90 days after the date of revocation without a reinstatement thereof;

(iii) upon the entry of a decree of judicial dissolution of the Holder of the Common Securities, the Sponsor or the Trust;

(iv) when all of the Securities shall have been called for redemption and the amounts necessary for redemption thereof shall have been paid to the Holders in accordance with the terms of the Securities;

(v) at the election of the Sponsor at any time pursuant to which the Trust shall have been dissolved in accordance with the terms of the Securities and all of the Notes shall have been distributed to the Holders of Securities in exchange for all of the Securities;

(vi) before the issuance of any Securities, with the consent of all of the Regular Trustees and the Sponsor; or

(vii) when all of the Securities shall have been exchanged for Notes in accordance with Section 9.9.

(b) As soon as is practicable after the occurrence of an event referred to in Section 8.1(a), the Trustees shall, after satisfaction of all obligations of the Trust, file a certificate of cancellation with the Secretary of State of the State of Delaware and the Trust shall terminate.

(c) The provisions of Section 3.9 and Article 10 shall survive the termination of the Trust.

ARTICLE 9
TRANSFER OF INTERESTS; FORM OF SECURITIES; EXCHANGE BY NOTE ISSUER

SECTION 9.1 Transfer of Securities.

(a) Securities may only be transferred, in whole or in part, in accordance with the terms and conditions set forth in this Declaration and in the terms of the Securities. Any transfer or purported transfer of any Security not made in accordance with this Declaration shall be null and void.

(b) Subject to this Article 9 and Section 4.3, the Sponsor and any Related Party may only transfer Common Securities to the Sponsor or a Related Party of the Sponsor; provided that any such transfer is subject to the condition precedent that the transferor obtain the written opinion of a nationally recognized independent counsel experienced in such matters that such transfer would not cause more than an insubstantial risk that:

(i) the Trust would not be classified for United States federal income tax purposes as an association or a publicly traded partnership taxable as a corporation; and

(ii) the Trust would be an Investment Company or the transferee would become an Investment Company.

SECTION 9.2 Transfer of Certificates.

The Regular Trustees shall provide for the registration of Certificates and of transfers of Certificates, which will be effected without charge but only upon payment (with such indemnity as the Regular Trustees may require) in respect of any tax or other government charges that may be imposed in relation to it. Upon surrender for registration of transfer of any Certificate, the Regular Trustees shall cause one or more new Certificates to be issued in the name of the designated transferee or transferees. Every Certificate surrendered for registration of transfer shall be accompanied by a written instrument of transfer in form satisfactory to the Regular Trustees duly executed by the Holder or such Holder's attorney duly authorized in writing. Each Certificate surrendered for registration of transfer shall be canceled by the Regular Trustees. A transferee of a Certificate shall be entitled to the rights and subject to the obligations of a Holder hereunder upon the receipt by such transferee of a Certificate. By acceptance of a Certificate, each transferee shall be deemed to have agreed to be bound by this Declaration.

SECTION 9.3 Deemed Security Holders.

The Trustees may treat the Person in whose name any Certificate shall be registered on the books and records of the Trust as the sole holder of such Certificate and of the Securities represented by such Certificate for purposes of receiving Distributions and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or

interest in such Certificate or in the Securities represented by such Certificate on the part of any Person, whether or not the Trust shall have actual or other notice thereof.

SECTION 9.4 Book-Entry Interests.

Unless otherwise specified in the terms of the Capital Securities, the Capital Securities Certificates, on original issuance, will be issued in the form of one or more fully registered, global Capital Security Certificates (each a "Global Security"), to be delivered to the Depository, which also shall be the initial Clearing Agency, by, or on behalf of, the Trust. Such Global Securities shall initially be registered on the books and records of the Trust in the name of Cede & Co., the nominee of the Depository, and no Capital Security Beneficial Owner will receive a definitive Capital Security Certificate representing such Capital Security Beneficial Owner's interests in such Global Securities, except as provided in Section 9.7. Unless and until definitive, fully registered Capital Security Certificates (the "Definitive Capital Security Certificates") have been issued to the Capital Security Beneficial Owners pursuant to Section 9.7:

- (a) the provisions of this Section 9.4 shall be in full force and effect;
- (b) the Trust and the Trustees shall be entitled to deal with the Clearing Agency for all purposes of this Declaration (including the payment of Distributions on the Global Securities and receiving approvals, votes or consents hereunder) as the sole Holder of the Capital Securities and shall have no obligation to the Capital Security Beneficial Owners;
- (c) to the extent that the provisions of this Section 9.4 conflict with any other provisions of this Declaration, the provisions of this Section 9.4 shall control; and
- (d) the rights of the Capital Security Beneficial Owners shall be exercised only through the Clearing Agency and shall be limited to those established by law and agreements between such Capital Security Beneficial Owners and the Clearing Agency and/or the Clearing Agency Participants. The Depository will make Book-Entry transfers among the Clearing Agency Participants and receive and transmit payments of Distributions on the Global Securities to such Clearing Agency Participants.

SECTION 9.5 Notices to Clearing Agency.

Whenever a notice or other communication to the Capital Security Holders is required under this Declaration, unless and until Definitive Capital Security Certificates shall have been issued to the Capital Security Beneficial Owners pursuant to Section 9.7, the Regular Trustees shall give all such notices and communications specified herein to be given to the Capital Security Holders to the Clearing Agency, and shall have no notice obligations to the Capital Security Beneficial Owners.

SECTION 9.6 Appointment of Successor Clearing Agency.

If any Clearing Agency elects to discontinue its services as securities depository with respect to the Capital Securities, the Regular Trustees may, in their sole discretion, appoint a successor Clearing Agency with respect to such Capital Securities.

SECTION 9.7 Definitive Capital Security Certificates.

If:

(a) a Clearing Agency elects to discontinue its services as securities depository with respect to the Capital Securities and a successor Clearing Agency is not appointed within 90 days after such discontinuance pursuant to Section 9.6; or

(b) the Regular Trustees elect after consultation with the Sponsor to terminate the Book-Entry system through the Clearing Agency with respect to the Capital Securities;

then:

(c) Definitive Capital Security Certificates shall be prepared by the Regular Trustees on behalf of the Trust with respect to such Capital Securities; and

(d) upon surrender of the Global Securities by the Clearing Agency, accompanied by registration instructions, the Regular Trustees shall cause Definitive Capital Security Certificates to be delivered to Capital Security Beneficial Owners in accordance with the instructions of the Clearing Agency. Neither the Trustees nor the Trust shall be liable for any delay in delivery of such instructions and each of them may conclusively rely on and shall be protected in relying on, said instructions of the Clearing Agency. The Definitive Capital Security Certificates shall be typed, printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Regular Trustees, as evidenced by their execution thereof, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements as the Regular Trustees may deem appropriate, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange on which Capital Securities may be listed, or to conform to usage.

Otherwise, Definitive Capital Security Certificates will not be issued.

SECTION 9.8 Mutilated, Destroyed, Lost or Stolen Certificates.

If:

(a) any mutilated Certificates should be surrendered to the Regular Trustees, or if the Regular Trustees shall receive evidence to their satisfaction of the destruction, loss or theft of any Certificate; and

(b) there shall be delivered to the Regular Trustees such security or indemnity as may be required by them to keep each of them harmless,

then, in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser, any Regular Trustee on behalf of the Trust shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like denomination. In connection with the issuance of any new Certificate under this Section 9.8, the Regular Trustees may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this Section shall constitute conclusive evidence of an ownership interest in the relevant Securities, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

SECTION 9.9 Exchange by Note Issuer.

(a) If at any time the Note Issuer or any of its Affiliates (in either case, an "Issuer Affiliated Holder") is the Holder of any Capital Securities, such Issuer Affiliated Holder shall have the right to deliver to the Property Trustee all or such portion of its Capital Securities as it elects and receive, in exchange therefor, Notes in an aggregate principal amount equal to the aggregate liquidation amount of, with accrued and unpaid interest equal to any accumulated and unpaid Distributions on, such Capital Securities. Such election (i) shall be exercisable effective on any Distribution Payment Date by such Issuer Affiliated Holder delivering to the Property Trustee a written notice of such election specifying the aggregate liquidation amount of the Capital Securities with respect to which such election is being made and the Distribution Payment Date on which such exchange shall occur, which Distribution Payment Date shall be not less than 10 Business Days after the date of receipt by the Property Trustee of such election notice and (ii) shall be conditioned upon such Issuer Affiliated Holder having delivered or caused to be delivered to the Property Trustee or its designee the Capital Securities which are the subject of such election by 10:00 a.m. New York City time on the Distribution Payment Date on which such exchange is to occur. After the exchange, such Capital Securities will be canceled and will no longer be deemed to be outstanding, and all rights of the Note Issuer or its Affiliate(s) with respect to such Capital Securities will cease.

(b) In the case of an exchange described in Section 9.9(a) above, the Trust will, on the date of such exchange, exchange Notes having a principal amount equal to a proportional amount of the aggregate liquidation amount of the outstanding Common Securities based on the ratio of the aggregate liquidation amount of the Capital Securities exchanged pursuant to Section 9.9(a) above divided by the aggregate liquidation amount of the Capital Securities outstanding immediately prior to such exchange, for such proportional amount of Common Securities held by the Note Issuer; provided that the Note Issuer delivers or causes to be delivered to the Property Trustee or its designee the required amount of Common Securities to be exchanged by 10:00 a.m., New York City time, on the Distribution Payment Date on which such exchange is to occur. After the exchange, such Common Securities will be canceled and will no longer be deemed to be outstanding, and all rights of the Note Issuer or its Affiliate(s) with respect to such Common Securities will cease.

**ARTICLE 10
LIMITATION OF LIABILITY OF
HOLDERS OF SECURITIES, TRUSTEES OR OTHERS**

SECTION 10.1 Liability.

(a) Except as expressly set forth in this Declaration, the Securities Guarantees and the terms of the Securities, the Sponsor shall not:

(i) be personally liable for the return of any portion of the capital contributions (or any return thereon) of the Holders of the Securities which shall be made solely from assets of the Trust; and

(ii) be required to pay to the Trust or to any Holder of Securities any deficit upon dissolution of the Trust or otherwise.

(b) Pursuant to Section 3803(a) of the Statutory Trust Act, the Holders of the Capital Securities shall be entitled to the same limitation of personal liability extended to stockholders of private corporations organized for profit under the General Corporation Law of the State of Delaware.

SECTION 10.2 Exculpation.

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence (or negligence in the case of the Property Trustee) or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Distributions to Holders of Securities might properly be paid.

SECTION 10.3 **Fiduciary Duty.**

(a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Declaration. The provisions of this Declaration, to the extent that they restrict or eliminate the duties and liabilities of an Indemnified Person otherwise existing at law or in equity (other than the duties imposed on the Property Trustee under the Trust Indenture Act), are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person.

(b) Unless otherwise expressly provided herein:

(i) whenever a conflict of interest exists or arises between any Covered Persons; or

(ii) whenever this Declaration or any other agreement contemplated herein or therein provides that an Indemnified Person shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust or any Holder of Securities;

the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Declaration or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

(c) Whenever in this Declaration an Indemnified Person is permitted or required to make a decision:

(i) in its "discretion" or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Trust or any other Person; or

(ii) in its "good faith" or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Declaration or by applicable law.

SECTION 10.4 Indemnification.

(a) (i) The Note Issuer shall indemnify, to the full extent permitted by law, any Company Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Trust) by reason of the fact that he is or was a Company Indemnified Person against expenses (including attorneys' fees and expenses), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Company Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(ii) The Note Issuer shall indemnify, to the full extent permitted by law, any Company Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Trust to procure a judgment in its favor by reason of the fact that he is or was a Company Indemnified Person against expenses (including attorneys' fees and expenses) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust and except that no such indemnification shall be made in respect of any claim, issue or matter as to which such Company Indemnified Person shall have been adjudged to be liable to the Trust unless and only to the extent that the Court of Chancery of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Court of Chancery or such other court shall deem proper.

(iii) To the extent that a Company Indemnified Person shall be successful on the merits or otherwise (including dismissal of an action without prejudice or the settlement of an action without admission of liability) in defense of any action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 10.4(a), or in defense of any claim, issue or matter therein, he shall be indemnified, to the full extent permitted by law, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(iv) Any indemnification under paragraphs (i) and (ii) of this Section 10.4(a) (unless ordered by a court) shall be made by the Note Issuer only as

authorized in the specific case upon a determination that indemnification of the Company Indemnified Person is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (i) and (ii). Such determination shall be made (A) by the Regular Trustees by a majority vote of a quorum consisting of such Regular Trustees who were not parties to such action, suit or proceeding, (B) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Regular Trustees so directs, by independent legal counsel in a written opinion, or (C) by the Holders of the Common Securities.

(v) Expenses (including reasonable attorneys' fees and expenses) incurred by a Company Indemnified Person in defending a civil, criminal, administrative or investigative action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 10.4(a) shall be paid by the Note Issuer in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Company Indemnified Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Note Issuer as authorized in this Section 10.4(a). Notwithstanding the foregoing, no advance shall be made by the Note Issuer if a determination is reasonably and promptly made (A) by the Regular Trustees by a majority vote of a quorum of disinterested Regular Trustees, (B) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Regular Trustees so directs, by independent legal counsel in a written opinion or (C) the Common Security Holder of the Trust, that, based upon the facts known to the Regular Trustees, counsel or the Common Security Holder at the time such determination is made, such Company Indemnified Person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Trust, or, with respect to any criminal proceeding, that such Company Indemnified Person believed or had reasonable cause to believe his conduct was unlawful. In no event shall any advance be made in instances where the Regular Trustees, independent legal counsel or Common Security Holder reasonably determine that such person deliberately breached his duty to the Trust or to the Holders of the Common or Capital Securities.

(vi) The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section 10.4(a) shall not be deemed exclusive of any other rights to which those seeking indemnification and advancement of expenses may be entitled under any agreement, vote of stockholders or disinterested directors of the Note Issuer or Capital Security Holders of the Trust or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. All rights to indemnification under this Section 10.4(a) shall be deemed to be provided by a contract between the Note Issuer and each Company Indemnified Person who serves in such capacity at any time while this Section 10.4(a) is in effect. Any repeal or modification of this Section 10.4(a) shall not affect any rights or obligations then existing.

(vii) The Note Issuer or the Trust may purchase and maintain insurance on behalf of any person who is or was a Company Indemnified Person against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Note Issuer would have the power to indemnify him against such liability under the provisions of this Section 10.4(a).

(viii) For purposes of this Section 10.4(a), references to “the Trust” shall include, in addition to the resulting or surviving entity, any constituent entity (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, trustee, officer or employee of such constituent entity, or is or was serving at the request of such constituent entity as a director, trustee, officer, employee or agent of another entity, shall stand in the same position under the provisions of this Section 10.4(a) with respect to the resulting or surviving entity as he would have with respect to such constituent entity if its separate existence had continued.

(ix) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 10.4(a) shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Company Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(b) The Note Issuer agrees to indemnify the (i) Property Trustee, (ii) the Delaware Trustee, (iii) any Affiliate of the Property Trustee or the Delaware Trustee, and (iv) any officers, directors, shareholders, members, partners, employees, representatives, custodians, nominees or agents of the Property Trustee or the Delaware Trustee (each of the Persons in (i) through (iv) being referred to as a “Fiduciary Indemnified Person”) for, and to hold each Fiduciary Indemnified Person harmless against, any and all loss, liability, damage, claim or expense including taxes (other than taxes based on the income of such Fiduciary Indemnified Person) incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against or investigating any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The obligation to indemnify as set forth in this Section 10.4(b) shall survive the satisfaction and discharge of this Declaration.

SECTION 10.5 **Outside Businesses.**

Any Covered Person, the Sponsor, the Delaware Trustee and the Property Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders of Securities shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor, the Delaware Trustee, or the Property Trustee shall

be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor, the Delaware Trustee and the Property Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person, the Delaware Trustee and the Property Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act as depositary for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of the Sponsor or its Affiliates.

ARTICLE 11 ACCOUNTING

SECTION 11.1 Fiscal Year.

The fiscal year ("Fiscal Year") of the Trust shall be the calendar year or such other year as is required by the Code.

SECTION 11.2 Certain Accounting Matters.

(a) At all times during the existence of the Trust, the Regular Trustees shall keep, or cause to be kept, full books of account, records and supporting documents, which shall reflect in reasonable detail each transaction of the Trust.

(b) The Regular Trustees shall cause to be duly prepared and delivered to each of the Holders of Securities any annual United States federal income tax information statement, required by the Code, containing such information with regard to the Securities held by each Holder as is required by the Code and the Treasury Regulations. The Regular Trustees shall endeavor to deliver all such statements within such period after the end of each Fiscal Year of the Trust as required by the Treasury Regulations; and

(c) The Regular Trustees shall cause to be duly prepared and filed with the appropriate taxing authority, an annual United States federal income tax return, on a Form 1041 or such other form required by United States federal income tax law, and any other annual income tax returns required to be filed by the Regular Trustees on behalf of the Trust with any state or local taxing authority.

SECTION 11.3 Banking.

The Trust shall maintain one or more bank accounts in the name and for the sole benefit of the Trust; provided, however, that all payments of funds in respect of the Notes held by the Property Trustee shall be made directly to the Property Trustee Account and no other funds of the Trust shall be deposited in the Property Trustee Account. The sole signatories for such accounts shall be designated by the Regular Trustees; provided, however, that the Property Trustee shall designate the signatories for the Property Trustee Account.

SECTION 11.4 Withholding.

The Trust and the Regular Trustees shall comply with all withholding requirements under United States federal, state and local law. The Trust shall request, and the Holders shall provide to the Trust, such forms or certificates as are necessary to establish an exemption from withholding with respect to each Holder, and any representations and forms as shall reasonably be requested by the Trust to assist it in determining the extent of, and in fulfilling, its withholding obligations. The Regular Trustees shall file required forms with applicable jurisdictions and, unless an exemption from withholding is properly established by a Holder, shall remit amounts withheld with respect to the Holder to applicable jurisdictions. To the extent that the Trust is required to withhold and pay over any amounts to any authority with respect to distributions or allocations to any Holder, the amount withheld shall be deemed to be a distribution in the amount of the withholding to the Holder. In the event of any claim over withholding, the Holders shall be limited to an action against the applicable jurisdiction. If the amount required to be withheld was not withheld from actual Distributions made, the Trust may reduce subsequent Distributions by the amount of such withholding.

**ARTICLE 12
AMENDMENTS AND MEETINGS**

SECTION 12.1 Amendments.

(a) Except as otherwise provided in this Declaration or by any applicable terms of the Securities, this Declaration may only be amended by a written instrument approved and executed by:

- (i) the Regular Trustees (or, if there are more than two Regular Trustees a majority of the Regular Trustees);
- (ii) if the amendment affects the rights, powers, duties, obligations or immunities of the Property Trustee, the Property Trustee; and
- (iii) if the amendment affects the rights, powers, duties, obligations or immunities of the Delaware Trustee, the Delaware Trustee.

(b) No amendment shall be made, and any such purported amendment shall be void and ineffective:

(i) unless, in the case of any proposed amendment, the Property Trustee shall have first received an Officers' Certificate from each of the Trust and the Sponsor that such amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Securities);

(ii) unless, in the case of any proposed amendment which affects the rights, powers, duties, obligations or immunities of the Property Trustee, the Property Trustee shall have first received:

(A) an Officers' Certificate from each of the Trust and the Sponsor that such amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Securities); and

(B) an opinion of counsel (who may be counsel to the Sponsor or the Trust) that such amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Securities); and

(iii) to the extent the result of such amendment would be to:

(A) cause the Trust to fail to continue to be classified for purposes of United States federal income taxation as a grantor trust;

(B) reduce or otherwise adversely affect the powers of the Property Trustee in contravention of the Trust Indenture Act; or

(C) cause the Trust to be deemed to be an Investment Company required to be registered under the Investment Company Act.

(c) At such time after the Trust has issued any Securities that remain outstanding, any amendment that would adversely affect the rights, privileges or preferences of any Holder of Securities may be effected only with such additional requirements as may be set forth in the terms of such Securities.

(d) Section 10.1(b) and this Section 12.1 shall not be amended without the consent of all of the Holders of the Securities.

(e) Article 4 shall not be amended without the consent of the Holders of a Majority in liquidation amount of the Common Securities.

(f) The rights of the holders of the Common Securities under Article 5 to increase or decrease the number of, and appoint and remove Trustees, shall not be amended without the consent of the Holders of a Majority in liquidation amount of the Common Securities.

(g) Notwithstanding Section 12.1(c), this Declaration may be amended without the consent of the Holders of the Securities to:

(i) cure any ambiguity;

(ii) correct or supplement any provision in this Declaration that may be defective or inconsistent with any other provision of this Declaration;

(iii) add to the covenants, restrictions or obligations of the Sponsor;

(iv) conform to any change in Rule 3a-5 or any written change in interpretation or application of Rule 3a-5 by any legislative body, court,

government agency or regulatory authority which amendment does not have a material adverse effect on the right, preferences or privileges of the Holders;

(v) modify, eliminate and add to any provision of the Declaration to such extent as may be necessary to carry out its provisions, including making any redemption of the Notes or dissolution of the Trust and distribution of the Notes to the Holders of the Securities in exchange for all of the Securities; and

(vi) evidence and provide for the appointment of Successor Trustees hereunder.

SECTION 12.2 Meetings of the Holders of Securities: Action by Written Consent.

(a) Meetings of the Holders of any class of Securities may be called at any time by the Regular Trustees (or as provided in the terms of the Securities) to consider and act on any matter on which Holders of such class of Securities are entitled to act under the terms of this Declaration, the terms of the Securities or the rules of any stock exchange on which the Capital Securities are listed or admitted for trading. The Regular Trustees shall call a meeting of the Holders of such class if directed to do so by the Holders of at least 10% in liquidation amount of such class of Securities. Such direction shall be given by delivering to the Regular Trustees one or more calls in a writing stating that the signing Holders of Securities wish to call a meeting and indicating the general or specific purpose for which the meeting is to be called. Any Holders of Securities calling a meeting shall specify in writing the Security Certificates held by the Holders of Securities exercising the right to call a meeting and only those Securities specified shall be counted for purposes of determining whether the required percentage set forth in the second sentence of this paragraph has been met.

(b) Except to the extent otherwise provided in the terms of the Securities, the following provisions shall apply to meetings of Holders of Securities:

(i) notice of any such meeting shall be given to all the Holders of Securities having a right to vote thereat at least seven days and not more than 60 days before the date of such meeting. Whenever a vote, consent or approval of the Holders of Securities is permitted or required under this Declaration or the rules of any stock exchange on which the Capital Securities are listed or admitted for trading, such vote, consent or approval may be given at a meeting of the Holders of Securities. Any action that may be taken at a meeting of the Holders of Securities may be taken without a meeting if a consent in writing setting forth the action so taken is signed by the Holders of Securities owning not less than the minimum amount of Securities in liquidation amount that would be necessary to authorize or take such action at a meeting at which all Holders of Securities having a right to vote thereon were present and voting. Prompt notice of the taking of action without a meeting shall be given to the Holders of Securities entitled to vote who have not consented in writing. The Regular Trustees may specify that any written ballot submitted to the Security Holder for the purpose of

taking any action without a meeting shall be returned to the Trust within the time specified by the Regular Trustees;

(ii) each Holder of a Security may authorize any Person to act for it by proxy on all matters in which a Holder of Securities is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Holder of Securities executing it. Except as otherwise provided herein, all matters relating to the giving, voting or validity of proxies shall be governed by the General Corporation Law of the State of Delaware relating to proxies, and judicial interpretations thereunder, as if the Trust were a Delaware corporation and the Holders of the Securities were stockholders of a Delaware corporation;

(iii) each meeting of the Holders of the Securities shall be conducted by the Regular Trustees or by such other Person that the Regular Trustees may designate; and

(iv) unless the Statutory Trust Act, this Declaration, the terms of the Securities, the Trust Indenture Act or the listing rules of any stock exchange on which the Capital Securities are then listed or trading otherwise provide, the Regular Trustees, in their sole discretion, shall establish all other provisions relating to meetings of Holders of Securities, including notice of the time, place or purpose of any meeting at which any matter is to be voted on by any Holders of Securities, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

**ARTICLE 13
REPRESENTATIONS OF PROPERTY TRUSTEE
AND DELAWARE TRUSTEE**

SECTION 13.1 Representations and Warranties of Property Trustee.

The Trustee that acts as initial Property Trustee represents and warrants to the Trust and to the Sponsor at the date of this Declaration, and each Successor Property Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Property Trustee's acceptance of its appointment as Property Trustee, that:

(a) the Property Trustee is a state or federal banking corporation with trust powers and the authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration;

(b) the execution, delivery and performance by the Property Trustee of the Declaration has been duly authorized by all necessary corporate action on the part of the

Property Trustee. The Declaration has been duly executed and delivered by the Property Trustee, and it constitutes a legal, valid and binding obligation of the Property Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency, and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law);

(c) the execution, delivery and performance of this Declaration by the Property Trustee does not conflict with or constitute a breach of the charter or by-laws of the Property Trustee; and

(d) no consent, approval or authorization of, or registration with or notice to, any New York State or federal banking authority is required for the execution, delivery or performance by the Property Trustee of this Declaration.

SECTION 13.2 Representations and Warranties of Delaware Trustee.

The Trustee that acts as initial Delaware Trustee represents and warrants to the Trust and to the Sponsor at the date of this Declaration, and each Successor Delaware Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Delaware Trustee's acceptance of its appointment as Delaware Trustee, that:

(a) the Delaware Trustee is duly organized, validly existing and in good standing under the laws of the State of Delaware, with trust powers and the authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration;

(b) the Delaware Trustee has been authorized to perform its obligations under the Certificate of Trust and the Declaration. The Declaration under Delaware law constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency, and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law);

(c) no consent, approval or authorization of, or registration with or notice to, any federal banking authority is required for the execution, delivery or performance by the Delaware Trustee of this Declaration; and

(d) the Delaware Trustee is an entity which has its principal place of business in the State of Delaware.

**ARTICLE 14
MISCELLANEOUS**

SECTION 14.1 Notices.

All notices provided for in this Declaration shall be in writing, duly signed by the party giving such notice, and shall be delivered, faxed or mailed by first class mail, as follows:

(a) if given to the Trust, in care of the Regular Trustees at the Trust's mailing address set forth below (or such other address as the Trust may give notice of to the Holders of the Securities):

BAC Capital Trust []
c/o Bank of America Corporation
Bank of America Corporate Center
NC1-007-07-13
100 North Tryon Street
Charlotte, North Carolina 28255
Facsimile: (704) 386-0270
Attention: Corporate Treasury–Securities Administration

(b) if given to the Delaware Trustee, at the mailing address set forth below (or such other address as the Delaware Trustee may give notice of to the Holders of the Securities):

BNY Mellon Trust of Delaware
502 White Clay Center, Route 273
Newark, Delaware 19711
Attention: Corporate Trust Trustee Administration

(c) if given to the Property Trustee, at the Property Trustee's mailing address set forth below (or such other address as the Property Trustee may give notice of to the Holders of the Securities):

The Bank of New York Mellon Trust Company, N.A.
10161 Centurion Parkway
Jacksonville, Florida 32256
Attention: Corporate Trust Administration

(d) if given to the Holder of the Common Securities, at the mailing address of the Sponsor set forth below (or such other address as the Holder of the Common Securities may give notice to the Trust):

Bank of America Corporation
Bank of America Corporate Center

NC1-007-07-13
100 North Tryon Street
Charlotte, North Carolina 28255
Attention: Corporate Treasury—Securities Administration

(e) if given to any other Holder, at the address set forth on the books and records of the Trust.

All such notices shall be deemed to have been given when received in person, faxed with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 14.2 Governing Law.

This Declaration and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

SECTION 14.3 Intention of the Parties.

It is the intention of the parties hereto that the Trust be classified for United States federal income tax purposes as a grantor trust. The provisions of this Declaration shall be interpreted to further this intention of the parties.

SECTION 14.4 Headings.

Headings contained in this Declaration are inserted for convenience of reference only and do not affect the interpretation of this Declaration or any provision hereof.

SECTION 14.5 Successors and Assigns.

Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

SECTION 14.6 Partial Enforceability.

If any provision of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 14.7 Counterparts: Acceptance.

This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signature of each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

Each Trustee, by its execution of a counterpart of this Declaration, acknowledges and accepts its appointment as Trustee.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed as of the day and year first above written.

_____, as Regular Trustee

_____, as Regular Trustee

_____, as Regular Trustee

BNY MELLON TRUST OF DELAWARE, as
Delaware Trustee

By: _____
Name: _____
Title: _____

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Property Trustee

By: _____
Name: _____
Title: _____

BANK OF AMERICA CORPORATION, as Sponsor

By: _____
Name: _____
Title: _____

ANNEX I

BAC CAPITAL TRUST []
DESIGNATION OF TERMS OF
[] % [FLOATING RATE] CAPITAL SECURITIES AND
[] % [FLOATING RATE] COMMON SECURITIES

Pursuant to Section 7.1 of the Amended and Restated Declaration of Trust, dated as of [,] (as amended from time to time, the “Declaration”), the designation, rights, privileges, restrictions, preferences and other terms and provisions of the Capital Securities and the Common Securities are set out below (each capitalized term used but not defined herein has the meaning set forth in the Declaration);

1. Designation and Number.

(a) Capital Securities. The Capital Securities of the Trust (liquidation amount \$[] per Capital Security) are hereby designated for purposes of identification only as “BAC Capital Trust [] [] [Floating Rate] Capital Securities” (the “Capital Securities”). [Initially,] the Trust shall issue [] Capital Securities with an aggregate liquidation amount of \$[]. The Capital Security Certificates evidencing the Capital Securities shall be substantially in the form of Exhibit A-1 to the Declaration, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice or to conform to the rules of any stock exchange on which the Capital Securities are listed.

(b) Common Securities. The Common Securities of the Trust are hereby designated for purposes of identification only as “BAC Capital Trust [] [] [Floating Rate] Common Securities” (the “Common Securities”). The Common Securities shall have an aggregate liquidation amount of \$[]. The Common Security Certificate evidencing the Common Securities shall be substantially in the form of Exhibit A-2 to the Declaration, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice.

(c) Upon exercise of the Option by the Underwriters, the Trust may issue up to an additional [] Capital Securities and up to an additional [] Common Securities. References in this Designation of Terms or in the Declaration to Securities, Capital Securities or Common Securities shall include the Securities so issued. At the time of the issue of Additional Securities, the Trust and the Sponsor shall execute a certificate in the form of Annex A-1 to the Declaration.]

2. Distributions.

(a) Distributions on the Securities will be payable at [an annual rate of []% (the “Coupon Rate”)] [an annual floating rate equal to Three-Month LIBOR (as defined in the Supplemental Indenture) plus a spread of []% (the “Coupon Rate”)] of the stated liquidation amount of \$[] per Capital Security and of the aggregate liquidation amount of \$[] for the Common Securities, such rate being the interest rate payable on the Notes to be held by

the Property Trustee. Distributions in arrears for more than one [quarter] [semi-annual period] will bear interest thereon at the Coupon Rate compounded [quarterly] [semi-annually] (to the extent permitted by applicable law). A Distribution is payable only to the extent that payments are made in respect of the Notes held by the Property Trustee and to the extent the Property Trustee has funds available therefor. The amount of Distributions payable for any period will be calculated on the basis of [a 360-day year of twelve 30-day months] [the actual number of days elapsed in a period and a 360-day year]. [For Fixed Rate Securities: The amount of Distributions payable for any period shorter than a full Distribution Period will be calculated on the basis of the actual number of days elapsed in a 360-day year of twelve 30-day months. The amount of Distributions payable for any full Distribution Period will be calculated by dividing the annual Coupon Rate by [four] [two].] The Coupon Rate and the amount of accumulated distributions payable for each Distribution Period will correspond to the interest rate and the amount of accrued interest payable on the Notes for each interest payment period, as determined in accordance with the Supplemental Indenture.

(b) Distributions on the Securities will be cumulative, will accumulate from [_____, ____] and will be payable [quarterly] [semi-annually] in arrears, [January 15, April 15, July 15 October 15] [January 15 and July 15] of each year, commencing on January 15, [_____, ____], except as otherwise described below. The Note Issuer has the right under the Indenture to defer payments of interest on the Notes by extending the interest payment period on the Notes from time to time for a period selected by the Note Issuer not exceeding [20] [10] consecutive [quarters] [semi-annual periods] (each, an "Extension Period"), during which Extension Period no interest shall be due and payable on the Notes, provided that no Extension Period may extend beyond the Stated Maturity. As a consequence of such deferral, Distributions also will be deferred on the Capital Securities for the same period. Despite such deferral, [quarterly] [semi-annual] Distributions will continue to accumulate with interest thereon (to the extent permitted by applicable law) at the Coupon Rate compounded [quarterly] [semi-annually] during any such Extension Period. Prior to the termination of any such Extension Period, the Note Issuer may extend further such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed [20] [10] consecutive [quarters] [semi-annual periods] or extend beyond the Stated Maturity. Payments of accumulated Distributions will be payable to Holders as they appear on the books and records of the Trust or the Clearing Agency, as the case may be, on the first record date after the end of the Extension Period. Upon the termination of any Extension Period and the payment of all amounts then due, the Note Issuer may commence a new Extension Period, subject to the above requirements. No interest or corresponding Distributions shall be due and payable during an Extension Period, except at the end thereof, but the Note Issuer may repay at any time all or any portion of the interest accrued during an Extension Period.

(c) Distributions on the Securities will be payable to the Holders thereof as they appear on the books and records of the Trust on the relevant record dates. While the Capital Securities remain in Book-Entry only form, the relevant record dates shall be one Business Day prior to the relevant Distribution Payment Dates, which Distribution Payment Dates correspond to the interest payment dates on the Notes. Payment of Distributions on the Securities held in Book-Entry only form will be made to the Depository in immediately available funds. The Depository's practice is to credit Clearing Agency Participants' accounts on the relevant

Distribution Payment Date in accordance with their respective holdings shown on the Depository's records unless the Depository has reason to believe that it will not receive payments on such Distribution Payment Date. Payments by (i) Clearing Agency Participants and (ii) securities brokers and dealers, banks and trust companies and other entities that clear transactions through or maintain a direct or indirect custodial relationship with a Clearing Agency Participant (an "Indirect Participant") to Capital Security Beneficial Owners will be governed by standing instructions and customary practices and will be the responsibility of such Clearing Agency Participants and Indirect Participants and not of the Depository, the Trust or the Company, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of distributions to the Depository is the responsibility of the Trust, disbursement of such payments to Clearing Agency Participants is the responsibility of the Depository, and disbursement of such payments to the Capital Security Beneficial Owners is the responsibility of the Clearing Agency Participants and Indirect Participants. The relevant record dates for the Common Securities shall be the same record dates as for the Capital Securities. If the Capital Securities shall no longer remain in Book-Entry only form, the regular record dates for the Capital Securities shall be the close of business on the [January 1, April 1, July 1 and October 1] [January 1 and July 1] prior to the relevant Distribution Payment Dates, which Distribution Payment Dates correspond to the interest payment dates on the Notes. Distributions payable on any Securities that are not punctually paid on any Distribution Payment Date, as a result of the Note Issuer having failed to make a payment under the Notes, will cease to be payable to the Person in whose name such Securities are registered on the relevant record date, and such defaulted Distribution will instead be payable to the Person in whose name such Securities are registered on the special record date or other specified date determined in accordance with the Indenture. If any date on which Distributions are payable on the Securities is not a Business Day, then payment of the Distribution payable on such date will be made on the next succeeding day that is a Business Day as if it were the date of payment, except that, if such Business Day is in the next succeeding calendar [year] [month], such payment shall be made on the immediately preceding Business Day [, in each case with the same force and effect as if made on such date]. [For Floating Rate Securities: In each such case, except for the Distribution Payment Date falling on the maturity date of the notes, the Distribution Periods will be adjusted accordingly to calculate the amount of distributions payable on the Capital Securities.]

(d) In the event that there is any money or other property held by or for the Trust that is not accounted for hereunder, such property shall be distributed Pro Rata (as defined herein) among the Holders of the Securities.

3. Liquidation Distribution Upon Dissolution.

In the event of any voluntary or involuntary dissolution, winding-up or termination of the Trust, the Holders on the date of the dissolution, winding-up or termination, as the case may be, will be entitled to receive out of the assets of the Trust available for distribution to Holders after satisfaction of liabilities of creditors an amount equal to the aggregate of the stated liquidation amount of \$[_____] per Capital Security and the aggregate liquidation amount of \$[_____] for the Common Securities plus accumulated and unpaid Distributions thereon to the date of payment (such amount being the "Liquidation Distribution"), unless, in connection with such dissolution, winding-up or termination, Notes in an aggregate stated principal amount equal to

the aggregate liquidation amount of such Securities, with an interest rate equal to the Coupon Rate of, and bearing accrued and unpaid interest in an amount equal to the accumulated and unpaid Distributions on, such Securities, shall be distributed on a Pro Rata basis to the Holders of the Securities in exchange for such Securities.

If, upon any such dissolution, the Liquidation Distribution can be paid only in part because the Trust has insufficient assets available to pay in full the aggregate Liquidation Distribution, then the amounts payable directly by the Trust on the Securities shall be paid on a Pro Rata basis. Holders of the Common Securities will be entitled to receive distributions upon any such dissolution Pro Rata with Holders of the Capital Securities, except that if an Event of Default has occurred and is continuing, the Capital Securities shall have a preference over the Common Securities with respect to such distributions.

4. Redemption and Distribution.

(a) The Securities are subject to redemption at the Stated Maturity, at any time on or after [_____, ___] and in certain circumstances, following the occurrence of a Special Event as follows:

(i) Upon payment of the Notes at a payment price equal to the principal amount of the Notes, plus any accrued and unpaid interest thereon at the Stated Maturity, including any deferred interest payments on the Notes, the proceeds from such payment shall be applied simultaneously to redeem the Securities at the Maturity Redemption Price.

(ii) In the event of a Special Event Prepayment (as defined in the Supplemental Indenture), the proceeds from such Special Event Prepayment shall be applied simultaneously to redeem the Securities at the Special Event Redemption Price.

(iii) The Securities also may be redeemed in whole or in part on or after [_____, ___], contemporaneously with an optional prepayment of the Notes, at a redemption price equal to the Optional Redemption Price. If fewer than all the outstanding Securities are to be so redeemed, the Common Securities and the Capital Securities will be redeemed Pro Rata, and the Capital Securities to be redeemed will be as described in Section 4(d)(ii) below.

(b) If the Sponsor has given a notice of its election to terminate the Trust, the Regular Trustees shall dissolve the Trust and, after satisfaction of creditors, cause Notes held by the Property Trustee, having an aggregate principal amount equal to the aggregate stated liquidation amount of the Securities, with an interest rate equal to the Coupon Rate of, and bearing accrued and unpaid interest in an amount equal to the accrued and unpaid Distributions on, and having the same record date for payment as, the Securities, to be distributed to the Holders of the Securities in liquidation of such Holders' interests in the Securities within 90 days following receipt of the Sponsor's notice of election.

(c) On and from the date fixed by the Regular Trustees for any distribution of Notes and dissolution of the Trust: (i) the Securities will no longer be deemed to be outstanding, (ii) the Depository or its nominee, as the record Holder of the Capital Securities, will receive a registered Global Security or Securities representing the Notes to be delivered upon such distribution and any certificates representing Securities, except for certificates representing Capital Securities held by the Depository or its nominee (or any successor Clearing Agency or its nominee), will be deemed to represent beneficial interests in the Notes having an aggregate principal amount equal to the aggregate stated liquidation amount of, with an identical interest rate, and accrued and unpaid interest equal to accrued and unpaid Distributions on such Securities until such certificates are presented to the Note Issuer or its agent for transfer or reissue. The Trust may not redeem fewer than all the outstanding Securities unless all accrued and unpaid Distributions have been paid on all Securities for all [quarterly] [semi-annual] Distribution Periods terminating on or before the date of redemption. If the Notes are distributed to holders of the Securities, pursuant to the terms of the Indenture, the Note Issuer will use its best efforts to have the Notes listed on the securities exchange, if any, on which the Capital Securities were listed immediately prior to the distribution of the Notes.

(d) Redemption or Distribution Procedures shall be as follows:

(i) A Redemption/Distribution Notice for the Securities to be redeemed or exchanged will be given by the Trust by mail to each Holder not fewer than 15 nor more than 60 days before the redemption date or exchange date which, in the case of a redemption, will be the date fixed for redemption of the Notes. For purposes of the calculation of the redemption date or exchange date and the dates on which notices are given pursuant to this Section 4(d)(i), a Redemption/ Distribution Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to Holders of Securities. Each Redemption/Distribution Notice shall be addressed to the Holders of Securities at the address of each such Holder appearing in the books and records of the Trust. No defect in the Redemption/Distribution Notice or in the mailing of either with respect to any Holder shall affect the validity of the redemption or exchange proceedings with respect to any other Holder.

(ii) In the event that fewer than all the outstanding Securities are to be redeemed, the Securities to be redeemed shall be redeemed Pro Rata from each Holder of Capital Securities, it being understood that, in respect of Capital Securities registered in the name of and held of record by the Depository or its nominee (or any successor Clearing Agency or its nominee) or any nominee, the distribution of the redemption proceeds will be made to each Clearing Agency Participant (or Person on whose behalf such nominee holds such securities) in accordance with the procedures applied by such agency or nominee.

(iii) If Securities are to be redeemed and the Trust gives a Redemption/Distribution Notice, which notice may only be issued if the Notes are repaid as set out in this Section 4 (which notice will be irrevocable), then (A) while the Capital Securities are in Book-Entry only form, with respect to the Capital Securities, by 12:00 noon, New York City time, on the redemption date, provided that the Note Issuer has

paid the Property Trustee a sufficient amount of cash in connection with the related prepayment or maturity of the Notes, the Property Trustee will deposit irrevocably with the Depository or its nominee (or successor Clearing Agency or its nominee) funds sufficient to pay the applicable Redemption Price with respect to the Capital Securities and will give the Depository irrevocable instructions and authority to pay the Redemption Price to the Holders of the Capital Securities, and (B) with respect to Capital Securities issued in definitive form and Common Securities, provided that the Note Issuer has paid the Property Trustee a sufficient amount of cash in connection with the related prepayment or maturity of the Notes, the Property Trustee will pay the relevant Redemption Price to the Holders of such Securities by check mailed to the address of the relevant Holder appearing on the books and records of the Trust on the redemption date. If a Redemption/Distribution Notice shall have been given and funds deposited as required, if applicable, then immediately prior to the close of business on the date of such deposit, or on the redemption date, as applicable, Distributions will cease to accumulate on the Securities so called for redemption and all rights of Holders of such Securities so called for redemption will cease, except the right of the Holders of such Securities to receive the Redemption Price, but without interest on such Redemption Price. Neither the Regular Trustees nor the Trust shall be required to register or cause to be registered the transfer of any Securities that have been so called for redemption. If any date fixed for redemption of Securities is not a Business Day, then payment of the Redemption Price payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day falls in the next calendar [year] [month], such payment will be made on the immediately preceding Business Day, in each case with the same force and effect as if made on such date fixed for redemption. If payment of the Redemption Price in respect of any Securities is improperly withheld or refused and not paid either by the Property Trustee or by the Sponsor as guarantor pursuant to the relevant Securities Guarantee, Distributions on such Securities will continue to accumulate from the original redemption date to the actual date of payment, in which case the actual payment date will be considered the date fixed for redemption for purposes of calculating the Redemption Price.

(iv) Redemption/Distribution Notices shall be sent by the Regular Trustees on behalf of the Trust to (A) in respect of the Capital Securities, the Depository or its nominee (or any successor Clearing Agency or its nominee) if the Global Securities have been issued or, if Definitive Capital Security Certificates have been issued, to the Holder thereof, and (B) in respect of the Common Securities to the Holder thereof.

(v) Subject to the foregoing and applicable law (including, without limitation, United States federal securities laws), the Sponsor or any of its subsidiaries may at any time and from time to time purchase outstanding Capital Securities by tender, in the open market or by private agreement.

(vi) In certain circumstances, the Capital Securities and the Common Securities may be exchanged by the Sponsor (or any of its Affiliates) for Notes as provided in Section 9.9 of the Declaration.

5. Voting Rights—Capital Securities.

(a) Except as provided under Sections 5(b) and 7 of this Designation of Terms and as otherwise required by law and the Declaration, the Holders of the Capital Securities will have no voting rights.

(b) Subject to the requirements set forth in this paragraph, the Holders of a Majority in aggregate liquidation amount of the Capital Securities, voting separately as a class may direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under the Declaration, including the right to direct the Property Trustee, as holder of the Notes, to (i) exercise the remedies available under the Indenture by conducting any proceeding for any remedy available to the Note Trustee, or exercising any trust or power conferred on the Note Trustee with respect to the Notes, (ii) waive any past Event of Default and its consequences that is waivable under Section 5.01 of the Indenture, (iii) exercise any right to rescind or annul a declaration that the principal of all the Notes shall be due and payable or (iv) consent to any amendment, modification or termination of the Indenture as a holder of the Notes provided, however, that, where a consent or action under the Indenture would require the consent or act of the Holders of a Super Majority affected thereby the Property Trustee may only give such consent or take such action at the written direction of the Holders of at least the proportion in liquidation amount of the Capital Securities which the relevant Super Majority represents of the aggregate principal amount of the Notes outstanding. The Property Trustee shall not revoke any action previously authorized or approved by a vote of the Holders of the Capital Securities. Other than with respect to directing the time, method and place of conducting any remedy available to the Property Trustee or the Note Trustee as set forth above, the Property Trustee shall not take any action in accordance with the directions of the Holders of the Capital Securities under this paragraph unless the Property Trustee has obtained an opinion of tax counsel to the effect that for the purposes of United States federal income tax the Trust will not be classified as other than a grantor trust on account of such action. If a Nonpayment occurs on the date such interest or principal is otherwise payable (or in the case of redemption, on the redemption date), and such Nonpayment is continuing, a Holder of Capital Securities may institute a Direct Action after the respective due date specified in the Notes. In connection with such Direct Action, the rights of the Holders of the Common Securities will be subrogated to the rights of such Holder of Capital Securities to the extent of any payment made by the Note Issuer to such Holder of Capital Securities in such Direct Action. If the Property Trustee fails to enforce its rights under the Declaration, any Holder of Capital Securities may, to the extent permitted by applicable law, institute a legal proceeding directly against any Person to enforce the Property Trustee's rights under the Declaration, without first instituting a legal proceeding against the Property Trustee or any other Person.

Except as provided in this Section, the Holders of Capital Securities will not be able to exercise directly any other remedy available to the holders of the Notes.

Any approval or direction of Holders of Capital Securities may be given at a separate meeting of Holders of Capital Securities convened for such purpose, at a meeting of all of the Holders of Securities or pursuant to written consent. The Regular Trustees will cause a notice of any meeting at which Holders of Capital Securities are entitled to vote, or of any matter upon which action by written consent of such Holders is to be taken, to be mailed to each Holder of record of Capital Securities. Each such notice will include a statement setting forth (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote or of such matter upon which written consent is sought and (iii) instructions for the delivery of proxies or consents.

No vote or consent of the Holders of the Capital Securities will be required for the Trust to redeem and cancel Capital Securities or to distribute the Notes in accordance with the Declaration and the terms of the Securities.

Notwithstanding that Holders of Capital Securities are entitled to vote or consent under any of the circumstances described above, any of the Capital Securities that are owned by the Sponsor or any Affiliate of the Sponsor shall not be entitled to vote or consent and shall, for purposes of such vote or consent, be treated as if they were not outstanding.

6. Voting Rights—Common Securities

(a) Except as provided under Sections 6(b) and (c), 7(a) and (b) and 8 of this Designation of Terms or as otherwise required by law and the Declaration, the Holders of the Common Securities will have no voting rights.

(b) The Holders of the Common Securities are entitled, in accordance with Article 5 of the Declaration, to vote to appoint, remove or replace any Trustee or to increase or decrease the number of Trustees.

(c) Subject to Section 2.6 of the Declaration and only after the Event of Default with respect to the Capital Securities has been cured, waived or otherwise eliminated and subject to the requirements of the second to last sentence of this paragraph, the Holders of a Majority in liquidation amount of the Common Securities, voting separately as a class, may direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under the Declaration, including (i) directing the time, method and place of conducting any proceeding for any remedy available to the Note Trustee, or exercising any trust or power conferred on the Note Trustee with respect to the Notes, (ii) waive any past default and its consequences that is waivable under Section 5.01 of the Indenture or (iii) exercise any right to rescind or annul a declaration that the principal of all the Notes shall be due and payable, provided that, where a consent or action under the Indenture would require the consent or act of the Holders of a Super Majority, the Property Trustee only may give such consent or take such action at the written direction of the Holders of at least the proportion in liquidation amount of the Common Securities which the relevant Super Majority represents of the aggregate principal amount of the Notes outstanding. Pursuant to this Section 6(c), the Property Trustee shall not revoke any action

previously authorized or approved by a vote of the Holders of the Capital Securities. Other than with respect to directing the time, method and place of conducting any remedy available to the Property Trustee or the Note Trustee as set forth above, the Property Trustee shall not take any action in accordance with the directions of the Holders of the Common Securities under this paragraph unless the Property Trustee has obtained an opinion of tax counsel to the effect that for purposes of United States federal income tax the Trust will not be classified as other than a grantor trust on account of such action. If the Property Trustee fails to enforce its rights under the Declaration, any Holder of Common Securities may, to the extent permitted by applicable law, institute a legal proceeding directly against any Person to enforce the Property Trustee's rights under the Declaration, without first instituting a legal proceeding against the Property Trustee or any other Person.

Any approval or direction of Holders of Common Securities may be given at a separate meeting of Holders of Common Securities convened for such purpose, at a meeting of all of the Holders in the Trust or pursuant to written consent. The Regular Trustees will cause a notice of any meeting at which Holders of Common Securities are entitled to vote, or of any matter upon which action by written consent of such Holders is to be taken, to be mailed to each Holder of record of Common Securities. Each such notice will include a statement setting forth (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote or of such matter upon which written consent is sought and (iii) instructions for the delivery of proxies or consents.

No vote or consent of the Holders of the Common Securities will be required for the Trust to redeem and cancel Common Securities or to distribute the Notes in accordance with the Declaration and the terms of the Securities.

7. Amendments to Declaration and Indenture.

(a) In addition to any requirements under Section 12.1 of the Declaration, if any proposed amendment to the Declaration provides for, or the Regular Trustees otherwise propose to effect, (i) any action that would adversely affect the powers, preferences or special rights of the Securities, whether by way of amendment to the Declaration or otherwise, or (ii) the dissolution, winding-up or termination of the Trust, other than as described in Section 8.1 of the Declaration, then the Holders of outstanding Securities voting together as a single class, will be entitled to vote on such amendment or proposal (but not on any other amendment or proposal) and such amendment or proposal shall not be effective except with the approval of the Holders of at least a Majority in liquidation amount of the Securities, affected thereby, provided, however, if any amendment or proposal referred to in clause (i) above would adversely affect only the Capital Securities or only the Common Securities, then only the affected class will be entitled to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of a Majority in liquidation amount of such class of Securities.

(b) In the event the consent of the Property Trustee as the holder of the Notes is required under the Indenture with respect to any amendment, modification or termination of the Indenture or the Notes, the Property Trustee shall request the written direction of the Holders of

the Securities with respect to such amendment, modification or termination and shall vote with respect to such amendment, modification or termination as directed by a Majority in liquidation amount of the Securities voting together as a single class; provided, however, that where a consent under the Indenture would require the consent of the holders of a Super Majority, the Property Trustee may only give such consent at the direction of the Holders of at least the proportion in liquidation amount of the Securities which the relevant Super Majority represents of the aggregate principal amount of the Notes outstanding; provided further, that the Property Trustee shall not take any action in accordance with the directions of the Holders of the Securities under this Section 7(b) unless the Property Trustee has obtained an opinion of tax counsel to the effect that for the purposes of United States federal income tax the Trust will not be classified as other than a grantor trust on account of such action.

8. Pro Rata.

A reference in these terms of the Securities to any payment, distribution or treatment as being "Pro Rata" shall mean pro rata to each Holder according to the aggregate liquidation amount of the Securities held by the relevant Holder in relation to the aggregate liquidation amount of all Securities outstanding unless, in relation to a payment, an Event of Default has occurred and is continuing, in which case any funds available to make such payment shall be paid first to each Holder of the Capital Securities pro rata according to the aggregate liquidation amount of Capital Securities held by the relevant Holder relative to the aggregate liquidation amount of all Capital Securities outstanding, and, only after satisfaction of all amounts owed to the Holders of the Capital Securities, to each Holder of Common Securities pro rata according to the aggregate liquidation amount of Common Securities held by the relevant Holder relative to the aggregate liquidation amount of all Common Securities outstanding.

9. Ranking.

The Capital Securities rank pari passu and payment thereon shall be made pro rata with the Common Securities except that, where an Event of Default occurs and is continuing, the rights of Holders of the Common Securities to payment in respect of Distributions and payments upon liquidation, redemption and otherwise are subordinated to the rights to payment of the Holders of the Capital Securities.

[10. Listing.

Unless otherwise determined by the Regular Trustees, the Capital Securities shall not be listed for quotation on any stock exchange.]

[11. Extension of Stated Maturity.

If the Maturity Date (as defined in the Indenture) of the Notes is extended, the Stated Maturity of the Securities shall automatically extend at the same time as the Maturity Date of the Notes are extended and to the Extended Maturity Date (as defined in the Indenture).]

12. Acceptance of Securities Guarantee and Indenture.

Each Holder of Capital Securities and Common Securities, by the acceptance thereof, agrees to the provisions of the Capital Securities Guarantee and the Common Securities Guarantee, respectively, including the subordination provisions therein and to the provisions of the Indenture.

13. No Preemptive Rights.

The Holders of the Securities shall have no preemptive rights to subscribe for any additional securities.

14. Miscellaneous.

These terms constitute a part of the Declaration.

The Sponsor will provide a copy of the Declaration and the Capital Securities Guarantee or the Common Securities Guarantee (as may be appropriate), and the Indenture to a Holder without charge on written request to the Sponsor at its principal place of business.

Dated: [,]

BANK OF AMERICA CORPORATION
as Sponsor

By: _____
Name: _____
Title: _____

Accepted:

BAC Capital Trust []

[]
Regular Trustee

[]
Regular Trustee

**[ANNEX I-A
ADDITIONAL SECURITIES
BAC CAPITAL TRUST []]**

Pursuant to Section 7.1 of the Amended and Restated Declaration of Trust dated as of [], BAC Capital Trust [] has approved and issued (i) [] Capital Securities with an aggregate liquidation amount of [\$] and (ii) [] Common Securities with an aggregate liquidation amount of [\$].

Pursuant to the exercise of an Option granted in the Underwriting Agreement, the Trust is, upon execution of this Annex I-A, issuing Additional Securities in the amounts and with the liquidation amounts as follows:

- (i) [] Capital Securities with an aggregate liquidation amount of [\$]; and
- (ii) [] Common Securities with an aggregate liquidation amount of [\$].

Following the date of this Annex I-A, the terms "Capital Securities" and "Common Securities" as used in the Declaration shall mean the aggregate of the Securities as originally issued and any Additional Securities issued by the Trust through the date hereof.

Date: _____,

BAC CAPITAL TRUST []

By: _____
Regular Trustee

BANK OF AMERICA CORPORATION, as
Sponsor

By: _____
Name: _____
Title: _____

EXHIBIT A-1

FORM OF CAPITAL SECURITY CERTIFICATE

This Capital Security is a Global Security within the meaning of the Declaration hereinafter referred to and is registered in the name of The Depository Trust Company (the "Depository") or a nominee of the Depository. This Capital Security is exchangeable for Capital Securities registered in the name of a person other than the Depository or its nominee only in the limited circumstances described in the Declaration and no transfer of this Capital Security (other than a transfer of this Capital Security as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or to another nominee of the Depository) may be registered except in limited circumstances.

Unless this Capital Security is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to the Trust or its agent for registration of transfer, exchange or payment, and any Capital Security issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment hereon is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY A PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

THIS INSTRUMENT IS NOT A SAVINGS ACCOUNT OR A BANK DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING AFFILIATE OF BANK OF AMERICA CORPORATION AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY AND INVOLVES INVESTMENT RISKS, INCLUDING POSSIBLE LOSS OF PRINCIPAL.

Certificate Number

___-R-_____

CUSIP NO. []

BAC CAPITAL TRUST []

[%] [Floating Rate] Capital Securities
(liquidation amount \$[] per Capital Security)

BAC CAPITAL TRUST [], a statutory trust formed under the laws of the State of Delaware (the "Trust"), hereby certifies that CEDE & CO. (the "Holder") is the registered owner of [] Capital Securities of the Trust representing undivided preferred beneficial interests in the assets of the Trust designated the [%] [Floating Rate] Capital Securities (liquidation amount \$[] per Capital Security) (the "Capital Securities"). The Capital Securities are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Capital Securities represented hereby are issued and shall in all respects be subject to the provisions of the Amended and Restated Declaration of Trust of the Trust dated as of [,], as the

same may be amended from time to time (the "Declaration"), including the designation of the terms of the Capital Securities as set forth in Annex I to the Declaration. Capitalized terms used herein but not defined shall have the meaning given them in the Declaration. The Holder is entitled to the benefits of the Capital Securities Guarantee to the extent provided therein. The Declaration permits the Sponsor to dissolve the Trust at any time. The Sponsor will provide a copy of the Declaration, the Capital Securities Guarantee and the Indenture to a Holder without charge upon written request to the Sponsor at its principal place of business.

Upon receipt of this certificate, the Holder is bound by the Declaration and is entitled to the benefits thereunder.

By acceptance, the Holder agrees to treat, for United States federal income tax purposes, the Notes as indebtedness and the Capital Securities as evidence of indirect beneficial ownership of the Notes.

IN WITNESS WHEREOF, the Trust has executed this certificate as of [,].

BAC CAPITAL TRUST []

By: _____
Name: _____
Title: Regular Trustee

CERTIFICATE OF AUTHENTICATION

This certificate represents the Capital Securities referred to in the within-mentioned Declaration.

Dated:

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Property Trustee

By: _____
Name: _____
Title: _____

A1-3

[FORM OF REVERSE OF SECURITY]

Distributions on the Capital Securities will be payable at [an annual rate of _____] (the "Coupon Rate") [an annual floating rate equal to three-month LIBOR plus a spread of _____] (the "Coupon Rate") of the stated liquidation amount of \$_____ per Capital Security, such rate being the rate of interest payable on the Notes to be held by the Property Trustee on behalf of the Trust. Distributions in arrears for more than one [quarter] [semi-annual period] will bear interest thereon at the Coupon Rate compounded [quarterly] [semi-annually] (to the extent permitted by applicable law). A Distribution is payable only to the extent that payments are made in respect of the Notes held by the Property Trustee and to the extent the Property Trustee has funds available therefor. The amount of Distributions payable for any period will be calculated on the basis of [a 360-day year of twelve 30-day months] [the actual number of days elapsed in the period and a 360-day year].

Except as otherwise described below, Distributions on the Capital Securities will be cumulative, will accumulate from the date of original issuance and will be payable [quarterly] [semi-annually] in arrears on [January 15, April 15, July 15 and October 15] [January 15 and July 15] of each year, beginning on January 15, _____, to the person in whose name the Capital Security is registered at the close of business on the regular record date for such installment, which shall be the close of business on the Business Day [(in New York and Charlotte)] next preceding such payment date—[IF PURSUANT TO THE TERMS OF THE DECLARATION, THE SECURITIES ARE NO LONGER REPRESENTED BY A GLOBAL SECURITY—which shall be the close of business on [January 1, April 1, July 1 and October 1] [January 1 and July 1] prior to the relevant payment date.] The Note Issuer has the right under the Indenture to defer payments of interest by extending the interest payment period on the Notes from time to time for a period selected by the Note Issuer not exceeding [20] [10] consecutive [quarters] [semi-annual periods] (each an "Extension Period"), provided that no Extension Period shall last beyond the date of the maturity of the Notes. As a consequence of such deferral, Distributions will also be deferred hereunder for the same period. Despite such deferral, [quarterly] [semi-annual] Distributions will continue to accumulate with interest thereon at the Coupon Rate compounded [quarterly] [semi-annually] (to the extent permitted by applicable law) during any such Extension Period. Prior to the termination of any such Extension Period, the Note Issuer may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed [20] [10] consecutive [quarters] [semi-annual periods] or extend beyond the maturity date of the Notes. Payments of accumulated Distributions will be payable to Holders as they appear on the books and records of the Trust on the first record date after the end of the Extension Period. Upon the termination of any Extension Period and the payment of all amounts then due, the Note Issuer may commence a new Extension Period, subject to the above requirements.

THE CAPITAL SECURITIES SHALL BE REDEEMABLE AS PROVIDED IN THE DECLARATION.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Capital Security Certificate to:

(Insert assignee's social security or tax identification number)

(Insert address and zip code of assignee)

and irrevocably appoints

agent to transfer this Capital Security Certificate on the books of the Trust. The agent may substitute another to act for him or her.

Date: _____

Signature: _____

(Sign exactly as your name appears on the other side of this Capital Security Certificate)

Signature Guarantee*: _____

* Signature must be guaranteed by an "eligible guarantor institution" that is a bank, stockbroker, savings and loan association or credit union meeting the requirements of the Registrar, which requirements include membership or participation in the Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities and Exchange Act of 1934, as amended.

EXHIBIT A-2

FORM OF COMMON SECURITY CERTIFICATE

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND ARE "RESTRICTED SECURITIES" AS THAT TERM IS DEFINED IN RULE 144A UNDER THE ACT. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT, THE AVAILABILITY OF WHICH IS TO BE ESTABLISHED TO THE SATISFACTION OF THE TRUST.

THE COMMON SECURITIES REPRESENTED BY THIS CERTIFICATE ARE BENEFICIALLY OWNED BY A PERSON WHO MAY BE AN "AFFILIATE" WITHIN THE MEANING OF RULE 144 UNDER THE ACT. CONSEQUENTLY, THE SECURITIES MAY NOT BE TRANSFERRED UNLESS SUCH TRANSFER IS IN COMPLIANCE WITH SAID RULE OR UNLESS MADE PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT OR AN OPINION OF COUNSEL FOR THE TRUST THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT.

THIS INSTRUMENT IS NOT A SAVINGS ACCOUNT OR A BANK DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING AFFILIATE OF BANK OF AMERICA CORPORATION AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY AND INVOLVES INVESTMENT RISKS, INCLUDING POSSIBLE LOSS OF PRINCIPAL.

Certificate Number

___-R-_____

BAC CAPITAL TRUST []

[%] [Floating Rate] Common Securities
(aggregate liquidation amount of \$[_____])

BAC CAPITAL TRUST [], a statutory trust formed under the laws of the State of Delaware (the "Trust"), hereby certifies that BANK OF AMERICA CORPORATION (the "Holder") is the registered owner of _____ common securities of the Trust representing undivided common beneficial interests in the assets of the Trust designated the [%] [Floating Rate] Common Securities and having an aggregate liquidation amount of \$[] (the "Common Securities"). The Common Securities are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designation, rights, privileges, restrictions, preferences and

other terms and provisions of the Common Securities represented hereby are issued and shall in all respects be subject to the provisions of the Amended and Restated Declaration of Trust of the Trust dated as of [], as the same may be amended from time to time (the "Declaration"), including the designation of the terms of the Common Securities as set forth in Annex I to the Declaration. Capitalized terms used herein but not defined shall have the meaning given them in the Declaration. The Holder is entitled to the benefits of the Common Securities Guarantee to the extent provided therein. The Declaration permits the Sponsor to dissolve the Trust at any time. The Sponsor will provide a copy of the Declaration, the Common Securities Guarantee and the Indenture to a Holder without charge upon written request to the Sponsor at its principal place of business.

Upon receipt of this certificate, the Sponsor is bound by the Declaration and is entitled to the benefits thereunder.

By acceptance, the Holder agrees to treat, for United States federal income tax purposes, the Notes as indebtedness and the Common Securities as evidence of indirect beneficial ownership in the Notes.

IN WITNESS WHEREOF, the Trust has executed this certificate as of [].

BAC CAPITAL TRUST []

By: _____
Name: _____
Title: Regular Trustee

CERTIFICATE OF AUTHENTICATION

This certificate represents the Common Securities referred to in the within-mentioned Declaration.

Dated: [,]

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A. as Property Trustee

By: _____
Name: _____
Title: _____

A2-3

[FORM OF REVERSE OF SECURITY]

Distributions on the Common Securities will be payable at [an annual rate of []% (the "Coupon Rate")] [an annual floating rate equal to three-month LIBOR plus a spread of []% (the "Coupon Rate")] of the aggregate liquidation amount of \$[], such rate being the rate of interest payable on the Notes to be held by the Property Trustee on behalf of the Trust. Distributions in arrears for more than one [quarter] [semi-annual period] will bear interest thereon at the Coupon Rate compounded [quarterly] [semi-annually] (to the extent permitted by applicable law). A Distribution is payable only to the extent that payments are made in respect of the Notes held by the Property Trustee and to the extent the Property Trustee has funds available therefor. The amount of Distributions payable for any period will be calculated on the basis of [a 360-day year of twelve 30-day months] [the actual number of days elapsed in the period and a 360-day year].

Except as otherwise described below, Distributions on the Common Securities will be cumulative, will accumulate from the date of original issuance and will be payable [quarterly] [semi-annually] in arrears on [January 15, April 15, July 15 and October 15] [January 15 and July 15] of each year, beginning on January 15, [], to Holders of record [15] days prior to such payment dates, which payment dates shall correspond to the interest payment dates on the Notes. The Note Issuer has the right under the Indenture to defer payments of interest by extending the interest payment period on the Notes from time to time for a period selected by the Note Issuer not exceeding [20] [10] consecutive [quarters] [semi-annual periods] (each, an "Extension Period"), provided that no Extension Period shall last beyond the date of the maturity of the Notes. As a consequence of such deferral, Distributions also will be deferred hereunder for the same period. Despite such deferral, [quarterly] [semi-annual] Distributions will continue to accumulate with interest thereon at the Coupon Rate compounded [quarterly] [semi-annually] (to the extent permitted by applicable law) during any such Extension Period. Prior to the termination of any such Extension Period, the Note Issuer may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed [20] [10] consecutive [quarters] [semi-annual periods] or extend beyond the maturity date of the Notes. Payments of accumulated Distributions will be payable to Holders as they appear on the books and records of the Trust on the first record date after the end of the Extension Period. Upon the termination of any Extension Period and the payment of all amounts then due, the Note Issuer may commence a new Extension Period, subject to the above requirements.

THE COMMON SECURITIES SHALL BE REDEEMABLE AS PROVIDED IN THE DECLARATION.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Common Security Certificate to:

(Insert assignee's social security or tax identification number)

(Insert address and zip code of assignee)

and irrevocably appoints _____

_____ agent to transfer this Common Security Certificate on the books of the Trust. The agent may substitute another to act for him or her.

Date: _____

Signature: _____
(Sign exactly as your name appears on the other side of this Common Security Certificate)

Signature Guarantee¹: _____

¹ Signature must be guaranteed by an "eligible guarantor institution" that is a bank, stockbroker, savings and loan association or credit union meeting the requirements of the Registrar, which requirements include membership or participation in the Securities Transfer Agents medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities and Exchange Act of 1934, as amended.

[Letterhead of McGuireWoods LLP]

April 20, 2009

Bank of America Corporation
Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina 28255

Re: Bank of America Corporation Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Bank of America Corporation, a Delaware corporation (the "Corporation"), in connection with the registration by the Corporation of an indeterminate amount of (i) its debt securities (the "Debt Securities"), (ii) its warrants (the "Warrants"), (iii) its purchase contracts (the "Purchase Contracts"), (iv) units, which are comprised of two or more securities, in any combination (the "Units"), (v) shares of its preferred stock (the "Preferred Stock"), (vi) fractional interests in its Preferred Stock represented by depositary shares (the "Depositary Shares"), (vii) shares of its common stock (the "Common Stock"), (viii) its junior subordinated notes (the "Junior Subordinated Notes"), and (ix) its guarantees of preferred securities of certain trusts (the "Guarantees," and together with the Debt Securities, Warrants, Purchase Contracts, Units, Preferred Stock, Depositary Shares, Common Stock, and Junior Subordinated Notes, the "Securities"), as set forth in the Registration Statement on Form S-3 (the "Registration Statement") that is being filed on the date hereof with the Securities and Exchange Commission by the Corporation pursuant to the Securities Act of 1933, as amended (the "Act").

The Securities are to be issued, separately or together, in one or more series and may be sold from time to time as set forth in the Registration Statement, the applicable prospectuses contained therein (each, a "Prospectus") and any amendments or supplements thereto. The Debt Securities will include the Corporation's debt securities designated as its Senior Medium-Term Notes, Series L and its Subordinated Medium-Term Notes, Series L (collectively, the "Medium-Term Notes").

As such counsel, we have examined and are familiar with such original or photocopies or certified copies of such records of the Corporation and its subsidiaries, certificates of officers of the Corporation and its subsidiaries and of public officials and such other documents as we have deemed relevant or necessary as the basis for the opinions set forth below. In such examinations, we have assumed the legal capacity of natural persons, the genuineness of all signatures on, and the authenticity of, all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as photocopies thereof and the authenticity of the originals of such copies. We have also relied upon statements of fact contained in documents that we have examined in connection with our representation of the Corporation.

Based on the foregoing, we are of the opinion that:

1. When (1) the Registration Statement has become effective under the Act, (2) the amount of Securities and the terms of any class or series of such Securities have been authorized by appropriate corporate action of the Corporation and (3) such Securities have been issued and sold in compliance with applicable law and upon the terms and conditions set forth in the Registration Statement, the applicable Prospectus and the applicable supplements to such Prospectus (including, in the case of Debt Securities or Junior Subordinated Notes, due authentication thereof by the applicable trustee or by the authenticating agent, in accordance with the provisions of the indenture under which such Securities are to be issued), then

(a) the Debt Securities, Warrants, Purchase Contracts, Depositary Shares, Units, Junior Subordinated Notes, or Guarantees, as the case may be, will be validly authorized and issued and binding obligations of the Corporation, subject to applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies, and further subject to 12 U.S.C. §1818(b)(6)(D) (or any successor statute) and any similar bank regulatory powers and to the application of principles of public policy, and (b) the shares of the Preferred Stock and Common Stock will be legally issued, fully paid, and non-assessable.

2. The Medium-Term Notes have been duly authorized and, when the terms of the Medium-Term Notes have been established and when the Medium-Term Notes have been completed, executed, authenticated and delivered in accordance with the provisions of the Senior Indenture dated January 1, 1995 between the Corporation (successor to NationsBank Corporation) and The Bank of New York Mellon Trust Company, N.A., as successor trustee, as supplemented by a First Supplemental Indenture dated as of September 18, 1998, a Second Supplemental Indenture dated as of May 7, 2001, a Third Supplemental Indenture dated as of July 28, 2004, a Fourth Supplemental Indenture dated as of April 28, 2006 and a Fifth Supplemental Indenture dated as of December 1, 2008, or the Subordinated Indenture dated January 1, 1995 between the Corporation (successor to NationsBank Corporation) and The Bank of New York Mellon Trust Company, N.A., as successor trustee, as supplemented by a First Supplemental Indenture dated as of August 28, 1998 and a Second Supplemental Indenture dated as of January 25, 2007, Board Resolutions (as defined in the respective Indentures) relating to the Medium-Term Notes and the Distribution Agreement dated April 10, 2008 among the Corporation and the Selling Agents named therein, as amended or supplemented from time to time, against payment of the consideration therefor, will constitute legal, valid and binding obligations of the Corporation up to an initial amount of \$30,000,000,000, the aggregate principal amount of Medium-Term Notes authorized to be issued as of the date of this opinion, which amount is subject to increase from time to time, subject to applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies, and further subject to 12 U.S.C. § 1818(b)(6)(D) (or any successor statute) and any similar bank regulatory powers now or hereafter in effect and to the application of principles of public policy.

This opinion is rendered to you and for your benefit solely in connection with the registration of the Securities. We hereby consent to be named in each of the Prospectuses as attorneys who passed upon the legality of the Securities and to the filing of a copy of this opinion as Exhibit 5.1 to the Registration Statement.

Very truly yours,

/s/ MCGUIREWOODS LLP



April 20, 2009

BAC Capital Trust XVI
BAC Capital Trust XVII
BAC Capital Trust XVIII
BAC Capital Trust XIX
BAC Capital Trust XX
c/o Bank of America Corporation
Bank of America Corporate Center
Charlotte, North Carolina 28255

Re: BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII,
BAC Capital Trust XIX and BAC Capital Trust XX

Ladies and Gentlemen:

We have acted as special Delaware counsel for BAC Capital Trust XVI, a Delaware statutory trust (“Trust XVI”), BAC Capital Trust XVII, a Delaware statutory trust (“Trust XVII”), BAC Capital Trust XVIII, a Delaware statutory trust, (“Trust XVIII”), BAC Capital Trust XIX, a Delaware statutory trust (“Trust XIX”), and BAC Capital Trust XX, a Delaware statutory trust, (“Trust XX”, together with Trust XVI, Trust XVII, and Trust XVIII and Trust XIX, collectively referred to as the “Trusts” and sometimes hereinafter individually referred to as a “Trust”), in connection with the matters set forth herein. At your request, this opinion is being furnished to you.

We have examined and relied upon such records, documents, certificates and other instruments as in our judgment are necessary or appropriate to enable us to render the opinions expressed below, including the following documents:

- (a) The Certificate of Trust of Trust XVI, as filed with the Secretary of State of the State of Delaware (the “Secretary of State”) on May 3, 2006;
- (b) The Certificate of Trust of Trust XVII, as filed with the Secretary of State on May 3, 2006;



One Rodney Square ■ 920 North King Street ■ Wilmington, DE 19801 ■ Phone: 302-651-7700 ■ Fax: 302-651-7701

www.rlf.com

- (c) The Certificate of Trust of Trust XVIII, as filed with the Secretary of State on May 3, 2006;
 - (d) The Certificate of Trust of Trust XIX, as filed with the Secretary of State on May 3, 2006;
 - (e) The Certificate of Trust of Trust XX, as filed with the Secretary of State on May 3, 2006;
 - (f) The Declaration of Trust of Trust XVI, dated as of May 3, 2006 among the Bank of America Corporation, a Delaware corporation (the "Company"), and the trustees of Trust XVI named therein;
 - (g) The Declaration of Trust of Trust XVII, dated as of May 3, 2006 among the Company and the trustees of Trust XVII named therein;
 - (h) The Declaration of Trust of Trust XVIII, dated as of May 3, 2006 among the Company and the trustees of Trust XVIII named therein;
 - (i) The Declaration of Trust of Trust XIX, dated as of May 3, 2006 among the Company and the trustees of Trust XIX named therein;
 - (j) The Declaration of Trust of Trust XX, dated as of May 3, 2006 among the Company and the trustees of Trust XX named therein;
 - (k) The Registration Statement (the "Registration Statement") on Form S-3, including a preliminary prospectus (the "Prospectus"), with respect to, among other things, the Capital Securities of the Trusts representing undivided preferred beneficial interests in the assets of the Trusts (each, a "Capital Security" and collectively, the "Capital Securities"), as filed by the Company and the Trusts with the Securities and Exchange Commission on or about April 20, 2009;
 - (l) A form of Amended and Restated Declaration of Trust, to be entered into between the Company, the trustees of the applicable Trust named therein, and the holders, from time to time, of the undivided beneficial interests in the assets of such Trust (the "Declaration of Trust"), filed as an exhibit to the Registration Statement (including all attachments and exhibits thereto); and
 - (m) A Certificate of Good Standing for each of the Trusts, dated April 20, 2009, obtained from the Secretary of State.
-

Initially capitalized terms used herein and not otherwise defined are used as defined in the Declaration of Trust.

As to various questions of fact material to our opinion, we have relied upon the representations made in the foregoing documents. With respect to all documents examined by us, we have assumed (i) the authenticity of all documents submitted to us as authentic originals, (ii) the conformity with the originals of all documents submitted to us as copies or forms, and (iii) the genuineness of all signatures.

For purposes of this opinion, we have assumed (i) that the Declaration of Trust and the Certificate of Trust of each Trust will be in full force and effect and will not be amended, (ii) except to the extent provided in paragraph 1 below, the due organization or due formation, as the case may be, and valid existence in good standing of each party to the documents examined by us under the laws of the jurisdiction governing its organization or formation, (iii) the legal capacity of natural persons who are parties to the documents examined by us, (iv) that each of the parties to the documents examined by us has the power and authority to execute and deliver, and to perform its obligations under, such documents, (v) the due authorization, execution and delivery by all parties thereto of all documents examined by us, (vi) the receipt by each Person to whom a Capital Security is to be issued by the Trusts (collectively, the "Capital Security Holders") of a Capital Security Certificate for such Capital Security and the payment for such Capital Security, in accordance with the applicable Declaration of Trust and the Registration Statement, and (vii) that the Capital Securities will be authenticated, issued and sold to the Capital Security Holders in accordance with the applicable Declaration of Trust and the Registration Statement. We have not participated in the preparation of the Registration Statement (except for providing this opinion) or the Prospectus and assume no responsibility for their contents, other than this opinion.

This opinion is limited to the law of the State of Delaware, including the applicable provisions of the Delaware Constitution and the reported judicial decisions interpreting such laws (excluding the securities laws of the State of Delaware), and we have not considered and express no opinion on the laws of any other jurisdiction, including federal laws and rules and regulations relating thereto. Our opinions are rendered only with respect to Delaware laws and rules, regulations and orders thereunder which are currently in effect.

Based upon the foregoing, and upon our examination of such questions of law and statutes of the State of Delaware as we have considered necessary or appropriate, and subject to the assumptions, qualifications, limitations and exceptions set forth herein, we are of the opinion that:

1. Each of the Trusts has been duly created and is validly existing in good standing as a statutory trust under the Statutory Trust Act.
2. The Capital Securities of each Trust will represent valid and, subject to the qualifications set forth in paragraph 3 below, legally issued, fully paid and nonassessable undivided preferred beneficial interests in the assets of the applicable Trust.
3. The Capital Security Holders, as beneficial owners of the applicable Trust, will be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware. We note that the Capital Security Holders may be obligated to make payments as set forth in the applicable Declaration of Trust.

We consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement. We hereby consent to the use of our name under the heading "Legal Matters" in the Prospectus. In giving the foregoing consents, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Richards Layton & Finger, P.A.

[Letterhead of Morrison & Foerster LLP]

April 20, 2009

Bank of America Corporation
BAC Capital Trust XVI
BAC Capital Trust XVII
BAC Capital Trust XVIII
BAC Capital Trust XIX
BAC Capital Trust XX
Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina 28255

Ladies and Gentlemen:

We have acted as tax counsel to each of Bank of America Corporation (the "Corporation"), a Delaware corporation, and BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX and BAC Capital Trust XX (each a "Trust" and collectively the "Trusts"), in connection with the filing of a shelf registration statement on Form S-3 by the Corporation and the Trusts (the "Registration Statement"). The Registration Statement registers an unspecified aggregate amount of securities which may be issued by the Corporation and any of the Trusts.

We hereby confirm that, although the respective discussions set forth under the heading "U.S. Federal Income Tax Considerations" in the prospectuses filed with the Registration Statement do not purport to discuss all possible United States federal income tax consequences of the purchase, ownership and disposition of the securities described in each such prospectus, in our opinion, each such discussion constitutes, in all material respects, a fair and accurate summary of the United States federal income tax consequences of the purchase, ownership and disposition of such securities, based upon current law. It is possible that contrary positions may be taken by the Internal Revenue Service and that a court may agree with such contrary positions.

We hereby consent to the use of our name under the headings "U.S. Federal Income Tax Considerations" and "Legal Matters" in the prospectus relating to the capital securities of the Trusts. We further consent to your filing a copy of this opinion as Exhibit 8.1 to the Registration Statement. In giving such permission, we do not admit hereby that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended,

April 20, 2009
Page 2

or the rules and regulations of the Securities and Exchange Commission thereunder. This opinion is expressed as of the date hereof and applies only to the disclosure under the heading "U.S. Federal Income Tax Considerations" set forth in the prospectuses filed as of the date hereof. We disclaim any undertaking to advise you of any subsequent changes of the facts stated or assumed herein or any subsequent changes in applicable law.

Very truly yours,

/s/ Morrison & Foerster LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Form S-3 of our report dated February 25, 2009 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in Bank of America Corporation's Annual Report on Form 10-K for the year ended December 31, 2008. We also consent to the references to us under the headings "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

Charlotte, North Carolina
April 20, 2009

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated February 23, 2009, relating to the consolidated financial statements of Merrill Lynch & Co., Inc. (which report expresses an unqualified opinion on those financial statements, and includes explanatory paragraphs regarding (1) the changes in accounting methods in 2007 relating to the adoption of Statement of Financial Accounting Standards No. 157, "*Fair Value Measurements*," Statement of Financial Accounting Standards No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115*," and FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109*" and (2) Merrill Lynch becoming a wholly-owned subsidiary of Bank of America Corporation on January 1, 2009), appearing as an exhibit to the Bank of America Corporation Current Report on Form 8-K filed on February 25, 2009, and to the reference to us under the heading "Experts" in the Prospectus, which is part of this Registration Statement.

/s/ Deloitte & Touche LLP

New York, New York
April 20, 2009

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each of Bank of America Corporation (the "Corporation") and the undersigned Officers and Directors of the Corporation whose signatures appear below hereby makes, constitutes and appoints Edward P. O'Keefe, Alice A. Herald and Teresa M. Brenner, and each of them acting individually, its, his and/or her true and lawful attorneys, with power to act without any other and with full power of substitution, to execute, deliver and file in its, his and/or her name and on its, his and/or her behalf, and in each of the undersigned Officer's and Director's capacity or capacities as shown below: (a) an automatic shelf Registration Statement on Form S-3 (or other appropriate form) with respect to the registration under the Securities Act of 1933, as amended (the "Securities Act"), of an indeterminate amount of (i) the Corporation's unsecured senior and subordinated debt securities, warrants, purchase contracts, preferred stock, depositary shares representing fractional interests in shares of preferred stock, common stock, and units which are comprised of two or more securities, in any combination, (ii) trust securities of each of BAC Capital Trust XVI, BAC Capital Trust XVII, BAC Capital Trust XVIII, BAC Capital Trust XIX, BAC Capital Trust XX and any other additional capital trusts added from time to time (the "Trust Securities"), (iii) the Corporation's junior subordinated debt securities, (iv) the Corporation's guarantees of the Trust Securities, and (v) other securities of the Corporation approved by the Board of Directors or a committee duly authorized by the Board of Directors (the securities referenced in (i), (ii), (iii), (iv) and (v) above are referred to collectively as the "Securities"), which Securities may be offered separately or together in separate series and in amounts, at prices, and on terms to be determined at the time of sale, all as authorized by the Board of Directors, and all documents in support thereof or supplemental thereto and any and all amendments, including any and all post-effective amendments, to the foregoing (collectively, the "Registration Statement"); and (b) all other registration statements, petitions, applications, consents to service of process or other instruments, any and all documents in support thereof or supplemental thereto, and any and all amendments or supplements to the foregoing, as may be necessary or advisable to qualify or register the Securities covered by the Registration Statement under any and all securities laws, regulations and requirements as may be applicable; and each of the Corporation and the Officers and Directors hereby grants to each of the attorneys full power and authority to do and perform each and every act and thing whatsoever as each of such attorneys may deem necessary or advisable to carry out fully the intent of this power of attorney to the same extent and with the same effect as the Corporation might or could do, and as each of the Officers and Directors might or could do personally in his or her capacity or capacities as aforesaid, and each of the Corporation and the Officers and Directors hereby ratifies and confirms all acts and things which the attorneys or attorney might do or cause to be done by virtue of this power of attorney and its, his, or her signature as the same may be signed by the attorneys or attorney, or any of them, to any or all of the following (and any and all amendments and supplements to any or all thereof): such Registration Statement under the Securities Act and all such registration statements, petitions, applications, consents to service of process, and other instruments, and any and all documents in support thereof or supplemental thereto, under such securities laws, regulations and requirements as may be applicable.

[Balance of page intentionally left blank]

IN WITNESS WHEREOF, Bank of America Corporation has caused this power of attorney to be signed on its behalf, and each of the undersigned Officers and Directors in the capacity or capacities noted has hereunto set his or her hand as of the date indicated below.

BANK OF AMERICA CORPORATION

By: /s/ KENNETH D. LEWIS

Kenneth D. Lewis
Chairman, President and
Chief Executive Officer

Dated: March 31, 2009

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ KENNETH D. LEWIS</u> Kenneth D. Lewis	Chairman, President, Chief Executive Officer and Director (Principal Executive Officer)	March 31, 2009
<u>/s/ JOE L. PRICE</u> Joe L. Price	Chief Financial Officer (Principal Financial Officer)	March 31, 2009
<u>/s/ CRAIG R. ROSATO</u> Craig R. Rosato	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	March 31, 2009
<u>/s/ WILLIAM BARNET, III</u> William Barnet, III	Director	March 31, 2009
<u>/s/ FRANK P. BRAMBLE, SR.</u> Frank P. Bramble, Sr.	Director	March 31, 2009
<u>/s/ VIRGIS W. COLBERT</u> Virgis W. Colbert	Director	March 31, 2009
<u>/s/ JOHN T. COLLINS</u> John T. Collins	Director	March 31, 2009
<u>/s/ GARY L. COUNTRYMAN</u> Gary L. Countryman	Director	March 31, 2009
<u>/s/ TOMMY R. FRANKS</u> Tommy R. Franks	Director	March 31, 2009
<u>/s/ CHARLES K. GIFFORD</u> Charles K. Gifford	Director	March 31, 2009
<u>/s/ MONICA C. LOZANO</u> Monica C. Lozano	Director	March 31, 2009

<u>/s/ WALTER E. MASSEY</u> Walter E. Massey	Director	March 31, 2009
<u>/s/ THOMAS J. MAY</u> Thomas J. May	Director	March 31, 2009
<u>/s/ PATRICIA E. MITCHELL</u> Patricia E. Mitchell	Director	March 31, 2009
<u>/s/ JOSEPH W. PRUEHER</u> Joseph W. Prueher	Director	March 31, 2009
<u>/s/ CHARLES O. ROSSOTTI</u> Charles O. Rossotti	Director	March 31, 2009
<u>/s/ THOMAS M. RYAN</u> Thomas M. Ryan	Director	March 31, 2009
<u>/s/ O. TEMPLE SLOAN, JR.</u> O. Temple Sloan, Jr.	Director	March 31, 2009
<u>/s/ MEREDITH R. SPANGLER</u> Meredith R. Spangler	Director	March 31, 2009
<u>/s/ ROBERT L. TILLMAN</u> Robert L. Tillman	Director	March 31, 2009
<u>/s/ JACKIE M. WARD</u> Jackie M. Ward	Director	March 31, 2009

RESOLUTIONS
OF
THE BOARD OF DIRECTORS OF
BANK OF AMERICA CORPORATION

March 31, 2009

RESOLVED FURTHER, that Edward P. O'Keefe, Alice A. Herald and Teresa M. Brenner, each with full power of substitution, hereby are appointed attorneys-in-fact for, and each of them with full power to act without the other hereby is authorized and empowered to sign the Registration Statement and any amendment or amendments (including any post-effective amendments) thereto on behalf of and as attorneys for, the Corporation and any of the principal executive officer, the principal financial officer, the principal accounting officer, and any other officer or director of the Corporation;

CERTIFICATE OF SECRETARY

I, Allison Gilliam, Assistant Secretary of Bank of America Corporation, a corporation duly organized and existing under the laws of the State of Delaware (the "Corporation"), do hereby certify that the foregoing is a true and correct copy of the resolutions duly adopted by the Board of Directors of the Corporation at a meeting of the Board of Directors held on March 31, 2009, at which meeting a quorum was present and acting throughout, and that said resolutions are in full force and effect and have not been amended or rescinded as of the date hereof.

IN WITNESS WHEREOF, I have hereupon set my hand and affixed the seal of the Corporation as of this 2nd day of April, 2009.

/s/ ALLISON L. GILLIAM

Assistant Secretary

(CORPORATE SEAL)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Senior Debt Securities
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL

Name: GERALDINE CRESWELL

Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Subordinated Debt Securities
(Title of the indenture securities)



1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
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3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Junior Subordinated Notes
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

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SIGNATURE

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THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

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Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

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CORPORATION DESIGNATED TO ACT AS TRUSTEE

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ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

BAC Capital Trust XVI
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

26-6844426
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Trust Securities
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
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(b) Whether it is authorized to exercise corporate trust powers.

Yes.

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If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

BAC Capital Trust XVII
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

26-6844429
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Trust Securities
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
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4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL

Name: GERALDINE CRESWELL

Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
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Not applicable		
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Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

BAC Capital Trust XVIII
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

26-6844432
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Trust Securities
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
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3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

BAC Capital Trust XIX
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

26-6844434
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Trust Securities
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
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6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL

Name: GERALDINE CRESWELL

Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
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Interest-bearing	0	
Not applicable		
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Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
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Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

BAC Capital Trust XX
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

26-6844436
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Trust Securities
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

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THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL

Name: GERALDINE CRESWELL

Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

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(includes mortgage indebtedness and obligations under capitalized leases)		268,691
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Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Guarantee of Trust Securities of BAC Capital Trust XVI
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Guarantee of Trust Securities of BAC Capital Trust XVII
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Guarantee of Trust Securities of BAC Capital Trust XVIII
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Guarantee of Trust Securities of BAC Capital Trust XIX
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL
Name: GERALDINE CRESWELL
Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)

FORM T-1

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE
ELIGIBILITY OF A TRUSTEE PURSUANT TO
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
(Exact name of trustee as specified in its charter)

(State of incorporation if not a U.S. national bank)

95-3571558
(I.R.S. employer identification no.)

700 South Flower Street
Suite 500
Los Angeles, California
(Address of principal executive offices)

90017
(Zip code)

Bank of America Corporation
(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

56-0906609
(I.R.S. employer identification no.)

Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina
(Address of principal executive offices)

28255
(Zip code)

Guarantee of Trust Securities of BAC Capital Trust XX
(Title of the indenture securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency United States Department of the Treasury	Washington, D.C. 20219
Federal Reserve Bank	San Francisco, California 94105
Federal Deposit Insurance Corporation	Washington, D.C. 20429

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-152875).

4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-152875).
6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration StatementNo. 333-152875).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Jacksonville, and State of Florida, on the 10th day of April, 2009.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: /S/ GERALDINE CRESWELL

Name: GERALDINE CRESWELL

Title: ASSISTANT TREASURER

Consolidated Report of Condition of
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
of 700 South Flower Street, Suite 200, Los Angeles, CA 90017

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,739
Interest-bearing balances	0
Securities:	
Held-to-maturity securities	26
Available-for-sale securities	430,112
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold	28,500
Securities purchased under agreements to resell	50,000
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, net of unearned income	0
LESS: Allowance for loan and lease losses	0
Loans and leases, net of unearned income and allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	11,261
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	1
Not applicable	
Intangible assets:	
Goodwill	876,153
Other intangible assets	272,502
Other assets	181,657
Total assets	<u>\$ 1,852,951</u>

LIABILITIES

Deposits:		
In domestic offices		1,765
Noninterest-bearing	1,765	
Interest-bearing	0	
Not applicable		
Federal funds purchased and securities sold under agreements to repurchase:		
Federal funds purchased		0
Securities sold under agreements to repurchase		0
Trading liabilities		0
Other borrowed money:		
(includes mortgage indebtedness and obligations under capitalized leases)		268,691
Not applicable		
Not applicable		
Subordinated notes and debentures		0
Other liabilities		166,958
Total liabilities		437,414
Minority interest in consolidated subsidiaries		0

EQUITY CAPITAL

Perpetual preferred stock and related surplus		0
Common stock		1,000
Surplus (exclude all surplus related to preferred stock)		1,121,520
Retained earnings		290,517
Accumulated other comprehensive income		2,500
Other equity capital components		0
Total equity capital		<u>1,415,537</u>
Total liabilities, minority interest, and equity capital		<u>\$ 1,852,951</u>

I, Karen Bayz, Vice President of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Karen Bayz) Vice President

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Michael K. Klugman, President)
Frank P. Sulzberger, MD) Directors (Trustees)
William D. Lindelof, VP)