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# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
**Washington, D.C. 20549**

# FORM 10-K

**ANNUAL REPORT**
**PURSUANT TO SECTION 13 OR 15(d)**
**OF THE SECURITIES EXCHANGE ACT OF 1934**

**(Mark One)**

[✓] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2007

or

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from to

**Commission file number:**
1-6523

**Exact Name of Registrant as Specified in its Charter:**

# Bank of America Corporation

**State or Other Jurisdiction of Incorporation or Organization:**
Delaware

**IRS Employer Identification No.:**
56-0906609

**Address of Principal Executive Offices:**
Bank of America Corporate Center
100 N. Tryon Street
Charlotte, North Carolina 28255

**Registrant's telephone number, including area code:**
(704) 386-5681

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

| Title of each class | Name of each exchange on which registered |
|---|---|
| Common Stock | New York Stock Exchange<br>London Stock Exchange<br>Tokyo Stock Exchange |
| Depositary Shares, Each Representing a 1/1000th interest in a share of 6.204% Non-Cumulative Preferred Stock, Series D | New York Stock Exchange |
| Depositary Shares, Each Representing a 1/1,000th interest in a share of Floating Rate Non-Cumulative Preferred Stock, Series E | New York Stock Exchange |
| Depositary Shares, Each Representing a 1/1,000th interest in a share of 6.625% Non-Cumulative Preferred Stock, Series I | New York Stock Exchange |
| Depositary Shares, Each Representing a 1/1,000th interest in a share of 7.25% Non-Cumulative Preferred Stock, Series J | New York Stock Exchange |
| 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L | New York Stock Exchange |
| Minimum Return Index EAGLES℠, due June 1, 2010, Linked to the +Nasdaq-100 Index® | American Stock Exchange |
| Minimum Return Index EAGLES®, due June 28, 2010, Linked to the S&P 500® Index | American Stock Exchange |
| Minimum Return – Return Linked Notes, due June 24, 2010, Linked to the Nikkei 225 Index | American Stock Exchange |
| Minimum Return Basket EAGLES℠, due August 2, 2010, Linked to a Basket of Energy Stocks | American Stock Exchange |
| Minimum Return Index EAGLES®, due August 28, 2009, Linked to the Russell 2000® Index | American Stock Exchange |
| Minimum Return Index EAGLES®, due September 25, 2009, Linked to the Dow Jones Industrial Average℠ | American Stock Exchange |
| Minimum Return Index EAGLES®, due October 29, 2010, Linked to the Nasdaq-100 Index® | American Stock Exchange |
| 1.50% Index CYCLES™, due November 26, 2010, Linked to the S&P 500® Index | American Stock Exchange |

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| Title of each class | Name of each exchange on which registered |
|---|---|
| 1.00% Index CYCLES™, due December 28, 2010, Linked to the S&P MidCap 400 Index | American Stock Exchange |
| Return Linked Notes due June 28, 2010, Linked to the Nikkei 225 Index | American Stock Exchange |
| 1.00% Index CYCLES™, due January 28, 2011, Linked to a Basket of Health Care Stocks | American Stock Exchange |
| Minimum Return Index EAGLES®, due January 28, 2011, Linked to the Russell 2000 ® Index | American Stock Exchange |
| 0.25% Cash-Settled Exchangeable Notes, due January 26, 2010, Linked to the Nasdaq-100 Index ® | American Stock Exchange |
| 1.25% Index CYCLES™, due February 24, 2010, Linked to the S&P 500 ® Index | American Stock Exchange |
| Minimum Return Index EAGLES®, due March 27, 2009, Linked to the Nasdaq-100 Index ® | American Stock Exchange |
| 1.75% Basket CYCLES™, due April 30, 2009, Linked to a Basket of Three Indices | American Stock Exchange |
| 1.00% Basket CYCLES™, due May 27, 2010, Linked to a "70/30" Basket of Four Indices and an Exchange Traded Fund | American Stock Exchange |
| Minimum Return Index EAGLES®, due June 25, 2010, Linked to the Dow Jones Industrial Average SM | American Stock Exchange |
| 1.50% Basket CYCLES™, due July 29, 2011, Linked to an "80/20" Basket of Four Indices and an Exchange Traded Fund | American Stock Exchange |
| Minimum Return Index EAGLES®, due August 28, 2009, Linked to the AMEX Biotechnology Index SM | American Stock Exchange |
| 1.25% Index CYCLES™, due August 25, 2010, Linked to the Dow Jones Industrial Average SM | American Stock Exchange |
| 1.25% Basket CYCLES™, due September 27, 2011, Linked to a Basket of Four Indices | American Stock Exchange |
| Minimum Return Basket EAGLES SM, due September 29, 2010, Linked to a Basket of Energy Stocks | American Stock Exchange |
| Minimum Return Index EAGLES®, due October 29, 2010, Linked to the S&P 500 ® Index | American Stock Exchange |
| Minimum Return Index EAGLES®, due November 23, 2010, Linked to the Nasdaq-100 Index ® | American Stock Exchange |
| Minimum Return Index EAGLES®, due November 24, 2010, Linked to the CBOE China Index | American Stock Exchange |
| 1.25% Basket CYCLES™, due December 27, 2010, Linked to a "70/30" Basket of Four Indices and an Exchange Traded Fund | American Stock Exchange |
| 1.50% Index CYCLES™, due December 28, 2011, Linked to a Basket of Health Care Stocks | American Stock Exchange |
| 6 1/2% Subordinated InterNotes SM, due 2032 | New York Stock Exchange |
| 5 1/2% Subordinated InterNotes SM, due 2033 | New York Stock Exchange |
| 5 7/8% Subordinated InterNotes SM, due 2033 | New York Stock Exchange |
| 6% Subordinated InterNotes SM, due 2034 | New York Stock Exchange |
| Minimum Return Index EAGLES, due March 25, 2011, Linked to the Dow Jones Industrial Average | American Stock Exchange |
| 1.625% Index CYCLES, due March 23, 2010, Linked to the Nikkei 225 Index | American Stock Exchange |
| 1.75% Index CYCLES, due April 28, 2011, Linked to the S&P 500 Index | American Stock Exchange |
| Return Linked Notes, due August 26, 2010, Linked to a Basket of Three Indices | American Stock Exchange |
| Return Linked Notes, due June 27, 2011, Linked to an "80/20" Basket of Four Indices and an Exchange Traded Fund | American Stock Exchange |
| Minimum Return Index EAGLES, due July 29, 2010, Linked to the S&P 500 Index | American Stock Exchange |
| Return Linked Notes, due January 28, 2011, Linked to a Basket of Two Indices | American Stock Exchange |
| Minimum Return Index EAGLES, due August 26, 2010, Linked to the Dow Jones Industrial Average | American Stock Exchange |
| Return Linked Notes, due August 25, 2011, Linked to the Dow Jones EURO STOXX 50 Index | American Stock Exchange |
| Minimum Return Index EAGLES, due October 3, 2011, Linked to the S&P 500 Index | American Stock Exchange |
| Minimum Return Index EAGLES, due October 28, 2011, Linked to the AMEX Biotechnology Index | American Stock Exchange |
| Return Linked Notes, due October 27, 2011, Linked to a Basket of Three Indices | American Stock Exchange |
| Return Linked Notes, due November 22, 2010, Linked to a Basket of Two Indices | American Stock Exchange |
| Minimum Return Index EAGLES, due November 23, 2011, Linked to a Basket of Five Indices | American Stock Exchange |
| Minimum Return Index EAGLES, due December 27, 2011, Linked to the Dow Jones Industrial average | American Stock Exchange |
| 0.25% Senior Notes Optionally Exchangeable Into a Basket of Three Common Stocks, due February 2012 | American Stock Exchange |
| Return Linked Notes, due December 29, 2011 Linked to a Basket of Three Indices | American Stock Exchange |

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ✓ No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No ✓

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ✓ No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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.

| Large accelerated filer ✓ | Accelerated filer | Non-accelerated filer (do not check if a smaller reporting company) | Smaller reporting company |
|---|---|---|---|

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No ✓

The aggregate market value of the registrant's common stock ("Common Stock") held by non-affiliates is approximately $215,286,616,664 (based on the June 29, 2007 closing price of Common Stock of $48.89 per share as reported on the New York Stock Exchange). As of February 25, 2008, there were 4,442,228,781 shares of Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

| Document of the Registrant | Form 10-K Reference Locations |
|---|---|
| Portions of the 2008 Proxy Statement | PART III |

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# Part I

**Bank of America Corporation and Subsidiaries**

## Item 1. Business

### General

Bank of America Corporation ("Bank of America" or the "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, Charlotte, North Carolina 28255.

Through our banking subsidiaries (the "Banks") and various nonbanking subsidiaries throughout the United States and in selected international markets, we provide a diversified range of banking and nonbanking financial services and products through three business segments: *Global Consumer and Small Business Banking, Global Corporate and Investment Banking* and *Global Wealth and Investment Management.* We currently operate in 32 states, the District of Columbia and more than 30 foreign countries. The Bank of America footprint covers more than 82 percent of the U.S. population and 44 percent of the country's wealthy households. In the United States, we serve approximately 59 million consumer and small business relationships with more than 6,100 retail banking offices, more than 18,500 ATMs and approximately 24 million active on-line users. We have banking centers in 13 of the 15 fastest growing states and hold the top market share in 6 of those states. Bank of America is the number one Small Business Administration lender and has relationships with 99 percent of the U.S. Fortune 500 Companies and 83 percent of the Fortune Global 500 Companies.

Additional information relating to our businesses and our subsidiaries is included in the information set forth in pages 19 through 35 of Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations and *Note 22 – Business Segment Information* of the Notes to the Consolidated Financial Statements in Item 8 of this report.

Bank of America's website is *www.bankofamerica.com.* Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 are available on our website at *http://investor.bankofamerica.com* under the heading SEC Filings as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission (the "SEC"). In addition, we make available on *http://investor.bankofamerica.com* under the heading Corporate Governance: (i) our Code of Ethics and Insider Trading Policy; (ii) our Corporate Governance Guidelines; and (iii) the charters of each of Bank of America's Board committees, and we also intend to disclose any amendments to our Code of Ethics, or waivers of our Code of Ethics on behalf of our Chief Executive Officer, Chief Financial Officer or Chief Accounting Officer, on our website. All of these corporate governance materials are also available free of charge in print to stockholders who request them in writing to: Bank of America Corporation, Attention: Shareholder Relations Department, 101 South Tryon Street, NC1-002-29-01, Charlotte, North Carolina 28255.

### Competition

Bank of America and our subsidiaries operate in a highly competitive environment. Our competitors include banks, thrifts, credit unions, investment banking firms, investment advisory firms, brokerage firms, investment companies, insurance companies, mortgage banking companies, credit card issuers, mutual fund companies and e-commerce and other Internet-based companies. We compete with some of these competitors globally and with others on a regional or product basis. Competition is based on a number of factors including customer service, quality and range of products and services offered, price, reputation, interest rates on loans and deposits, lending limits and customer convenience.

More specifically, our consumer banking business competes with banks, thrifts, credit unions, finance companies and other nonbank organizations offering financial services. Our commercial lending business competes with local, regional and international banks and nonbank financial organizations, some of which are larger than certain of our nonbanking subsidiaries and the Banks. In the investment banking, investment advisory and brokerage businesses, our nonbanking subsidiaries compete with U.S. and international banking and investment banking firms, investment advisory firms, brokerage firms, investment companies, other organizations offering similar services and other investment alternatives available to investors, some of which are larger than our subsidiaries. Our mortgage banking units compete with banks, thrifts, government agencies, mortgage brokers and other nonbank organizations offering mortgage banking services. Our card business competes in the U.S. and internationally with banks, as well as monoline and retail card product companies. In the trust business, the Banks compete with other banks, thrifts, insurance agents, financial counselors and other fiduciaries for personal trust business and with other banks, investment counselors and insurance companies for institutional funds.

Bank of America also competes actively for funds. A primary source of funds for the Banks is deposits, and competition for deposits includes other deposit-taking organizations, such as banks, thrifts and credit unions, as well as money market mutual funds. In addition, we compete for funding in the domestic and international short-term and long-term debt securities capital markets.

Our ability to expand into additional states remains subject to various federal and state laws. See "Government Supervision and Regulation – General" below for a more detailed discussion of interstate banking and branching legislation and certain state legislation.

### Employees

As of December 31, 2007, there were approximately 210,000 full-time equivalent employees within Bank of America and our subsidiaries. Of these employees, 116,000 were employed within *Global Consumer and Small Business Banking,* 21,000 were employed within *Global Corporate and Investment Banking* and 14,000 were employed within *Global Wealth and Investment Management*. The remainder were employed elsewhere within our company including various staff and support functions.

None of our domestic employees are subject to a collective bargaining agreement. Management considers our employee relations to be good.

## Acquisition and Disposition Activity

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 October 1, 2007, the Corporation completed the acquisition of ABN AMRO North America Holding Company, parent of LaSalle Bank Corporation. On July 1, 2007, the Corporation completed the acquisition of U.S. Trust Corporation. Additional information on our acquisitions and mergers is included under *Note 2 – Merger and Restructuring Activity* of the Notes to the Consolidated Financial Statements in Item 8 which is incorporated herein by reference.

## Government Supervision and Regulation

*The following discussion describes elements of an extensive regulatory framework applicable to bank holding companies, financial holding companies and banks and specific information about Bank of America and our subsidiaries. Federal regulation of banks, bank holding companies and financial holding companies is intended primarily for the protection of depositors and the Deposit Insurance Fund rather than for the protection of stockholders and creditors.*

### General

As a registered bank holding company and financial holding company, Bank of America is subject to the supervision of, and regular inspection by, the Board of Governors of the Federal Reserve System (the "Federal Reserve Board" or "FRB"). The Banks are organized as national banking associations, which are subject to regulation, supervision and examination by the Office of the Comptroller of the Currency (the "Comptroller" or "OCC"), the Federal Deposit Insurance Corporation (the "FDIC"), the Federal Reserve Board, other federal and state regulatory agencies, and with respect to Bank of America's operations in the United Kingdom, the Financial Services Authority (the "FSA"). In addition to banking laws, regulations and regulatory agencies, Bank of America and our subsidiaries and affiliates are subject to various other laws and regulations and supervision and examination by other regulatory agencies, all of which directly or indirectly affect the operations and management of Bank of America and our ability to make distributions to stockholders.

A financial holding company, and the companies under its control, are permitted to engage in activities considered "financial in nature" as defined by the Gramm-Leach-Bliley Act and Federal Reserve Board interpretations (including, without limitation, insurance and securities activities), and therefore may engage in a broader range of activities than permitted for bank holding companies and their subsidiaries. A financial holding company may engage directly or indirectly in activities considered financial in nature, either de novo or by acquisition, provided the financial holding company gives the Federal Reserve Board after-the-fact notice of the new activities. The Gramm-Leach-Bliley Act also permits national banks, such as the Banks, to engage in activities considered financial in nature through a financial subsidiary, subject to certain conditions and limitations and with the approval of the OCC.

Bank holding companies (including bank holding companies that also are financial holding companies) also are required to obtain the prior approval of the Federal Reserve Board before acquiring more than five percent of any class of voting stock of any non-affiliated bank. Pursuant to the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (the "Interstate Banking and Branching Act"), a bank holding company may acquire banks located in states other than its home state without regard to the permissibility of such acquisitions under state law, but subject to any state requirement that the bank has been organized and operating for a minimum period of time, not to exceed five years, and the requirement that the bank holding company, after the proposed acquisition, controls no more than 10 percent of the total amount of deposits of insured depository institutions in the United States and no more than 30 percent or such lesser or greater amount set by state law of such deposits in that state. Subject to certain restrictions, the Interstate Banking and Branching Act also authorizes banks to merge across state lines to create interstate banks. The Interstate Banking and Branching Act also permits a bank to open new branches in a state in which it does not already have banking operations if such state enacts a law permitting de novo branching.

### Changes in Regulations

Proposals to change the laws and regulations governing the banking industry are frequently introduced in Congress, in the state legislatures and before the various bank regulatory agencies. The likelihood and timing of any proposals or legislation and the impact they might have on Bank of America and our subsidiaries cannot be determined at this time.

### Capital and Operational Requirements

The Federal Reserve Board, the OCC and the FDIC have issued substantially similar risk-based and leverage capital guidelines applicable to United States banking organizations. In addition, these regulatory agencies may from time to time require that a banking organization maintain capital above the minimum levels, whether because of its financial condition or actual or anticipated growth. The Federal Reserve Board risk-based guidelines define a three-tier capital framework. Tier 1 capital includes common shareholders' equity, trust securities, minority interests and qualifying preferred stock, less goodwill and other adjustments. Tier 2 capital consists of preferred stock not qualifying as Tier 1 capital, mandatory convertible debt, limited amounts of subordinated debt, other qualifying term debt, the allowance for credit losses up to 1.25 percent of risk-weighted assets and other adjustments. Tier 3 capital includes subordinated debt that is unsecured, fully paid, has an original maturity of at least two years, is not redeemable before maturity without prior approval by the Federal Reserve Board and includes a lock-in clause precluding payment of either interest or principal if the payment would cause the issuing bank's risk-based capital ratio to fall or remain below the required minimum. The sum of Tier 1 and Tier 2 capital less investments in unconsolidated subsidiaries represents our qualifying total capital. Risk-based capital ratios are calculated by dividing Tier 1 and total capital by risk-weighted assets. Assets and off-balance sheet exposures are assigned to one of four categories of risk-weights, based primarily on relative credit risk. The minimum Tier 1 capital ratio is four percent and the minimum total capital ratio is eight percent. Our Tier 1 and total risk-based capital ratios under these guidelines at December 31, 2007 were 6.87 percent and 11.02 percent. At December 31, 2007, we had no subordinated debt that qualified as Tier 3 capital.

The leverage ratio is determined by dividing Tier 1 capital by adjusted quarterly average total assets, after certain adjustments. Well-capitalized bank holding companies must have a minimum Tier 1 leverage ratio of three percent and are not subject to an FRB directive to maintain higher capital levels. Our leverage ratio at December 31, 2007 was 5.04 percent, which exceeded our leverage ratio requirement.

The Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"), among other things, identifies five capital categories for insured depository institutions (well capitalized, adequately capitalized, undercapitalized, significantly undercapitalized and critically undercapitalized) and requires the respective federal regulatory agencies to implement systems for "prompt corrective action" for insured depository institutions that do not meet minimum capital requirements within such categories. FDICIA imposes progressively more restrictive constraints on operations, management and capital distributions, depending on the category in which an institution is classified. Failure to meet the capital guidelines could also subject a banking institution to capital raising requirements. An "undercapitalized" bank must develop a capital restoration plan and its parent holding company must guarantee that bank's compliance with the plan. The liability of the parent holding company under any such guarantee is limited to the lesser of five percent of the bank's assets at the time it became "undercapitalized" or the amount needed to comply with the plan. Furthermore, in the event of the bankruptcy of the parent holding company, such guarantee would take priority over the parent's general unsecured creditors. In addition, FDICIA requires the various regulatory agencies to prescribe certain non-capital standards for safety and soundness relating generally to operations and management, asset quality and executive compensation and permits regulatory action against a financial institution that does not meet such standards.

The various regulatory agencies have adopted substantially similar regulations that define the five capital categories identified by FDICIA, using the total risk-based capital, Tier 1 risk-based capital and leverage capital ratios as the relevant capital measures. Such regulations establish various degrees of corrective action to be taken when an institution is considered undercapitalized. Under the regulations, a "well capitalized" institution must have a Tier 1 risk-based capital ratio of at least six percent, a total risk-based capital ratio of at least ten percent and a leverage ratio of at least five percent and not be subject to a capital directive order. Under these guidelines, each of the Banks was considered well capitalized as of December 31, 2007.

Regulators also must take into consideration: (a) concentrations of credit risk; (b) interest rate risk; and (c) risks from non-traditional activities, as well as an institution's ability to manage those risks, when determining the adequacy of an institution's capital. This evaluation will be made as a part of the institution's regular safety and soundness examination. In addition, Bank of America, and any Bank with significant trading activity, must incorporate a measure for market risk in their regulatory capital calculations.

### Distributions

Our funds for cash distributions to our stockholders are derived from a variety of sources, including cash and temporary investments. The primary source of such funds, and funds used to pay principal and interest on our indebtedness, is dividends received from the Banks. Each of the Banks is subject to various regulatory policies and requirements relating to the payment of dividends, including requirements to maintain capital above regulatory minimums. The appropriate federal regulatory authority is authorized to determine under certain circumstances relating to the financial condition of a bank or bank holding company that the payment of dividends would be an unsafe or unsound practice and to prohibit payment thereof.

In addition, the ability of Bank of America and the Banks to pay dividends may be affected by the various minimum capital requirements and the capital and non-capital standards established under FDICIA, as described above. The right of Bank of America, our stockholders and our creditors to participate in any distribution of the assets or earnings of its subsidiaries is further subject to the prior claims of creditors of the respective subsidiaries.

### Source of Strength

According to Federal Reserve Board policy, bank holding companies are expected to act as a source of financial strength to each subsidiary bank and to commit resources to support each such subsidiary. This support may be required at times when a bank holding company may not be able to provide such support. Similarly, under the cross-guarantee provisions of the Federal Deposit Insurance Act, in the event of a loss suffered or anticipated by the FDIC–either as a result of default of a banking subsidiary or related to FDIC assistance provided to a subsidiary in danger of default– the other Banks may be assessed for the FDIC's loss, subject to certain exceptions.

## Additional Information

See also the following additional information which is incorporated herein by reference: Net Interest Income (under the captions "Financial Highlights – Net Interest Income" and "Supplemental Financial Data" in Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations (the "MD&A") and Tables I, II and XIII of the Statistical Tables); Securities (under the caption "Balance Sheet Analysis – Debt Securities" and "Interest Rate Risk Management for Nontrading Activities – Securities" in the MD&A and *Note 1 – Summary of Significant Accounting Principles and Note 5 – Securities* of the Notes to the Consolidated Financial Statements in Item 8, Financial Statements and Supplemental Data (the "Notes")); Outstanding Loans and Leases (under the caption "Balance Sheet Analysis – Loans and Leases; Net of Allowance for Loan and Lease Losses" and "Credit Risk Management" in the MD&A, Table III of the Statistical Tables, and *Note 1 – Summary of Significant Accounting Principles and Note 6 – Outstanding Loans and Leases* of the Notes); Deposits (under the caption "Balance Sheet Analysis – Deposits" and "Liquidity Risk and Capital Management – Liquidity Risk" in the MD&A and *Note 11 – Deposits* of the Notes); Short-Term Borrowings (under the caption "Balance Sheet Analysis – Commercial Paper and other Short-term Borrowings" and "Liquidity Risk and Capital Management – Liquidity Risk" in the MD&A, Table IX of the Statistical Tables and *Note 12 – Short-term Borrowings and Long-term Debt* of the Notes); Trading Account Assets and Liabilities (under the caption "Balance Sheet Analysis – Trading Account Assets", "Balance Sheet Analysis – Trading Account Liabilities" and "Market Risk Management – Trading Risk Management" in the MD&A and *Note 3 – Trading Account Assets and Liabilities* of the Notes); Market Risk Management (under the caption "Market Risk Management" in the MD&A); Liquidity Risk Management (under the caption "Liquidity Risk and Capital Management" in the MD&A); Operational Risk Management (under the caption "Operational Risk Management" in the MD&A); and Performance by Geographic Area (under *Note 24 – Performance by Geographical Area* of the Notes).

## Item 1A. Risk Factors

The following discusses some of the key risk factors that could affect Bank of America's business and operations. Other factors besides those discussed below or elsewhere in this report also could adversely affect our business and operations, and these risk factors should not be considered a complete list of potential risks that may affect Bank of America.

**Business, economic and political conditions.** Our businesses and earnings are affected by general business, economic and political conditions in the United States and abroad. Given the concentration of our business activities in the United States, we are particularly exposed to downturns in the United States economy. For example, in a poor economic environment there is a greater likelihood that more of our customers or counterparties could become delinquent on their loans or other obligations to us, which, in turn, could result in a higher level of charge-offs and provision for credit losses, all of which would adversely affect our earnings. General business and economic conditions that could affect us include the level and volatility of short-term and long-term interest rates, inflation, fluctuations in both debt and equity capital markets, liquidity of the global financial markets, the availability and cost of credit, investor confidence, and the strength of the United States economy and the local economies in which we operate. Geopolitical conditions can also affect our earnings. Acts or threats of terrorism, actions taken by the United States or other governments in response to acts or threats of terrorism and/or military conflicts, could affect business and economic conditions in the United States and abroad.

In the second half of 2007, certain credit markets experienced difficult conditions and volatility. These conditions resulted in less liquidity, greater volatility, widening of credit spreads and a lack of price transparency. The Corporation's *Global Corporate and Investment Banking* business operates in these markets, either directly or indirectly, through exposures in securities, loans, derivatives and other commitments. While it is difficult to predict how long these conditions will exist and which markets, products or other businesses of the Corporation will ultimately be affected, these factors could continue to adversely impact the Corporation's results of operations.

**Access to funds from subsidiaries.** The Corporation is a separate and distinct legal entity from our banking and nonbanking subsidiaries. We therefore depend on dividends, distributions and other payments from our banking and nonbanking subsidiaries to fund dividend payments on the common stock and our preferred stock and to fund all payments on our other obligations, including debt obligations. Many of our subsidiaries are subject to laws that authorize regulatory bodies to block or reduce the flow of funds from those subsidiaries to the Corporation. Regulatory action of that kind could impede access to funds we need to make payments on our obligations or dividend payments. In addition, the Corporation's right to participate in a distribution of assets upon a subsidiary's liquidation or reorganization is subject to the prior claims of the subsidiary's creditors.

**Changes in accounting standards.** Our accounting policies and methods are fundamental to how we record and report our financial condition and results of operations. From time to time the Financial Accounting Standards Board ("FASB") changes the financial accounting and reporting standards that govern the preparation of our financial statements. These changes can be hard to predict and can materially impact how we record and report our financial condition and results of operations. In some cases, we could be required to apply a new or revised standard retroactively, resulting in the Corporation restating prior period financial statements.

**Competition.** We operate in a highly competitive environment that could experience intensified competition as continued merger activity in the financial services industry produces larger, better-capitalized companies that are capable of offering a wider array of financial products and services at more competitive prices. In addition, technological advances and the growth of e-commerce have made it possible for non-depository institutions to offer products and services that traditionally were banking products, and for financial institutions to compete with technology companies in providing electronic and Internet-based financial solutions. Many of our competitors have fewer regulatory constraints and some have lower cost structures than we do. Increased competition may affect our results by creating pressure to lower prices on our products and services and reducing market share.

**Credit risk.** When we loan money, commit to loan money or enter into a letter of credit or other contract with a counterparty, we incur credit risk, or the risk of losses if our borrowers do not repay their loans or our counterparties fail to perform according to the terms of their contracts. A number of our products expose us to credit risk, including loans, leases and lending commitments, derivatives, trading account assets and assets held-for-sale. As one of the nation's largest lenders, the credit quality of our portfolio can have a significant impact on our earnings. We estimate and establish reserves for credit risks and potential credit losses inherent in our credit exposure (including unfunded credit commitments). This process, which is critical to our financial results and condition, requires difficult, subjective and complex judgments, including forecasts of economic conditions and how these economic predictions might impair the ability of our borrowers to repay their loans. As is the case with any such assessments, there is always the chance that we will fail to identify the proper factors or that we will fail to accurately estimate the impacts of factors that we identify.

For a further discussion of credit risk and our credit risk management policies and procedures, see "Credit Risk Management" in the MD&A.

**Governmental fiscal and monetary policy.** Our businesses and earnings are affected by domestic and international monetary policy. For example, the Federal Reserve Board regulates the supply of money and credit in the United States and its policies determine in large part our cost of funds for lending, investing and capital raising activities and the return we earn on those loans and investments, both of which affect our net interest margin. The actions of the Federal Reserve Board also can materially affect the value of financial instruments we hold, such as debt securities and mortgage servicing rights and its policies also can affect our borrowers, potentially increasing the risk that they may fail to repay their loans. Our businesses and earnings also are affected by the fiscal or other policies that are adopted by various regulatory authorities of the United States, non-U.S. governments and international agencies. Changes in domestic and international monetary policy are beyond our control and hard to predict.

**Liquidity risk.** Liquidity is essential to our businesses. Our liquidity could be impaired by an inability to access the capital markets or by unforeseen outflows of cash. This situation may arise due to circumstances that we may be unable to control, such as a general market disruption or an operational problem that affects third parties or us. Our credit ratings are important to our liquidity. A reduction in our credit ratings could adversely affect our liquidity and competitive position, increase our borrowing costs, limit our access to the capital markets or trigger unfavorable contractual obligations.

For a further discussion of our liquidity position and the policies and procedures we use to manage our liquidity risks, see "Liquidity Risk and Capital Management" in the MD&A.

**Litigation risks.** We face significant legal risks in our businesses, and the volume of claims and amount of damages and penalties claimed

in litigation and regulatory proceedings against financial institutions remain high. Substantial legal liability or significant regulatory action against Bank of America could have material adverse financial effects or cause significant reputational harm to Bank of America, which in turn could seriously harm our business prospects.

For a further discussion of litigation risks, see "Litigation and Regulatory Matters" in *Note 13 – Commitments and Contingencies* of the Notes.

**Market risk.** We are directly and indirectly affected by changes in market conditions. Market risk generally represents the risk that values of assets and liabilities or revenues will be adversely affected by changes in market conditions. For example, changes in interest rates could adversely affect our net interest margin – the difference between the yield we earn on our assets and the interest rate we pay for deposits and other sources of funding – which could in turn affect our net interest income and earnings. Market risk is inherent in the financial instruments associated with our operations and activities including loans, deposits, securities, short-term borrowings, long-term debt, trading account assets and liabilities, and derivatives. Just a few of the market conditions that may shift from time to time, thereby exposing us to market risk, include fluctuations in interest and currency exchange rates, equity and futures prices, changes in the implied volatility of interest rates, foreign exchange rates, equity and futures prices, and price deterioration or changes in value due to changes in market perception or actual credit quality of either the issuer or its country of origin. Accordingly, depending on the instruments or activities impacted, market risks can have wide ranging, complex adverse effects on our results from operations and our overall financial condition.

For a further discussion of market risk and our market risk management policies and procedures, see "Market Risk Management" in the MD&A.

**Merger risks.** There are significant risks and uncertainties associated with mergers. For example, we may fail to realize the growth opportunities and cost savings anticipated to be derived from the merger. In addition, it is possible that the integration process could result in the loss of key employees, or that the disruption of ongoing business from the merger could adversely affect our ability to maintain relationships with clients or suppliers. We have an active acquisition program and there is a risk that integration difficulties may cause us not to realize expected benefits from the transactions and affect our results. We will be subject to similar risks and difficulties in connection with future acquisitions, as well as decisions to downsize, sell or close units or otherwise change the business mix of the Corporation.

**Non-U.S. operations; trading in non-U.S. securities.** We do business throughout the world, including in developing regions of the world commonly known as emerging markets. Our businesses and revenues derived from non-U.S. operations are subject to risk of loss from currency fluctuations, social instability, changes in governmental policies or policies of central banks, expropriation, nationalization, confiscation of assets, unfavorable political and diplomatic developments and changes in legislation relating to non-U.S. ownership. We also invest in the securities of corporations located in non-U.S. jurisdictions, including emerging markets. Revenues from the trading of non-U.S. securities also may be subject to negative fluctuations as a result of the above factors. The impact of these fluctuations could be magnified, because generally non-U.S. trading markets, particularly in emerging market countries, are smaller, less liquid and more volatile than U.S. trading markets.

**Operational risks.** The potential for operational risk exposure exists throughout our organization. Integral to our performance is the continued efficacy of our technical systems, operational infrastructure, relationships with third parties and the vast array of associates and key executives in our day-to-day and ongoing operations. Failure by any or all of these resources subjects us to risks that may vary in size, scale and scope. This includes but is not limited to operational or technical failures, unlawful tampering with our technical systems, terrorist activities, ineffectiveness or exposure due to interruption in third party support, as well as the loss of key individuals or failure on the part of the key individuals to perform properly.

For further discussion of operating risks, see "Operational Risk Management" in the MD&A.

**Products and services.** Our business model is based on a diversified mix of businesses that provides a broad range of financial products and services, delivered through multiple distribution channels. Our success depends, in part, on our ability to adapt our products and services to evolving industry standards. There is increasing pressure by competition to provide products and services at lower prices. This can reduce our net interest margin and revenues from our fee-based products and services. In addition, the widespread adoption of new technologies, including internet services, could require us to incur substantial expenditures to modify or adapt our existing products and services. We might not be successful in developing and introducing new products and services, responding or adapting to changes in consumer spending and saving habits, achieving market acceptance of our products and services, or developing and maintaining loyal customers.

**Regulatory considerations.** Bank of America, the Banks and many of our nonbank subsidiaries are heavily regulated by bank regulatory agencies at the federal and state levels. This regulatory oversight is established to protect depositors, federal deposit insurance funds and the banking system as a whole, not security holders. Bank of America and its nonbanking subsidiaries are also heavily regulated by securities regulators, domestically and internationally. This regulation is designed to protect investors in securities we sell or underwrite. Congress and state legislatures and foreign, federal and state regulatory agencies continually review laws, regulations and policies for possible changes. Changes to statutes, regulations or regulatory policies, including interpretation or implementation of statutes, regulations or policies, could affect us in substantial and unpredictable ways including limiting the types of financial services and products we may offer and increasing the ability of nonbanks to offer competing financial services and products.

**Reputational risks.** Our ability to attract and retain customers and employees could be adversely affected to the extent our reputation is damaged. Our actual or perceived failure to address various issues could give rise to reputational risk that could cause harm to Bank of America and our business prospects. These issues include, but are not limited to, appropriately addressing potential conflicts of interest; legal and regulatory requirements; ethical issues; money-laundering; privacy; properly maintaining customer and associate personal information; record keeping; sales and trading practices; and the proper identification of the legal, reputational, credit, liquidity and market risks inherent in our products. Failure to appropriately address these issues could also give rise to additional legal risks, which, in turn, could increase the size and number of litigation claims and damages asserted or subject us to enforcement actions, fines and penalties and cause us to incur related costs and expenses.

**Risk management processes and strategies.** We seek to monitor and control our risk exposure through a variety of separate but complementary financial, credit, operational, compliance and legal reporting systems. While we employ a broad and diversified set of risk monitoring and risk mitigation techniques, those techniques and the judgments that accompany their application cannot anticipate every economic and finan-

cial outcome or the specifics and timing of such outcomes. Accordingly, our ability to successfully identify and manage risks facing us is an important factor that can significantly impact our results. For a further discussion of our risk management policies and procedures, see "Managing Risk" in the MD&A.

**Additional risks and uncertainties.** We are a diversified financial services company. In addition to banking, we provide investment, mortgage, investment banking, credit card and consumer finance services. Although we believe our diversity helps lessen the effect when downturns affect any one segment of our industry, it also means our earnings could be subject to different risks and uncertainties than the ones discussed herein. If any of the risks that we face actually occur, irrespective of whether those risks are described in this section or elsewhere in this report, our business, financial condition and operating results could be materially adversely affected.

## Item 1B. Unresolved Staff Comments

There are no unresolved written comments that were received from the Securities and Exchange Commission's staff 180 days or more before the end of Bank of America's fiscal year relating to our periodic or current reports filed under the Securities Exchange Act of 1934.

## Item 2. Properties

As of December 31, 2007, Bank of America's principal offices and primarily all of our business segments were located in the 60-story Bank of America Corporate Center in Charlotte, North Carolina, which is owned by one of our subsidiaries. We occupy approximately 592,000 square feet and lease approximately 609,000 square feet to third parties at market rates, which represents substantially all of the space in this facility. We occupy approximately 932,000 square feet of space at 100 Federal Street in Boston, Massachusetts, which is the headquarters for one of our primary business segments, *Global Wealth and Investment Management*. The 37-story building is owned by one of our subsidiaries which also leases approximately 321,000 square feet to third parties. We also lease or own a significant amount of space worldwide. As of December 31, 2007, Bank of America and our subsidiaries owned or leased approximately 25,200 locations in 41 states, the District of Columbia and more than 30 foreign countries.

## Item 3. Legal Proceedings

See "Litigation and Regulatory Matters" in *Note 13 – Commitments and Contingencies* of the Notes beginning on page 122 for Bank of America's litigation disclosure which is incorporated herein by reference.

## Item 4. Submission of Matters To A Vote of Security Holders

There were no matters submitted to a vote of stockholders during the quarter ended December 31, 2007.

## Item 4A. Executive Officers of The Registrant

Pursuant to the Instructions to Form 10-K and Item 401(b) of Regulation S-K, the name, age and position of each current executive officer of Bank of America are listed below along with such officer's business experience. Officers are appointed annually by the Board of Directors at the meeting of directors immediately following the annual meeting of stockholders.

Keith T. Banks, 52, President, Global Wealth and Investment Management. Mr. Banks was named to his present position in October 2007. From August 2000 to April 2004, he served as Chief Executive Officer and Chief Investment Officer of FleetBoston Financial Corporation's asset management organization; and from April 2004 to October 2007, he served as President and Chief Investment Officer of Columbia Management, Bank of America's asset management organization. He first became an officer in 1981. He also serves as President, Global Wealth and Investment Management and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

Amy Woods Brinkley, age 52, Chief Risk Officer. Ms. Brinkley was named to her present position in April 2002. From July 2001 to April 2002, she served as Chairman, Credit Policy and Deputy Corporate Risk Management Executive; and from August 1999 to July 2001, she served as President, Consumer Products. She first became an officer in 1979. She also serves as Chief Risk Officer and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

Barbara J. Desoer, age 55, Global Technology and Operations Executive. Ms. Desoer was named to her present position in August 2004. From July 2001 to August 2004, she served as President, Consumer Products; and from September 1999 to July 2001, she served as Director of Marketing. She first became an officer in 1977. She also serves as Global Technology and Operations Executive and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

Kenneth D. Lewis, age 60, Chairman, Chief Executive Officer and President. Mr. Lewis was named Chief Executive Officer in April 2001, President in July 2004 and Chairman in February 2005. From April 2001 to April 2004, he served as Chairman; from January 1999 to April 2004, he served as President; and from October 1999 to April 2001, he served as Chief Operating Officer. He first became an officer in 1971. Mr. Lewis also serves as a director of the Corporation and as Chairman, Chief Executive Officer, President and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

Liam E. McGee, age 53, President, Global Consumer and Small Business Banking. Mr. McGee was named to his present position in August 2004. From August 2001 to August 2004, he served as President, Global Consumer Banking; from August 2000 to August 2001, he served as President, Bank of America California; and from August 1998 to August 2000, he served as President, Southern California Region. He first became an officer in 1990. He also serves as President, Global Consumer and Small Business Banking and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

Brian T. Moynihan, age 48, President, Global Corporate and Investment Banking. Mr. Moynihan was named to his present position in October 2007. From April 2004 to October 2007, he served as President, Global Wealth and Investment Management. Previously he held the following positions at FleetBoston Financial Corporation: from 1999 to April 2004, he served as Executive Vice President with responsibility for Brokerage and Wealth Management from 2000, and Regional Commercial Financial Services and Investment Management from May 2003. He first became an officer in 1993. He also serves as President, Global Corporate and Investment Banking and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

Joe L. Price, age 47, Chief Financial Officer. Mr. Price was named to his present position in January 2007. From June 2003 to December 2006, he served as GCIB Risk Management Executive; from July 2002 to May 2003 he served as Senior Vice President Corporate Strategy and President, Consumer Special Assets; from November 1999 to July 2002 he

served as President, Consumer Finance; from August 1997 to October 1999 he served as Corporate Risk Evaluation Executive and General Auditor; from June 1995 to July 1997 he served as Controller; and from April 1993 to May 1995 he served as Accounting Policy and Finance Executive.

He first became an officer in 1993. He also serves as Chief Financial Officer and a director of Bank of America, N.A., FIA Card Services, N.A., LaSalle Bank, N.A., LaSalle Bank Midwest, N.A. and United States Trust Company, N.A.

# Part II

**Bank of America Corporation and Subsidiaries**

## Item 5. Market for Registrant's Common Equity and Related Stock Holder Matters

The principal market on which the Common Stock is traded is the New York Stock Exchange. The Common Stock is also listed on the London Stock Exchange, and certain shares are listed on the Tokyo Stock Exchange. The following table sets forth the high and low closing sales prices of the Common Stock on the New York Stock Exchange for the periods indicated:

| | Quarter | High | Low |
|---|---|---|---|
| 2006 | first | $ 47.08 | 43.09 |
| | second | 50.47 | 45.48 |
| | third | 53.57 | 47.98 |
| | fourth | 54.90 | 51.66 |
| 2007 | first | 54.05 | 49.46 |
| | second | 51.82 | 48.80 |
| | third | 51.87 | 47.00 |
| | fourth | 52.71 | 41.10 |

As of February 20, 2008, there were 263,761 registered shareholders of Common Stock. During 2006 and 2007, Bank of America paid dividends on the Common Stock on a quarterly basis. The following table sets forth dividends paid per share of Common Stock for the periods indicated:

| | Quarter | Dividend |
|---|---|---|
| 2006 | first | $ .50 |
| | second | .50 |
| | third | .56 |
| | fourth | .56 |
| 2007 | first | .56 |
| | second | .56 |
| | third | .64 |
| | fourth | .64 |

For additional information regarding the Corporation's ability to pay dividends, see the discussion under the heading "Government Supervision and Regulation – Distributions" in this report and *Note 15 – Regulatory Requirements and Restrictions* of the Notes on page 127 which is incorporated herein by reference.

For information on the Corporation's equity compensation plans, see Item 12 on page 153 of this report and *Note 17 – Stock-Based Compensation Plans* of the Notes on page 133, both of which are incorporated herein by reference.

The table below presents share repurchase activity for each quarterly period in 2007, each month within the fourth quarter of 2007 and the year ended December 31, 2007, including total common shares repurchased under announced programs, weighted average per share price and the remaining buy back authority under announced programs. For additional information on shareholders' equity and earnings per common share, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* of the Notes on page 125 which is incorporated herein by reference.

| (Dollars in millions, except per share information; shares in thousands) | Common Shares Repurchased [1] | Weighted Average Per Share Price | Remaining Buyback Authority [2] Amounts | Remaining Buyback Authority [2] Shares |
|---|---|---|---|---|
| Three months ended March 31, 2007 | 48,000 | $ 52.23 | $ 16,366 | 215,088 |
| Three months ended June 30, 2007 | 13,450 | 50.91 | 15,681 | 201,638 |
| Three months ended September 30, 2007 | 9,580 | 49.47 | 13,605 | 192,058 |
| October 1-31, 2007 | 1,000 | 47.35 | 13,558 | 191,058 |
| November 1-30, 2007 | 1,700 | 45.98 | 13,480 | 189,358 |
| December 1-31, 2007 | – | – | 13,480 | 189,358 |
| Three months ended December 31, 2007 | 2,700 | 46.49 | | |
| Year ended December 31, 2007 | 73,730 | 51.42 | | |

(1) Reduced shareholders' equity by $3.8 billion and increased diluted earnings per common share by approximately $0.02 in 2007. These repurchases were partially offset by the issuance of approximately 53.5 million shares of common stock under employee plans, which increased shareholders' equity by $2.5 billion, net of $10 million of deferred compensation related to restricted stock awards, and decreased diluted earnings per common share by approximately $0.01 in 2007.

(2) On January 24, 2007, the Board of Directors (the Board) authorized a stock repurchase program of up to 200 million shares of the Corporation's common stock at an aggregate cost not to exceed $14.0 billion and is limited to a period of 12 to 18 months. On April 26, 2006, the Board authorized a stock repurchase program of up to 200 million shares of the Corporation's common stock at an aggregate cost not to exceed $12.0 billion and to be completed within a period of 12 to 18 months. This repurchase plan was completed during the third quarter of 2007.

The Corporation did not have any unregistered sales of its equity securities in fiscal year 2007.

## Item 6. Selected Financial Data

See Table 5 in the MD&A on page 16 and Table XII of the Statistical Tables on page 82 which are incorporated herein by reference.

# Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations



**Throughout the MD&A, we use certain acronyms and abbreviations which are defined in the Glossary beginning on page 85.**

# Management's Discussion and Analysis of Financial Condition and Results of Operations

**Bank of America Corporation and Subsidiaries**

*This report contains certain statements that are forward-looking within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions that are difficult to predict. Actual outcomes and results may differ materially from those expressed in, or implied by, our forward-looking statements. Words such as "expects," "anticipates," "believes," "estimates" and other similar expressions or future or conditional verbs such as "will," "should," "would" and "could" are intended to identify such forward-looking statements. Readers of the Annual Report of Bank of America Corporation and its subsidiaries (the Corporation) should not rely solely on the forward-looking statements and should consider all uncertainties and risks throughout this report as well as those discussed under Item 1A. "Risk Factors." The statements are representative only as of the date they are made, and the Corporation undertakes no obligation to update any forward-looking statement.*

*Possible events or factors that could cause results or performance to differ materially from those expressed in our forward-looking statements include the following: changes in general economic conditions and economic conditions in the geographic regions and industries in which the Corporation operates which may affect, among other things, the level of nonperforming assets, charge-offs and provision expense; changes in the interest rate environment and market liquidity which may reduce interest margins, impact funding sources and affect the ability to originate and distribute financial products in the primary and secondary markets; changes in foreign exchange rates; adverse movements and volatility in debt and equity capital markets; changes in market rates and prices which may adversely impact the value of financial products including securities, loans, deposits, debt and derivative financial instruments, and other similar financial instruments; political conditions and related actions by the United States abroad which may adversely affect the Corporation's businesses and economic conditions as a whole; liabilities resulting from litigation and regulatory investigations, including costs, expenses, settlements and judgments; changes in domestic or foreign tax laws, rules and regulations as well as court, Internal Revenue Service or other governmental agencies' interpretations thereof; various monetary and fiscal policies and regulations, including those determined by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of Currency, the Federal Deposit Insurance Corporation, state regulators and the Financial Services Authority; changes in accounting standards, rules and interpretations; competition with other local, regional and international banks, thrifts, credit unions and other nonbank financial institutions; ability to grow core businesses; ability to develop and introduce new banking-related products, services and enhancements, and gain market acceptance of such products; mergers and acquisitions and their integration into the Corporation; decisions to downsize, sell or close units or otherwise change the business mix of the Corporation; and management's ability to manage these and other risks.*

The Corporation, headquartered in Charlotte, North Carolina, operates in 32 states, the District of Columbia and more than 30 foreign countries. The Corporation provides a diversified range of banking and nonbanking financial services and products domestically and internationally through three business segments: *Global Consumer and Small Business Banking (GCSBB)*, *Global Corporate and Investment Banking (GCIB)*, and *Global Wealth and Investment Management (GWIM)*.

At December 31, 2007, the Corporation had $1.7 trillion in assets and approximately 210,000 full-time equivalent employees. Notes to Consolidated Financial Statements referred to in the MD&A are incorporated by reference into the MD&A. Certain prior period amounts have been reclassified to conform to current period presentation.

## Recent Events

### 2007 Market Dislocation

During the second half of 2007, extreme dislocations emerged in the financial markets, including the leveraged finance, subprime mortgage, and commercial paper markets. These dislocations were further compounded by the decoupling of typical correlations in the various markets in which we do business. Furthermore, in the fourth quarter of 2007, the credit ratings of certain structured securities (e.g., CDOs) were downgraded which among other things triggered further widening of credit spreads for these types of securities. We have been an active participant in the CDO market and maintain ongoing exposure to these securities and have incurred losses associated with these exposures. For more information regarding *Capital Markets and Advisory Services (CMAS)* results including CDOs, leveraged finance and related ongoing exposure, see the *CMAS* discussion beginning on page 27.

In addition, the market dislocation impacted the credit ratings of structured investment vehicles (SIVs) in the market place. *GWIM* manages certain cash funds which have invested in SIV transactions. We have entered into capital commitments to support these funds and have incurred losses associated with these commitments including losses on certain securities purchased earlier from these funds at fair value. For more information on our cash fund support, see the *GWIM* discussion beginning on page 31.

In 2008, we continue to have exposure to those items noted above, and depending upon market conditions, we may experience additional losses.

### Current Business Environment

The financial conditions mentioned above continue to negatively affect the economy and the financial services sector in 2008. The slowdown of the economy, significant decline in consumer real estate prices, and the continued and rapid deterioration in the housing sector have affected our home equity portfolio and will, in all likelihood, impact other areas of our consumer portfolio. We expect that certain industry sectors, in particular those that are dependent on the housing sector, and certain geographic regions will experience further stress. For more information on the impact of the current business environment on credit, see the Credit Risk Management discussion beginning on page 44.

The subprime mortgage dislocation has also impacted the ratings of certain monoline insurance providers (monolines) which has affected the

pricing of certain municipal securities and the liquidity of the short term public finance markets. We have direct and indirect exposure to monolines and as a result are continuing to monitor this exposure as the markets evolve. For more information related to our monoline exposure, see the Industry Concentrations discussion on page 54.

The above conditions together with uncertainty in energy costs and the overall economic slowdown, which may ultimately lead to recessionary conditions, will affect other markets in which we do business and will adversely impact our results in 2008. The degree of the impact is dependent upon the duration and severity of the aforementioned conditions in this rapidly changing business and interest rate environment. For more information on interest rate sensitivity, see the Interest Rate Risk Management for Nontrading Activities discussion on page 65.

### Other Recent Events

In January 2008, we announced changes in our *CMAS* business within *GCIB* which better align the strategy of this business with *GCIB's* broader integrated platform. We will continue to provide corporate, commercial and sponsored clients with debt and equity capital raising services, strategic advice, and a full range of corporate banking capabilities. However, we will reduce activities in certain structured products (e.g., CDOs) and will resize the international platform to emphasize debt, cash management, and selected trading services, including rates and foreign exchange. This realignment will result in the reduction of 650 front office personnel with additional infrastructure headcount reduction to follow. We also plan to sell our equity prime brokerage business. This is in addition to our announcement in October 2007 to eliminate approximately 3,000 positions within various businesses, which includes reductions in *GCIB* as part of our *GCIB* business strategic review to enhance the operating platform, reductions in the wholesale mortgage-related business included in *GCSBB* and reductions in other related infrastructure positions.

In August of 2007, we made a $2.0 billion investment in Countrywide Financial Corporation (Countrywide), the largest mortgage lender in the U.S., in the form of Series B non-voting convertible preferred securities yielding 7.25 percent. In January 2008, we announced a definitive agreement to purchase all outstanding shares of Countrywide for approximately $4.0 billion in common stock. The acquisition would make us the nation's leading mortgage lender and loan servicer. The closing of this transaction is subject to closing conditions and regulatory approvals and is expected to close early in the third quarter of 2008.

In January 2008, the Board of Directors (the Board) declared a regular quarterly cash dividend on common stock of $0.64 per share, payable on March 28, 2008 to common shareholders of record on March 7, 2008. In October 2007, the Board declared a regular quarterly cash dividend on common stock of $0.64 per share which was paid on December 28, 2007 to common shareholders of record on December 7, 2007. In July 2007, the Board increased the quarterly cash dividend on common stock 14 percent from $0.56 to $0.64 per share.

In January 2008, we issued 240 thousand shares of Bank of America Corporation Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K with a par value of $0.01 per share for $6.0 billion. The fixed rate is 8.00 percent through January 29, 2018 and then adjusts to three-month LIBOR plus 363 basis points (bps) thereafter. In addition, we issued 6.9 million shares of Bank of America Corporation 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L with a par value of $0.01 per share for $6.9 billion. In November and December of 2007, we issued 41 thousand shares of Bank of America Corporation 7.25% Non-Cumulative Preferred Stock, Series J with a par value of $0.01 per share for $1.0 billion. In September 2007, we issued 22 thousand shares of Bank of America Corporation 6.625% Non-Cumulative Preferred Stock, Series I with a par value of $0.01 per share for $550 million.

In December 2007, we completed the sale of Marsico Capital Management, LLC (Marsico), a 100 percent owned investment manager, to Thomas F. Marsico, founder and chief executive officer of Marsico, and realized a pre-tax gain of approximately $1.5 billion.

## Merger Overview

On October 1, 2007, we acquired all the outstanding shares of ABN AMRO North America Holding Company, parent of LaSalle Bank Corporation (LaSalle), for $21.0 billion in cash. With this acquisition, we significantly expanded our presence in metropolitan Chicago, Illinois and Michigan, by adding LaSalle's commercial banking clients, retail customers and banking centers.

On July 1, 2007, we acquired all the outstanding shares of U.S. Trust Corporation for $3.3 billion in cash. U.S. Trust Corporation focuses exclusively on managing wealth for high net-worth and ultra high net-worth individuals and families. The acquisition significantly increases the size and capabilities of our wealth management business and positions it as one of the largest financial services companies managing private wealth in the U.S.

On January 1, 2006, we acquired 100 percent of the outstanding stock of MBNA Corporation (MBNA) for $34.6 billion. The acquisition expanded our customer base and opportunity to deepen customer relationships across the full breadth of the Corporation by delivering innovative deposit, lending and investment products and services to MBNA's customer base. Additionally, the acquisition allowed us to significantly increase our affinity relationships through MBNA's credit card operations and sell these credit cards through our delivery channels including the retail branch network.

For more information related to these mergers, see *Note 2 – Merger and Restructuring Activity* to the Corporation's Consolidated Financial Statements.

## 2007 Economic Overview

In 2007, notwithstanding significant declines in housing, soaring oil prices and tremendous turmoil in financial markets, real Gross Domestic Product (GDP) grew 2.2 percent. Growth softened significantly in the fourth quarter. Consumer spending remained resilient, as increases in employment and wages offset the negative influences of declining home prices. Fueled by another year of strong exports and a slowdown in imports, the U.S. trade deficit fell sharply, lifting U.S. domestic production. However, declines in residential construction subtracted nearly a full percentage point from GDP growth, more than offsetting the boost provided by international trade. Corporate profits declined modestly in the second half of the year from all-time record highs. Global economies recorded their fourth consecutive year of rapid expansion, driven by sustained robust growth in China, India and other emerging market economies. Growth in Europe and Japan moderated in the second half of the year. Higher energy prices pushed up inflation throughout the year. However, excluding food and energy, core inflation receded in the second half of the year, in lagged response to the deceleration of nominal spending growth. A sharp rise in defaults on subprime mortgages and worries about the potential fallout from the faltering housing and subprime mortgage markets triggered financial market turbulence beginning in the summer. A dramatic repricing of credit risk and unprecedented capital losses stemming from sharp declines in the value of structured credit products based on subprime debt deepened the financial crisis. In response, the FRB eased short-term interest rates, reduced the discount rate relative to its federal funds rate target and in December created a new facility for auctioning short-term funds through the discount window of the Federal Reserve Banks. The fourth quarter ended on a weak note, as consumer spending moderated, businesses reduced production, employment slowed and the unemployment rate rose.

## Performance Overview

Net income was $15.0 billion, or $3.30 per diluted common share in 2007, decreases of 29 percent and 28 percent from $21.1 billion, or $4.59 per diluted common share in 2006.

### Table 1 Business Segment Total Revenue and Net Income

| | Total Revenue (1) | | Net Income | |
|---|---|---|---|---|
| (Dollars in millions) | **2007** | 2006 | **2007** | 2006 |
| Global Consumer and Small Business Banking (2) | **$47,682** | $44,926 | **$ 9,430** | $11,378 |
| Global Corporate and Investment Banking | **13,417** | 21,161 | **538** | 6,032 |
| Global Wealth and Investment Management | **7,923** | 7,357 | **2,095** | 2,223 |
| All Other (2) | **(954)** | 360 | **2,919** | 1,500 |
| Total FTE basis | **68,068** | 73,804 | **14,982** | 21,133 |
| FTE adjustment | **(1,749)** | (1,224) | **–** | – |
| **Total Consolidated** | **$66,319** | $72,580 | **$14,982** | $21,133 |

(1) Total revenue is net of interest expense, and is on a FTE basis for the business segments and *All Other*. For more information on a FTE basis, see Supplemental Financial Data beginning on page 17.
(2) *GCSBB* is presented on a managed basis with a corresponding offset recorded in *All Other*.

### Global Consumer and Small Business Banking

Net income decreased $1.9 billion, or 17 percent, to $9.4 billion in 2007 compared to 2006. Managed net revenue rose $2.8 billion, or six percent, to $47.7 billion driven by increases in both noninterest and net interest income. Noninterest income increased $2.1 billion, or 13 percent, to $18.9 billion driven by higher card, service charge and mortgage banking income. Net interest income increased $612 million, or two percent, to $28.8 billion due to the impacts of organic growth and the LaSalle acquisition on average loans and leases, and deposits. These increases in revenues were more than offset by the increase in provision for credit losses of $4.4 billion, or 51 percent, to $12.9 billion. This increase reflects portfolio growth and seasoning, increases from the unusually low loss levels experienced in 2006 post bankruptcy reform, the impact of housing market weakness on the home equity portfolio, and growth and deterioration in the small business portfolio. Noninterest expense increased $1.7 billion, or nine percent, mainly due to increases in personnel and technology-related costs. For more information on *GCSBB*, see page 21.

### Global Corporate and Investment Banking

Net income decreased $5.5 billion, or 91 percent, to $538 million, and total revenue decreased $7.7 billion, or 37 percent, to $13.4 billion in 2007 compared to 2006. These decreases were driven by $5.6 billion in losses resulting from our CDO exposure and other trading losses. These decreases were partially offset by an increase in net interest income, primarily market-based, of $1.3 billion, or 14 percent. The provision for credit losses increased $643 million driven by the absence of 2006 releases of reserves, higher net charge-offs and an increase in reserves during 2007 reflecting the impact of the weak housing market particularly on the homebuilder loan portfolio. Noninterest expense increased $347 million, or three percent, mainly due to an increase in expenses related to the addition of LaSalle partially offset by a reduction in *CMAS* performance-based incentive compensation. For more information on *GCIB*, see page 25.

### Global Wealth and Investment Management

Net income decreased $128 million, or six percent, to $2.1 billion in 2007 compared to 2006 as an increase in noninterest expense was partially offset by an increase in total revenue. Total revenue grew $566 million, or eight percent, to $7.9 billion driven by higher noninterest income of $380 million. Noninterest income increased due to growth in investment and brokerage services income of $827 million. The increase was due to higher AUM primarily attributable to the impact of the U.S. Trust Corporation acquisition, net client inflows and favorable market conditions combined with an increase in brokerage activity. This increase was partially offset by a decrease in all other income of $447 million due to losses of $382 million associated with the support provided to certain cash funds. Noninterest expense increased $768 million driven by the addition of U.S. Trust Corporation, higher revenue-related expenses and marketing costs.

AUM increased $100.6 billion to $643.5 billion at December 31, 2007 compared to December 31, 2006 reflecting the acquisition of U.S. Trust Corporation, net inflows and market appreciation which was partially offset by the sale of Marsico. For more information on *GWIM*, see page 31.

### All Other

Net income increased $1.4 billion to $2.9 billion in 2007 compared to 2006. Excluding the securitization offset, total revenue increased $283 million resulting from an increase in noninterest income of $1.6 billion partially offset by a decrease in net interest income of $1.3 billion. The increase in noninterest income was driven by the $1.5 billion gain from the sale of Marsico and an increase of $873 million in equity investment income, partially offset by losses of $394 million on securities after they were purchased from certain cash funds managed within *GWIM* at fair value. In addition, net interest income, noninterest income and noninterest expense decreased due to certain international operations that were sold in late 2006 and the beginning of 2007. Merger and restructuring charges decreased $395 million. For more information on *All Other,* see page 34.

## Financial Highlights

### Net Interest Income

Net interest income on a FTE basis increased $367 million to $36.2 billion for 2007 compared to 2006. The increase was driven by the contribution from market-based net interest income related to our *CMAS* business, higher levels of consumer and commercial loans, the impact of the LaSalle acquisition, and a one-time tax benefit from restructuring our existing non-U.S. based commercial aircraft leasing business. These increases were partially offset by spread compression, increased hedge costs and the impact of divestitures of certain foreign operations in late 2006 and the beginning of 2007. The net interest yield on a FTE basis decreased 22 bps to 2.60 percent for 2007 compared to 2006, and was driven by spread compression, and the impact of the funding of the LaSalle merger, partially offset by an improvement in market-based yield

related to our *CMAS* business. For more information on net interest income on a FTE basis, see Tables I and II beginning on page 73.

## Noninterest Income

**Table 2 Noninterest Income**

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| Card income | **$14,077** | $14,290 |
| Service charges | **8,908** | 8,224 |
| Investment and brokerage services | **5,147** | 4,456 |
| Investment banking income | **2,345** | 2,317 |
| Equity investment income | **4,064** | 3,189 |
| Trading account profits (losses) | **(5,131)** | 3,166 |
| Mortgage banking income | **902** | 541 |
| Gains (losses) on sales of debt securities | **180** | (443) |
| Other income | **1,394** | 2,249 |
| **Total noninterest income** | **$31,886** | $37,989 |

Noninterest income decreased $6.1 billion to $31.9 billion in 2007 compared to 2006.

- Card income on a held basis decreased $213 million primarily due to the impact of higher credit losses on excess servicing income resulting from seasoning in the securitized portfolio and increases from the unusually low loss levels experienced in 2006 post bankruptcy reform. This decrease was partially offset by increases in cash advance fees and debit card interchange income.
- Service charges grew $684 million resulting from new account growth in deposit accounts and the beneficial impact of the LaSalle merger.
- Investment and brokerage services increased $691 million due primarily to organic growth in AUM, brokerage activity and the U.S. Trust Corporation acquisition.
- Equity investment income increased $875 million driven by the $600 million gain on the sale of private equity funds to Conversus Capital and the increase in income received on strategic investments.
- Trading account profits (losses) were $(5.1) billion in 2007 compared to $3.2 billion in 2006. The decrease in trading account profits (losses) was driven by losses of $4.9 billion, out of a total of $5.6 billion in losses, associated with CDO exposure and the impact of the market disruptions on various parts of our *CMAS* businesses in the second half of the year. For more information on the impact of these events refer to the *GCIB* discussion beginning on page 25.
- Mortgage banking income increased $361 million due to the favorable performance of the MSRs partially offset by the impact of widening credit spreads on income from mortgage production. Mortgage banking also benefited from the adoption of the fair value option.
- Gains (losses) on sales of debt securities were $180 million for 2007 compared to $(443) million for 2006. The losses in the prior year were largely a result of the sale of $43.7 billion of mortgage-backed debt securities in the third quarter of 2006.
- Other income decreased $855 million as the $1.5 billion gain from the sale of Marsico was more than offset by fourth quarter losses of $752 million, out of a total of $5.6 billion in losses associated with our CDO exposure, losses of $394 million on securities after they were purchased from certain cash funds at fair value, losses of $382 million associated with the support provided to certain cash funds managed within *GWIM*, and the absence of a $720 million gain on the sale of our Brazilian operations recognized in 2006.

## Provision for Credit Losses

The provision for credit losses increased $3.4 billion to $8.4 billion in 2007 compared to 2006 due to higher net charge-offs, reserve additions and the absence of 2006 commercial reserve releases. Higher net charge-offs of $1.9 billion were primarily driven by seasoning of the consumer portfolios, seasoning and deterioration in the small business and home equity portfolios as well as lower commercial recoveries. Reserves were increased in the home equity and homebuilder loan portfolios on continued weakness in the housing market. Reserves were also added for small business portfolio seasoning and deterioration as well as growth in the consumer portfolios. These increases were partially offset by reductions in reserves from the sale of the Argentina portfolio in the first quarter of 2007. For more information on credit quality, see Provision for Credit Losses beginning on page 58.

## Noninterest Expense

**Table 3 Noninterest Expense**

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| Personnel | **$18,753** | $18,211 |
| Occupancy | **3,038** | 2,826 |
| Equipment | **1,391** | 1,329 |
| Marketing | **2,356** | 2,336 |
| Professional fees | **1,174** | 1,078 |
| Amortization of intangibles | **1,676** | 1,755 |
| Data processing | **1,962** | 1,732 |
| Telecommunications | **1,013** | 945 |
| Other general operating | **5,237** | 4,580 |
| Merger and restructuring charges | **410** | 805 |
| **Total noninterest expense** | **$37,010** | $35,597 |

Noninterest expense increased $1.4 billion to $37.0 billion in 2007 compared to 2006, primarily due to increases in personnel expense and other general operating expense partially offset by a decrease in merger and restructuring charges. Personnel expense increased $542 million due to the acquisitions of LaSalle and U.S. Trust Corporation partially offset by a reduction in performance-based incentive compensation within *GCIB*. Other general operating expense increased by $657 million and was impacted by our acquisitions and various other items including litigation- related costs. Merger and restructuring charges decreased $395 million mainly due to the declining integration costs associated with the MBNA acquisition partially offset by costs associated with the integration of U.S. Trust Corporation and LaSalle.

## Income Tax Expense

Income tax expense was $5.9 billion in 2007 compared to $10.8 billion in 2006, resulting in an effective tax rate of 28.4 percent in 2007 and 33.9 percent in 2006. The decrease in the effective tax rate was primarily due to lower pre-tax income, a one-time tax benefit from restructuring our existing non-U.S. based commercial aircraft leasing business and an increase in the relative percentage of our earnings taxed solely outside of the U.S. In addition, the 2007 effective tax rate excludes the impact of a $175 million charge in 2006 resulting from a change in tax legislation. For more information on income tax expense, see *Note 18 – Income Taxes* to the Consolidated Financial Statements.

## Balance Sheet Analysis

### Table 4 Selected Balance Sheet Data

| (Dollars in millions) | December 31 2007 | December 31 2006 | Average Balance 2007 | Average Balance 2006 |
|---|---|---|---|---|
| **Assets** | | | | |
| Federal funds sold and securities purchased under agreements to resell | **$ 129,552** | $ 135,478 | **$ 155,828** | $ 175,334 |
| Trading account assets | **162,064** | 153,052 | **187,287** | 145,321 |
| Debt securities | **214,056** | 192,846 | **186,466** | 225,219 |
| Loans and leases, net of allowance for loan and lease losses | **864,756** | 697,474 | **766,329** | 643,259 |
| All other assets | **345,318** | 280,887 | **306,163** | 277,548 |
| **Total assets** | **$ 1,715,746** | $ 1,459,737 | **$ 1,602,073** | $ 1,466,681 |
| **Liabilities** | | | | |
| Deposits | **$ 805,177** | $ 693,497 | **$ 717,182** | $ 672,995 |
| Federal funds purchased and securities sold under agreements to repurchase | **221,435** | 217,527 | **253,481** | 286,903 |
| Trading account liabilities | **77,342** | 67,670 | **82,721** | 64,689 |
| Commercial paper and other short-term borrowings | **191,089** | 141,300 | **171,333** | 124,229 |
| Long-term debt | **197,508** | 146,000 | **169,855** | 130,124 |
| All other liabilities | **76,392** | 58,471 | **70,839** | 57,278 |
| **Total liabilities** | **1,568,943** | 1,324,465 | **1,465,411** | 1,336,218 |
| **Shareholders' equity** | **146,803** | 135,272 | **136,662** | 130,463 |
| **Total liabilities and shareholders' equity** | **$ 1,715,746** | $ 1,459,737 | **$ 1,602,073** | $ 1,466,681 |

At December 31, 2007, total assets were $1.7 trillion, an increase of $256.0 billion, or 18 percent, from December 31, 2006. Growth in period end total assets was due to an increase in loans and leases, AFS debt securities and all other assets. The increase in loans and leases was attributable to organic growth and the LaSalle merger. The increases in AFS debt securities and all other assets were driven by the LaSalle merger. The fair value of the assets acquired in the LaSalle merger was approximately $120 billion. All other assets also increased due to higher loans held-for-sale and the fair market value adjustment associated with our investment in China Construction Bank (CCB).

Average total assets in 2007 increased $135.4 billion, or nine percent, from 2006 primarily due to the increase in average loans and leases driven by the same factors as described above. Average trading account assets also increased during 2007 reflective of growth in the underlying business in the first half of 2007. These increases were partially offset by a decrease in AFS debt securities. The acquisition of LaSalle occurred in the fourth quarter of 2007 minimizing its impact on the average balance sheet.

At December 31, 2007, total liabilities were $1.6 trillion, an increase of $244.5 billion, or 18 percent, from December 31, 2006. Average total liabilities in 2007 increased $129.2 billion, or 10 percent, from 2006. The increase in period end and average total liabilities was attributable to increases in deposits and long-term debt, which were utilized to support the growth in overall assets. In addition, the increase in period end and average total liabilities was due to the funding of, and the assumption of liabilities associated with, the LaSalle merger. The fair value of the liabilities assumed in the LaSalle merger was approximately $100 billion.

### Trading Account Assets

Trading account assets consist primarily of fixed income securities (including government and corporate debt), equity and convertible instruments. The average balance increased $42.0 billion to $187.3 billion in 2007, due to growth in client-driven market-making activities in interest rate, credit and equity products but was negatively impacted by the market disruptions in the second half of 2007. For additional information, see Market Risk Management beginning on page 61.

### Debt Securities

AFS debt securities include fixed income securities such as mortgage-backed securities, foreign debt, ABS, municipal debt, U.S. Government agencies and corporate debt. We use the AFS portfolio primarily to manage interest rate risk and liquidity risk and to take advantage of market conditions that create more economically attractive returns on these investments. The average balance in the debt securities portfolio decreased $38.8 billion from 2006 due to the third quarter 2006 sale of $43.7 billion of mortgage-backed securities as well as maturities and paydowns. The period end balances were also impacted by the addition of LaSalle. For additional information on our AFS debt securities portfolio, see Market Risk Management – Securities on page 66 and *Note 5 – Securities* to the Consolidated Financial Statements.

### Loans and Leases, Net of Allowance for Loan and Lease Losses

Average loans and leases, net of allowance for loan and lease losses, was $766.3 billion in 2007, an increase of 19 percent from 2006. The average consumer loan and lease portfolio increased $88.3 billion primarily due to higher retained mortgage production. The average commercial loan and lease portfolio increased $35.4 billion primarily due to organic growth. The average commercial and, to a lesser extent, consumer loans and leases increased due to the addition of loans acquired as a result of the LaSalle merger. For a more detailed discussion of the loan portfolio and the allowance for credit losses, see Credit Risk Management beginning on page 44, *Note 6 – Outstanding Loans and Leases* and *Note 7 – Allowance for Credit Losses* to the Consolidated Financial Statements.

### All Other Assets

Period end all other assets increased $64.4 billion at December 31, 2007, an increase of 23 percent from December 31, 2006, driven primarily by an increase of $15.9 billion in loans held-for-sale and a pre-tax $13.4 billion fair value adjustment associated with our CCB investment. Additionally, the increase in all other assets was impacted by the LaSalle merger.

### Deposits

Average deposits increased $44.2 billion to $717.2 billion in 2007 compared to 2006 due to a $31.3 billion increase in average domestic interest-bearing deposits and a $16.6 billion increase in average foreign interest-bearing deposits. We categorize our deposits as core or market-based deposits. Core deposits are generally customer-based and represent a stable, low-cost funding source that usually reacts more slowly to interest rate changes than market-based deposits. Core deposits include savings, NOW and money market accounts, consumer CDs and IRAs, and noninterest-bearing deposits. Core deposits exclude negotiable CDs, public funds, other domestic time deposits and foreign interest-bearing deposits. Average core deposits increased $19.3 billion to $593.9 billion in 2007, a three percent increase from the prior year. The increase was attributable to growth in our average consumer CDs and IRAs due to a shift from noninterest-bearing and lower yielding deposits to our higher yielding CDs. Average market-based deposit funding increased $24.9 billion to $123.3 billion in 2007 compared to 2006 due to increases of $16.6 billion in foreign interest-bearing deposits and $8.4 billion in negotiable CDs, public funds and other time deposits related to funding of growth in core and market-based assets. The increase in deposits was also impacted by the assumption of deposits, primarily money market, consumer CDs, and other domestic time deposits associated with the LaSalle merger.

### Trading Account Liabilities

Trading account liabilities consist primarily of short positions in fixed income securities (including government and corporate debt), equity and convertible instruments. The average balance increased $18.0 billion to $82.7 billion in 2007, which was due to growth in client-driven market- making activities in equity products, partially offset by a reduction in usage targets for a variety of client activities.

### Commercial Paper and Other Short-term Borrowings

Commercial paper and other short-term borrowings provide a funding source to supplement deposits in our ALM strategy. The average balance increased $47.1 billion to $171.3 billion in 2007, mainly due to increased commercial paper and Federal Home Loan Bank advances to fund core asset growth, primarily in the ALM portfolio and the funding of the LaSalle acquisition.

### Long-term Debt

Average long-term debt increased $39.7 billion to $169.9 billion. The increase resulted from the funding of core asset growth, and the funding of, and assumption of liabilities associated with, the LaSalle merger. For additional information, see *Note 12 – Short-term Borrowings and Long-term Debt* to the Consolidated Financial Statements.

### Shareholders' Equity

Period end and average shareholders' equity increased $11.5 billion and $6.2 billion due to net income, increased net gains in accumulated OCI, including an $8.4 billion, net-of-tax, fair value adjustment relating to our investment in CCB, common stock issued in connection with employee benefit plans, and preferred stock issued. These increases were partially offset by dividend payments, share repurchases and the adoption of certain new accounting standards.

## Table 5 Five Year Summary of Selected Financial Data

| (Dollars in millions, except per share information) | 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| **Income statement** | | | | | |
| Net interest income | **$ 34,433** | $ 34,591 | $ 30,737 | $ 27,960 | $ 20,505 |
| Noninterest income | **31,886** | 37,989 | 26,438 | 22,729 | 18,270 |
| Total revenue, net of interest expense | **66,319** | 72,580 | 57,175 | 50,689 | 38,775 |
| Provision for credit losses | **8,385** | 5,010 | 4,014 | 2,769 | 2,839 |
| Noninterest expense, before merger and restructuring charges | **36,600** | 34,792 | 28,269 | 26,394 | 20,155 |
| Merger and restructuring charges | **410** | 805 | 412 | 618 | – |
| Income before income taxes | **20,924** | 31,973 | 24,480 | 20,908 | 15,781 |
| Income tax expense | **5,942** | 10,840 | 8,015 | 6,961 | 5,019 |
| Net income | **14,982** | 21,133 | 16,465 | 13,947 | 10,762 |
| Average common shares issued and outstanding (in thousands) | **4,423,579** | 4,526,637 | 4,008,688 | 3,758,507 | 2,973,407 |
| Average diluted common shares issued and outstanding (in thousands) | **4,480,254** | 4,595,896 | 4,068,140 | 3,823,943 | 3,030,356 |
| **Performance ratios** | | | | | |
| Return on average assets | **0.94%** | 1.44% | 1.30% | 1.34% | 1.44% |
| Return on average common shareholders' equity | **11.08** | 16.27 | 16.51 | 16.47 | 21.50 |
| Return on average tangible shareholders' equity [1] | **22.25** | 32.80 | 30.19 | 28.93 | 27.84 |
| Total ending equity to total ending assets | **8.56** | 9.27 | 7.86 | 9.03 | 6.76 |
| Total average equity to total average assets | **8.53** | 8.90 | 7.86 | 8.12 | 6.69 |
| Dividend payout | **72.26** | 45.66 | 46.61 | 46.31 | 39.76 |
| **Per common share data** | | | | | |
| Earnings | **$ 3.35** | $ 4.66 | $ 4.10 | $ 3.71 | $ 3.62 |
| Diluted earnings | **3.30** | 4.59 | 4.04 | 3.64 | 3.55 |
| Dividends paid | **2.40** | 2.12 | 1.90 | 1.70 | 1.44 |
| Book value | **32.09** | 29.70 | 25.32 | 24.70 | 16.86 |
| **Market price per share of common stock** | | | | | |
| Closing | **$ 41.26** | $ 53.39 | $ 46.15 | $ 46.99 | $ 40.22 |
| High closing | **54.05** | 54.90 | 47.08 | 47.44 | 41.77 |
| Low closing | **41.10** | 43.09 | 41.57 | 38.96 | 32.82 |
| **Market capitalization** | **$ 183,107** | $ 238,021 | $ 184,586 | $ 190,147 | $ 115,926 |
| **Average balance sheet** | | | | | |
| Total loans and leases | **$ 776,154** | $ 652,417 | $ 537,218 | $ 472,617 | $ 356,220 |
| Total assets | **1,602,073** | 1,466,681 | 1,269,892 | 1,044,631 | 749,104 |
| Total deposits | **717,182** | 672,995 | 632,432 | 551,559 | 406,233 |
| Long-term debt | **169,855** | 130,124 | 97,709 | 92,303 | 67,077 |
| Common shareholders' equity | **133,555** | 129,773 | 99,590 | 84,584 | 50,035 |
| Total shareholders' equity | **136,662** | 130,463 | 99,861 | 84,815 | 50,091 |
| **Asset Quality** | | | | | |
| Allowance for credit losses [2] | **$ 12,106** | $ 9,413 | $ 8,440 | $ 9,028 | $ 6,579 |
| Nonperforming assets measured at historical cost | **5,948** | 1,856 | 1,603 | 2,455 | 3,021 |
| Allowance for loan and lease losses as a percentage of total loans and leases outstanding measured at historical cost [3] | **1.33%** | 1.28% | 1.40% | 1.65% | 1.66% |
| Allowance for loan and lease losses as a percentage of total nonperforming loans and leases measured at historical cost | **207** | 505 | 532 | 390 | 215 |
| Net charge-offs | **$ 6,480** | $ 4,539 | $ 4,562 | $ 3,113 | $ 3,106 |
| Net charge-offs as a percentage of average loans and leases outstanding measured at historical cost [3] | **0.84%** | 0.70% | 0.85% | 0.66% | 0.87% |
| Nonperforming loans and leases as a percentage of total loans and leases outstanding measured at historical cost [3] | **0.64** | 0.25 | 0.26 | 0.42 | 0.77 |
| Nonperforming assets as a percentage of total loans, leases and foreclosed properties [3] | **0.68** | 0.26 | 0.28 | 0.47 | 0.81 |
| Ratio of the allowance for loan and lease losses at December 31 to net charge-offs | **1.79** | 1.99 | 1.76 | 2.77 | 1.98 |
| **Capital ratios (period end)** | | | | | |
| Risk-based capital: | | | | | |
| Tier 1 | **6.87%** | 8.64% | 8.25% | 8.20% | 8.02% |
| Total | **11.02** | 11.88 | 11.08 | 11.73 | 12.05 |
| Tier 1 Leverage | **5.04** | 6.36 | 5.91 | 5.89 | 5.86 |

(1) Tangible shareholders' equity is a non-GAAP measure. For additional information on ROTE and a corresponding reconciliation of tangible shareholders' equity to a GAAP financial measure, see Supplemental Financial Data beginning on page 17.
(2) Includes the allowance for loan and lease losses, and the reserve for unfunded lending commitments.
(3) Ratios do not include loans measured at fair value in accordance with SFAS 159 at and for the year ended December 31, 2007. Loans measured at fair value were $4.59 billion at December 31, 2007.

## Supplemental Financial Data

Table 6 provides a reconciliation of the supplemental financial data mentioned below with financial measures defined by GAAP. Other companies may define or calculate supplemental financial data differently.

### Operating Basis Presentation

In managing our business, we may at times look at performance excluding certain nonrecurring items. For example, as an alternative to net income, we view results on an operating basis, which represents net income excluding merger and restructuring charges. The operating basis of presentation is not defined by GAAP. We believe that the exclusion of merger and restructuring charges, which represent events outside our normal operations, provides a meaningful year-to-year comparison and is more reflective of normalized operations.

### Net Interest Income – FTE Basis

In addition, we view net interest income and related ratios and analysis (i.e., efficiency ratio, net interest yield and operating leverage) on a FTE basis. Although this is a non-GAAP measure, we believe managing the business with net interest income on a FTE basis provides a more accurate picture of the interest margin for comparative purposes. To derive the FTE basis, net interest income is adjusted to reflect tax-exempt income on an equivalent before-tax basis with a corresponding increase in income tax expense. For purposes of this calculation, we use the federal statutory tax rate of 35 percent. This measure ensures comparability of net interest income arising from taxable and tax-exempt sources.

### Performance Measures

As mentioned above, certain performance measures including the efficiency ratio, net interest yield and operating leverage utilize net interest income (and thus total revenue) on a FTE basis. The efficiency ratio measures the costs expended to generate a dollar of revenue, and net interest yield evaluates how many basis points we are earning over the cost of funds. Operating leverage measures the total percentage revenue growth minus the total percentage expense growth for the corresponding period. During our annual integrated planning process, we set operating leverage and efficiency targets for the Corporation and each line of business. We believe the use of these non-GAAP measures provides additional clarity in assessing our results. Targets vary by year and by business, and are based on a variety of factors including maturity of the business, investment appetite, competitive environment, market factors, and other items (e.g., risk appetite). The aforementioned performance measures and ratios, return on average assets and dividend payout ratio, as well as those measures discussed more fully below, are presented in Table 6.

### Return on Average Common Shareholders' Equity and Return on Average Tangible Shareholders' Equity

We also evaluate our business based upon ROE and ROTE measures. ROE and ROTE utilize non-GAAP allocation methodologies. ROE measures the earnings contribution of a unit as a percentage of the shareholders' equity allocated to that unit. ROTE measures our earnings contribution as a percentage of shareholders' equity reduced by goodwill. These measures are used to evaluate our use of equity (i.e., capital) at the individual unit level and are integral components in the analytics for resource allocation. In addition, profitability, relationship, and investment models all use ROE as key measures to support our overall growth goal.

## Table 6 Supplemental Financial Data and Reconciliations to GAAP Financial Measures

| (Dollars in millions) | 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| **Operating basis** | | | | | |
| Operating earnings | **$ 15,240** | $ 21,640 | $ 16,740 | $ 14,358 | $ 10,762 |
| Return on average assets | **0.95%** | 1.48% | 1.32% | 1.37% | 1.44% |
| Return on average common shareholders' equity | **11.27** | 16.66 | 16.79 | 16.96 | 21.50 |
| Return on average tangible shareholders' equity | **22.64** | 33.59 | 30.70 | 29.79 | 27.84 |
| Operating efficiency ratio (FTE basis) | **53.77** | 47.14 | 48.73 | 51.35 | 51.13 |
| Dividend payout ratio | **71.02** | 44.59 | 45.84 | 44.98 | 39.76 |
| Operating leverage (FTE basis) | **(12.97)** | 4.15 | 5.74 | (0.55) | (0.41) |
| **FTE basis data** | | | | | |
| Net interest income | **$ 36,182** | $ 35,815 | $ 31,569 | $ 28,677 | $ 21,149 |
| Total revenue, net of interest expense | **68,068** | 73,804 | 58,007 | 51,406 | 39,419 |
| Net interest yield | **2.60%** | 2.82% | 2.84% | 3.17% | 3.26% |
| Efficiency ratio | **54.37** | 48.23 | 49.44 | 52.55 | 51.13 |
| **Reconciliation of net income to operating earnings** | | | | | |
| Net income | **$ 14,982** | $ 21,133 | $ 16,465 | $ 13,947 | $ 10,762 |
| Merger and restructuring charges | **410** | 805 | 412 | 618 | – |
| Related income tax benefit | **(152)** | (298) | (137) | (207) | – |
| Operating earnings | **$ 15,240** | $ 21,640 | $ 16,740 | $ 14,358 | $ 10,762 |
| **Reconciliation of average shareholders' equity to average tangible shareholders' equity** | | | | | |
| Average shareholders' equity | **$136,662** | $130,463 | $ 99,861 | $ 84,815 | $ 50,091 |
| Average goodwill | **(69,333)** | (66,040) | (45,331) | (36,612) | (11,440) |
| Average tangible shareholders' equity | **$ 67,329** | $ 64,423 | $ 54,530 | $ 48,203 | $ 38,651 |
| **Reconciliation of return on average assets to operating return on average assets** | | | | | |
| Return on average assets | **0.94%** | 1.44% | 1.30% | 1.34% | 1.44% |
| Effect of merger and restructuring charges, net-of-tax | **0.01** | 0.04 | 0.02 | 0.03 | – |
| Operating return on average assets | **0.95%** | 1.48% | 1.32% | 1.37% | 1.44% |
| **Reconciliation of return on average common shareholders' equity to operating return on average common shareholders' equity** | | | | | |
| Return on average common shareholders' equity | **11.08%** | 16.27% | 16.51% | 16.47% | 21.50% |
| Effect of merger and restructuring charges, net-of-tax | **0.19** | 0.39 | 0.28 | 0.49 | – |
| Operating return on average common shareholders' equity | **11.27%** | 16.66% | 16.79% | 16.96% | 21.50% |
| **Reconciliation of return on average tangible shareholders' equity to operating return on average tangible shareholders' equity** | | | | | |
| Return on average tangible shareholders' equity | **22.25%** | 32.80% | 30.19% | 28.93% | 27.84% |
| Effect of merger and restructuring charges, net-of-tax | **0.39** | 0.79 | 0.51 | 0.86 | – |
| Operating return on average tangible shareholders' equity | **22.64%** | 33.59% | 30.70% | 29.79% | 27.84% |
| **Reconciliation of efficiency ratio to operating efficiency ratio (FTE basis)** | | | | | |
| Efficiency ratio | **54.37%** | 48.23% | 49.44% | 52.55% | 51.13% |
| Effect of merger and restructuring charges | **(0.60)** | (1.09) | (0.71) | (1.20) | – |
| Operating efficiency ratio | **53.77%** | 47.14% | 48.73% | 51.35% | 51.13% |
| **Reconciliation of dividend payout ratio to operating dividend payout ratio** | | | | | |
| Dividend payout ratio | **72.26%** | 45.66% | 46.61% | 46.31% | 39.76% |
| Effect of merger and restructuring charges, net-of-tax | **(1.24)** | (1.07) | (0.77) | (1.33) | – |
| Operating dividend payout ratio | **71.02%** | 44.59% | 45.84% | 44.98% | 39.76% |
| **Reconciliation of operating leverage to operating basis operating leverage (FTE basis)** | | | | | |
| Operating leverage | **(11.74)%** | 3.12% | 6.67% | (3.62)% | (0.41)% |
| Effect of merger and restructuring charges | **(1.23)** | 1.03 | (0.93) | 3.07 | – |
| Operating leverage | **(12.97)%** | 4.15% | 5.74% | (0.55)% | (0.41)% |

## Table 7 Core Net Interest Income – Managed Basis

| (Dollars in millions) | 2007 | 2006 | 2005 |
|---|---|---|---|
| **Net interest income** (1) | | | |
| As reported | **$ 36,182** | $ 35,815 | $ 31,569 |
| Impact of market-based net interest income (2) | **(2,716)** | (1,660) | (1,975) |
| Core net interest income | **33,466** | 34,155 | 29,594 |
| Impact of securitizations (3) | **7,841** | 7,045 | 323 |
| **Core net interest income – managed basis** | **$ 41,307** | $ 41,200 | $ 29,917 |
| **Average earning assets** | | | |
| As reported | **$1,390,192** | $1,269,144 | $1,111,994 |
| Impact of market-based earning assets (2) | **(412,326)** | (370,187) | (323,361) |
| Core average earning assets | **977,866** | 898,957 | 788,633 |
| Impact of securitizations | **103,371** | 98,152 | 9,033 |
| **Core average earning assets – managed basis** | **$1,081,237** | $ 997,109 | $ 797,666 |
| **Net interest yield contribution** (1) | | | |
| As reported | **2.60%** | 2.82% | 2.84% |
| Impact of market-based activities (2) | **0.82** | 0.98 | 0.91 |
| Core net interest yield on earning assets | **3.42** | 3.80 | 3.75 |
| Impact of securitizations | **0.40** | 0.33 | – |
| **Core net interest yield on earning assets – managed basis** | **3.82%** | 4.13% | 3.75% |

(1)FTE basis
(2)Represents the impact of market-based amounts included in the *CMAS* business within *GCIB* and excludes $70 million of net interest income on loans for which the fair value option has been elected.
(3)Represents the impact of securitizations utilizing actual bond costs. This is different from the business segment view which utilizes funds transfer pricing methodologies.

### Core Net Interest Income – Managed Basis

We manage core net interest income – managed basis, which adjusts reported net interest income on a FTE basis for the impact of market-based activities and certain securitizations, net of retained securities. As discussed in the *GCIB* business segment section beginning on page 25, we evaluate our market-based results and strategies on a total market-based revenue approach by combining net interest income and noninterest income for *CMAS*. We also adjust for loans that we originated and subsequently sold into certain securitizations. These securitizations include off-balance sheet loans and leases, primarily credit card securitizations where servicing is retained by the Corporation, but excludes first mortgage securitizations. Noninterest income, rather than net interest income and provision for credit losses, is recorded for assets that have been securitized as we are compensated for servicing the securitized assets and record servicing income and gains or losses on securitizations, where appropriate. We believe the use of this non-GAAP presentation provides additional clarity in managing our results. An analysis of core net interest income – managed basis, core average earning assets – managed basis and core net interest yield on earning assets – managed basis, which adjusts for the impact of these two non-core items from reported net interest income on a FTE basis, is shown in the table above.

Core net interest income on a managed basis increased $107 million in 2007 compared to 2006. The increase was driven by higher levels of consumer and commercial loans, the impact of the LaSalle acquisition, and a one-time tax benefit from restructuring our existing non-U.S. based commercial aircraft leasing business. These increases were partially offset by spread compression, increased hedge costs and the impact of divestitures of certain foreign operations in late 2006 and the beginning of 2007.

On a managed basis, core average earning assets increased $84.1 billion in 2007 compared to 2006 due to higher levels of consumer and commercial managed loans and increased levels from ALM activities partially offset by a decrease in average balances from the divestitures mentioned above.

Core net interest yield on a managed basis decreased 31 bps to 3.82 percent compared to 2006 and was driven by spread compression, higher costs of deposits, the impact of the funding of the LaSalle merger and the sale of certain foreign operations.

## Business Segment Operations

### Segment Description

We report the results of our operations through three business segments: *GCSBB, GCIB* and *GWIM*, with the remaining operations recorded in *All Other*. Certain prior period amounts have been reclassified to conform to current period presentation. For more information on our basis of presentation, selected financial information for the business segments and reconciliations to consolidated total revenue, net income and period end total asset amounts, see *Note 22 – Business Segment Information* to the Consolidated Financial Statements.

### Basis of Presentation

We prepare and evaluate segment results using certain non-GAAP methodologies and performance measures, many of which are discussed in Supplemental Financial Data beginning on page 17. We begin by evaluating the operating results of the businesses which by definition excludes merger and restructuring charges. The segment results also reflect certain revenue and expense methodologies which are utilized to determine net income. The net interest income of the businesses includes the results of a funds transfer pricing process that matches assets and liabilities with similar interest rate sensitivity and maturity characteristics.

The management accounting reporting process derives segment and business results by utilizing allocation methodologies for revenue, expense and capital. The net income derived for the businesses is dependent upon revenue and cost allocations using an activity-based costing model, funds transfer pricing, and other methodologies and assumptions management believes are appropriate to reflect the results of the business.

Our ALM activities maintain an overall interest rate risk management strategy that incorporates the use of interest rate contracts to manage fluctuations in earnings that are caused by interest rate volatility. Our goal is to manage interest rate sensitivity so that movements in interest rates do not significantly adversely affect net interest income. The results of the business segments will fluctuate based on the performance of corporate ALM activities. Some ALM activities are recorded in the businesses (*e.g., Deposits*) such as external product pricing decisions, including deposit pricing strategies, as well as the effects of our internal funds transfer pricing process. The net effects of other ALM activities are reported in each of our segments under *ALM/Other.* In addition, certain residual impacts of the funds transfer pricing process are retained in *All Other.*

Certain expenses not directly attributable to a specific business segment are allocated to the segments based on pre-determined means. The most significant of these expenses include data processing costs, item processing costs and certain centralized or shared functions. Data processing costs are allocated to the segments based on equipment usage. Item processing costs are allocated to the segments based on the volume of items processed for each segment. The costs of certain centralized or shared functions are allocated based on methodologies which reflect utilization.

Equity is allocated to business segments and related businesses using a risk-adjusted methodology incorporating each unit's credit, market, interest rate and operational risk components. The Corporation as a whole benefits from risk diversification across the different businesses. This benefit is reflected as a reduction to allocated equity for each segment and is recorded in *ALM/Other.* The nature of these risks is discussed further beginning on page 40. Average equity is allocated to the business segments and related businesses, and is impacted by the portion of goodwill that is specifically assigned to the businesses and the unallocated portion of goodwill that resides in *ALM/Other*.

## *Global Consumer and Small Business Banking*

| (Dollars in millions) | 2007 Total [1] | Deposits | Card Services [1] | Consumer Real Estate [2] | ALM/ Other |
|---|---|---|---|---|---|
| Net interest income [3] | $ 28,809 | $ 9,423 | $ 16,562 | $ 2,281 | $ 543 |
| Noninterest income: | | | | | |
| Card income | 10,189 | 2,155 | 8,028 | 6 | – |
| Service charges | 6,008 | 6,003 | – | 5 | – |
| Mortgage banking income | 1,333 | – | – | 1,333 | – |
| All other income | 1,343 | (4) | 943 | 54 | 350 |
| Total noninterest income | 18,873 | 8,154 | 8,971 | 1,398 | 350 |
| Total revenue, net of interest expense | 47,682 | 17,577 | 25,533 | 3,679 | 893 |
| Provision for credit losses [4] | 12,929 | 256 | 11,317 | 1,041 | 315 |
| Noninterest expense | 20,060 | 9,106 | 8,294 | 2,033 | 627 |
| Income (loss) before income taxes | 14,693 | 8,215 | 5,922 | 605 | (49) |
| Income tax expense (benefit) [3] | 5,263 | 2,988 | 2,210 | 234 | (169) |
| **Net income** | $ 9,430 | $ 5,227 | $ 3,712 | $ 371 | $ 120 |
| Net interest yield [3] | 8.15% | 2.97% | 7.87% | 2.04% | n/m |
| Return on average equity [5] | 14.94 | 33.61 | 8.43 | 9.00 | n/m |
| Efficiency ratio [3] | 42.07 | 51.81 | 32.49 | 55.24 | n/m |
| Period end – total assets [6] | $442,987 | $358,626 | $ 257,000 | $ 133,324 | n/m |

| (Dollars in millions) | 2006 Total [1] | Deposits | Card Services [1] | Consumer Real Estate [2] | ALM/ Other |
|---|---|---|---|---|---|
| Net interest income [3] | $ 28,197 | $ 9,405 | $ 16,357 | $ 1,994 | $ 441 |
| Noninterest income: | | | | | |
| Card income | 9,374 | 1,907 | 7,460 | 7 | – |
| Service charges | 5,342 | 5,338 | – | 4 | – |
| Mortgage banking income | 877 | – | – | 877 | – |
| All other income | 1,136 | 1 | 819 | 27 | 289 |
| Total noninterest income | 16,729 | 7,246 | 8,279 | 915 | 289 |
| Total revenue, net of interest expense | 44,926 | 16,651 | 24,636 | 2,909 | 730 |
| Provision for credit losses [4] | 8,534 | 165 | 8,089 | 63 | 217 |
| Noninterest expense | 18,375 | 8,783 | 7,519 | 1,718 | 355 |
| Income before income taxes | 18,017 | 7,703 | 9,028 | 1,128 | 158 |
| Income tax expense [3] | 6,639 | 2,840 | 3,328 | 416 | 55 |
| **Net income** | $ 11,378 | $ 4,863 | $ 5,700 | $ 712 | $ 103 |
| Net interest yield [3] | 8.20% | 2.93% | 8.52% | 2.19% | n/m |
| Return on average equity [5] | 18.11 | 33.42 | 12.90 | 22.18 | n/m |
| Efficiency ratio [3] | 40.90 | 52.75 | 30.52 | 59.06 | n/m |
| Period end – total assets [6] | $399,373 | $339,717 | $ 235,106 | $ 101,175 | n/m |

(1)Presented on a managed basis, specifically *Card Services*.
(2)Effective January 1, 2007, *GCSBB* combined the former *Mortgage* and *Home Equity* businesses into *Consumer Real Estate*.
(3)FTE basis
(4)Represents provision for credit losses on held loans combined with realized credit losses associated with the securitized loan portfolio.
(5)Average allocated equity for *GCSBB* was $63.1 billion and $62.8 billion in 2007 and 2006.
(6)Total assets include asset allocations to match liabilities (i.e., deposits).
n/m= not meaningful

| (Dollars in millions) | December 31 2007 | December 31 2006 | Average Balance 2007 | Average Balance 2006 |
|---|---|---|---|---|
| Total loans and leases | **$ 359,946** | $ 307,661 | **$ 327,810** | $ 288,131 |
| Total earning assets [1] | **383,384** | 343,338 | **353,591** | 344,013 |
| Total assets [1] | **442,987** | 399,373 | **408,034** | 396,559 |
| Total deposits | **344,850** | 329,195 | **328,918** | 332,242 |

(1)Total earning assets and total assets include asset allocations to match liabilities (i.e., deposits).

The strategy for *GCSBB* is to attract, retain and deepen customer relationships. We achieve this strategy through our ability to offer a wide range of products and services through a franchise that stretches coast to coast through 32 states and the District of Columbia. We also provide credit card products to customers in Canada, Ireland, Spain and the United Kingdom. In the U.S., we serve approximately 59 million consumer and small business relationships utilizing our network of 6,149 banking centers, 18,753 domestic branded ATMs, and telephone and Internet channels. Within *GCSBB*, there are three primary businesses: *Deposits, Card Services*, and *Consumer Real Estate*. In addition, *ALM/Other* includes the results of ALM activities and other consumer-related businesses (e.g., insurance). *GCSBB*, specifically *Card Services*, is presented on a managed basis. For a reconciliation of managed *GCSBB* to held *GCSBB*, see *Note 22 – Business Segment Information* to the Consolidated Financial Statements.

During 2007, Visa Inc. filed a registration statement with the SEC with respect to a proposed IPO. Subject to market conditions and other factors, Visa Inc. expects the IPO to occur in the first half of 2008. We expect to record a gain associated with the IPO. In addition, we expect that a portion of the proceeds from the IPO will be used by Visa Inc. to fund liabilities arising from litigation which would allow us to record an offset to the litigation liabilities that we recorded in the fourth quarter of 2007 as discussed below.

Net income decreased $1.9 billion, or 17 percent, to $9.4 billion compared to 2006 as increases in noninterest income and net interest income were more than offset by increases in provision for credit losses and noninterest expense.

Net interest income increased $612 million, or two percent, to $28.8 billion due to the impacts of organic growth and the LaSalle acquisition on average loans and leases, and deposits compared to 2006. Noninterest income increased $2.1 billion, or 13 percent, to $18.9 billion compared to the same period in 2006, mainly due to increases in card income, service charges and mortgage banking income.

Provision for credit losses increased $4.4 billion, or 51 percent, to $12.9 billion compared to 2006. This increase primarily resulted from a $3.2 billion increase in *Card Services* and a $978 million increase in *Consumer Real Estate*. For further discussion of the increase in provision for credit losses related to *Card Services* and *Consumer Real Estate*, see their respective discussions.

Noninterest expense increased $1.7 billion, or nine percent, to $20.1 billion largely due to increases in personnel-related expenses, Visa-related litigation costs, equally allocated to *Card Services* and *Treasury Services* on a management accounting basis, and technology related costs. For additional information on Visa-related litigation, see *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

## Deposits

*Deposits* provides a comprehensive range of products to consumers and small businesses. Our products include traditional savings accounts, money market savings accounts, CDs and IRAs, and noninterest and interest-bearing checking accounts. Debit card results are also included in *Deposits*.

Deposit products provide a relatively stable source of funding and liquidity. We earn net interest spread revenues from investing this liquidity in earning assets through client-facing lending activity and our ALM activities. The revenue is allocated to the deposit products using our funds transfer pricing process which takes into account the interest rates and maturity characteristics of the deposits. Deposits also generate fees such as account service fees, non-sufficient fund fees, overdraft charges and ATM fees, while debit cards generate merchant interchange fees based on purchase volume.

Excluding accounts obtained through acquisitions, we added approximately 2.3 million net new retail checking accounts in 2007. These additions resulted from continued improvement in sales and service results in the Banking Center Channel and Online, and the success of such products as Keep the Change™, Risk Free CDs, Balance Rewards and Affinity.

We continue to migrate qualifying affluent customers and their related deposit balances from *GCSBB* to *GWIM*. In 2007, a total of $11.4 billion of deposits were migrated from *GCSBB* to *GWIM* compared to $10.7 billion in 2006. After migration, the associated net interest income, service charges and noninterest expense are recorded in *GWIM*.

Net income increased $364 million, or seven percent, to $5.2 billion compared to 2006 as an increase in noninterest income was partially offset by an increase in noninterest expense. Net interest income remained relatively flat at $9.4 billion compared to 2006 as the addition of LaSalle and higher deposit spreads resulting from disciplined pricing were offset by the impact of lower balances. Average deposits decreased $3.2 billion, or one percent, largely due to the migration of customer relationships and related balances to *GWIM*, partially offset by the acquisition of LaSalle. The increase in noninterest income was driven by higher service charges of $665 million, or 12 percent, primarily as a result of new demand deposit account growth and the addition of LaSalle. Additionally, debit card revenue growth of $248 million, or 13 percent, was due to a higher number of checking accounts, increased usage, the addition of LaSalle and market penetration (i.e., increase in the number of existing account holders with debit cards).

Noninterest expense increased $323 million, or four percent, to $9.1 billion compared to 2006, primarily due to the addition of LaSalle, and to higher account and transaction volumes.

## Card Services

*Card Services,* which excludes the results of debit cards (included in *Deposits*), provides a broad offering of products, including U.S. Consumer and Business Card, Unsecured Lending, and International Card. We offer a variety of co-branded and affinity credit card products and have become the leading issuer of credit cards through endorsed marketing in the U.S. and Europe. During 2007, Merchant Services was transferred to *Treasury Services* within *GCIB*. Previously their results were reported in *Card Services*. Prior period amounts have been reclassified.

The Corporation reports its *GCSBB* results, specifically *Card Services*, on a managed basis, which is consistent with the way that management evaluates the results of *GCSBB*. Managed basis assumes that securitized loans were not sold and presents earnings on these loans in a manner similar to the way loans that have not been sold (i.e., held loans) are presented. Loan securitization is an alternative funding process that is used by the Corporation to diversify funding sources. Loan securitization removes loans from the Consolidated Balance Sheet through the sale of loans to an off-balance sheet QSPE which is excluded from the Corporation's Consolidated Financial Statements in accordance with GAAP.

Securitized loans continue to be serviced by the business and are subject to the same underwriting standards and ongoing monitoring as held loans. In addition, excess servicing income is exposed to similar credit risk and repricing of interest rates as held loans.

Net income decreased $2.0 billion, or 35 percent, to $3.7 billion compared to 2006 as growth in noninterest income and net interest income was more than offset by higher provision for credit losses and noninterest expense. Net interest income increased $205 million, or one percent, to $16.6 billion as an increase in managed average loans and leases of $18.5 billion was partially offset by spread compression.

Noninterest income increased $692 million, or eight percent, to $9.0 billion mainly due to higher cash advance fees related to organic loan growth in domestic credit card and unsecured lending. All other income increased $124 million primarily due to higher foreign revenues.

Provision for credit losses increased $3.2 billion, or 40 percent, to $11.3 billion compared to 2006. The increase was primarily driven by higher managed net losses from portfolio seasoning and increases from unusually low loss levels experienced in 2006 post bankruptcy reform. The higher provision was also driven by reserve increases in our small business portfolio reflective of growth in the business and portfolio deterioration. In addition, higher provision was due to seasoning of the unsecured lending portfolio. These increases in provision were partially offset by a higher level of reserve reduction from the addition of higher loss profile accounts to the domestic credit card securitization trust.

Noninterest expense increased $775 million, or 10 percent, to $8.3 billion compared to 2006, largely due to increases in personnel-related expenses, *Card Services*' allocation of the Visa-related litigation costs and technology related costs. For additional information on Visa-related litigation, see *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

**Key Statistics**

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| **Card Services** | | |
| Average – total loans and leases: | | |
| Managed | **$209,774** | $191,314 |
| Held | **106,490** | 95,076 |
| Period end – total loans and leases: | | |
| Managed | **227,822** | 203,151 |
| Held | **124,855** | 101,286 |
| Managed net losses [1]: | | |
| Amount | **10,099** | 7,236 |
| Percent | **4.81%** | 3.78% |
| **Credit Card [2]** | | |
| Average – total loans and leases: | | |
| Managed | **$171,376** | $163,409 |
| Held | **70,242** | 72,979 |
| Period end – total loans and leases: | | |
| Managed | **183,691** | 170,489 |
| Held | **80,724** | 72,194 |
| Managed net losses [1]: | | |
| Amount | **8,214** | 6,375 |
| Percent | **4.79%** | 3.90% |

(1) Represents net charge-offs on held loans combined with realized credit losses associated with the securitized loan portfolio.
(2) Includes U.S. consumer card and foreign credit card. Does not include business card and unsecured lending.

The table above and the discussion below presents select key indicators for the *Card Services* and credit card portfolios.

Managed *Card Services* net losses increased $2.9 billion to $10.1 billion, or 4.81 percent of average outstandings, compared to $7.2 billion, or 3.78 percent (3.93 percent excluding the impact of SOP 03-3) in 2006. This increase was primarily driven by portfolio seasoning and increases from the unusually low loss levels experienced in 2006 post bankruptcy reform.

Managed *Card Services* total average loans and leases increased $18.5 billion to $209.8 billion compared to the same period in 2006, driven by growth in the unsecured lending, foreign and domestic card portfolios.

Managed credit card net losses increased $1.8 billion to $8.2 billion, or 4.79 percent of average credit card outstandings, compared to $6.4 billion, or 3.90 percent (3.99 percent excluding the impact of SOP 03-3) in 2006. The increase was driven by portfolio seasoning and increases from the unusually low loss levels experienced in 2006 post bankruptcy reform.

Managed credit card total average loans and leases increased $8.0 billion to $171.4 billion compared to the same period in 2006. The increase was driven by growth in the foreign and domestic portfolios.

For more information on credit quality, see Consumer Portfolio Credit Risk Management beginning on page 45.

## Consumer Real Estate

*Consumer Real Estate* generates revenue by providing an extensive line of consumer real estate products and services to customers nationwide. *Consumer Real Estate* products are available to our customers through a retail network of personal bankers located in 6,149 banking centers, mortgage loan officers in nearly 200 locations and through a sales force offering our customers direct telephone and online access to our products. *Consumer Real Estate* products include fixed and adjustable rate loans for home purchase and refinancing needs, reverse mortgages, lines of credit and home equity loans. Mortgage products are either sold into the secondary mortgage market to investors, while retaining the Bank of America customer relationships, or are held on our balance sheet for ALM purposes. *Consumer Real Estate* is not impacted by the Corporation's mortgage production retention decisions as *Consumer Real Estate* is compensated for the decision on a management accounting basis with a corresponding offset recorded in *All Other*.

The *Consumer Real Estate* business includes the origination, fulfillment, sale and servicing of first mortgage loan products, reverse mortgage products and home equity products. Servicing activities primarily include collecting cash for principal, interest and escrow payments from borrowers, disbursing customer draws for lines of credit and accounting for and remitting principal and interest payments to investors and escrow payments to third parties. Servicing income includes ancillary income derived in connection with these activities such as late fees.

Within *GCSBB*, the *Consumer Real Estate* first mortgage and home equity production were $93.3 billion and $69.2 billion for 2007 compared to $76.9 billion and $67.9 billion in 2006. During the second quarter of 2007, the Corporation completed the purchase of a reverse mortgage business which increased the Corporation's offerings of reverse mortgages.

Net income for *Consumer Real Estate* decreased $341 million to $371 million compared to 2006 as increases in mortgage banking income and net interest income were more than offset by higher provision for credit losses and an increase in noninterest expense. Net interest income grew $287 million, or 14 percent, to $2.3 billion and was driven by loan balances in our home equity business partially offset by spread compression. Average loans and leases increased $20.7 billion, or 24 percent. The increase in mortgage banking income of $456 million, or 52 percent, to $1.3 billion was primarily due to the election under SFAS 159 to account for certain mortgage loans held-for-sale at fair value, favorable performance of the MSRs and increased production income partially offset by widening of credit spreads during the year.

Subsequent to the adoption of SFAS 159 on January 1, 2007, mortgage loan origination fees and costs are recognized in earnings when incurred. Previously, mortgage loan origination fees and costs would have been capitalized as part of the carrying amount of the loans and recognized as a reduction of mortgage banking income upon the sale of such loans. For more information on the adoption of SFAS 159 on mortgage banking income, see Mortgage Banking Risk Management on page 68.

Noninterest expense increased $315 million, or 18 percent, to $2.0 billion compared to 2006, driven by costs associated with increased volume and the increase in cost related to the adoption of SFAS 159 as discussed above.

Provision for credit losses increased $978 million to $1.0 billion compared to 2006. This increase was driven by higher losses inherent in the home equity portfolio reflective of portfolio seasoning and the impacts of the weak housing market, particularly in geographic areas which have experienced the most significant home price declines driving a reduction in collateral value.

The *Consumer Real Estate* servicing portfolio includes loans serviced for others, and originated and retained residential mortgages. The servicing portfolio at December 31, 2007 was $516.9 billion, $97.4 billion higher than at December 31, 2006, driven by production. Included in this amount was $259.5 billion of residential first mortgage loans serviced for others.

At December 31, 2007, the residential first mortgage MSR balance was $3.1 billion, an increase of $184 million, or six percent, from December 31, 2006. This value represented 118 bps of the related unpaid principal balance, a seven bps decrease from December 31, 2006.

## ALM/Other

*ALM/Other* is comprised primarily of the allocation of a portion of the Corporation's net interest income from ALM activities and the results of other consumer-related businesses (e.g., insurance).

Net income increased $17 million compared to 2006 as higher contributions from ALM activities were offset by increases in provision for credit losses and noninterest expense. Provision for credit losses increased $98 million to $315 million compared to 2006. This increase was driven by higher losses inherent in the small business lending portfolio managed outside of *Card Services.* For more information on the Corporation's entire small business commercial – domestic portfolio, see Commercial Portfolio Credit Risk Management beginning on page 49.

## *Global Corporate and Investment Banking*

| (Dollars in millions) | 2007 Total | Business Lending | Capital Markets and Advisory Services [1] | Treasury Services | ALM/ Other |
|---|---|---|---|---|---|
| Net interest income [2] | $ 11,217 | $ 5,020 | $ 2,786 | $ 3,814 | $ (403) |
| Noninterest income: | | | | | |
| Service charges | 2,769 | 507 | 134 | 2,128 | – |
| Investment and brokerage services | 910 | 1 | 867 | 42 | – |
| Investment banking income | 2,537 | – | 2,537 | – | – |
| Trading account profits (losses) | (5,164) | (180) | (5,050) | 63 | 3 |
| All other income | 1,148 | 824 | (971) | 1,092 | 203 |
| Total noninterest income | 2,200 | 1,152 | (2,483) | 3,325 | 206 |
| Total revenue, net of interest expense | 13,417 | 6,172 | 303 | 7,139 | (197) |
| Provision for credit losses | 652 | 647 | – | 5 | – |
| Noninterest expense | 11,925 | 2,158 | 5,642 | 3,856 | 269 |
| Income (loss) before income taxes | 840 | 3,367 | (5,339) | 3,278 | (466) |
| Income tax expense (benefit) [2] | 302 | 1,246 | (1,977) | 1,213 | (180) |
| **Net income (loss)** | $ 538 | $ 2,121 | $ (3,362) | $ 2,065 | $ (286) |
| Net interest yield [2] | 1.66% | 2.00% | n/m | 2.79% | n/m |
| Return on average equity [3] | 1.19 | 13.12 | (25.41)% | 26.31 | n/m |
| Efficiency ratio [2] | 88.88 | 34.98 | n/m | 54.02 | n/m |
| Period end – total assets [4] | $776,107 | $ 305,548 | $ 413,115 | $180,369 | n/m |

| (Dollars in millions) | 2006 Total | Business Lending | Capital Markets and Advisory Services | Treasury Services | ALM/ Other |
|---|---|---|---|---|---|
| Net interest income [2] | $ 9,877 | $ 4,575 | $ 1,660 | $ 3,878 | $ (236) |
| Noninterest income: | | | | | |
| Service charges | 2,648 | 501 | 121 | 2,026 | – |
| Investment and brokerage services | 942 | 15 | 893 | 33 | 1 |
| Investment banking income | 2,476 | – | 2,476 | – | – |
| Trading account profits | 2,967 | 55 | 2,847 | 52 | 13 |
| All other income | 2,251 | 469 | 478 | 1,223 | 81 |
| Total noninterest income | 11,284 | 1,040 | 6,815 | 3,334 | 95 |
| Total revenue, net of interest expense | 21,161 | 5,615 | 8,475 | 7,212 | (141) |
| Provision for credit losses | 9 | (2) | 14 | (3) | – |
| Noninterest expense | 11,578 | 2,047 | 5,799 | 3,561 | 171 |
| Income (loss) before income taxes | 9,574 | 3,570 | 2,662 | 3,654 | (312) |
| Income tax expense (benefit) [2] | 3,542 | 1,321 | 985 | 1,352 | (116) |
| **Net income (loss)** | $ 6,032 | $ 2,249 | $ 1,677 | $ 2,302 | $ (196) |
| Net interest yield [2] | 1.62% | 1.98% | n/m | 2.86% | n/m |
| Return on average equity [3] | 14.33 | 14.36 | 15.17% | 28.71 | n/m |
| Efficiency ratio [2] | 54.71 | 36.45 | 68.42 | 49.36 | n/m |
| Period end – total assets [4] | $685,935 | $ 248,225 | $ 385,450 | $167,979 | n/m |

[1] *CMAS* revenue of $303 million for 2007 consists of market-based revenue of $233 million and $70 million of net interest income on loans for which the fair value option has been elected.
[2] FTE basis
[3] Average allocated equity for *GCIB* was $45.3 billion and $42.1 billion for 2007 and 2006.
[4] Total assets include asset allocations to match liabilities (i.e., deposits).
n/m= not meaningful

| (Dollars in millions) | December 31 2007 | December 31 2006 | Average Balance 2007 | Average Balance 2006 |
|---|---|---|---|---|
| Total loans and leases | **$ 324,198** | $ 242,700 | **$ 274,015** | $ 232,623 |
| Total trading-related assets | **308,315** | 309,097 | **362,193** | 336,860 |
| Total market-based earning assets (1) | **359,730** | 348,717 | **412,326** | 370,187 |
| Total earning assets (2) | **673,552** | 599,326 | **676,500** | 609,100 |
| Total assets (2) | **776,107** | 685,935 | **770,360** | 691,414 |
| Total deposits | **246,788** | 212,028 | **220,724** | 194,972 |

(1)Total market-based earning assets represents earning assets included in *CMAS* but excludes loans for which the fair value option has been elected.
(2)Total earning assets and total assets include asset allocations to match liabilities (i.e., deposits).

*GCIB* provides a wide range of financial services to both our issuer and investor clients that range from business banking clients to large international corporate and institutional investor clients using a strategy to deliver value-added financial products and advisory solutions. *GCIB's* products and services are delivered from three primary businesses: *Business Lending, CMAS*, and *Treasury Services*, and are provided to our clients through a global team of client relationship managers and product partners. In addition, *ALM/Other* includes the results of ALM activities and other *GCIB* activities (e.g., Commercial Insurance business which was sold in the fourth quarter of 2007). Our clients are supported through offices in 22 countries that are divided into four distinct geographic regions: U.S. and Canada; Asia; Europe, Middle East, and Africa; and Latin America. For more information on our foreign operations, see Foreign Portfolio beginning on page 56.

Effective January 1, 2007, the Corporation adopted SFAS 159 and elected to account for loans and loan commitments to certain large corporate clients at fair value. For more information on the adoption of SFAS 159, see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements and see page 49 for a discussion of loans and loan commitments measured at fair value in accordance with SFAS 159. The results of loans and loan commitments to certain large corporate clients for which the Corporation elected the fair value option (including the associated risk mitigation tools) are recorded in *CMAS*.

Net income decreased $5.5 billion, or 91 percent, to $538 million and total revenue decreased $7.7 billion, or 37 percent, to $13.4 billion in 2007 compared to 2006. These decreases were driven by $5.6 billion of losses resulting from our CDO exposure and other trading losses. Additionally, we experienced increases in provision for credit losses and noninterest expense, which were partially offset by an increase in net interest income.

Net interest income increased $1.3 billion, or 14 percent, due to higher market-based net interest income of $1.1 billion and the FTE impact of a one-time tax benefit from restructuring our existing non-U.S. based commercial aircraft leasing business. Additionally, the benefit of growth in average loans and leases of $41.4 billion, or 18 percent, was partially offset by spread compression on core lending and deposit-related activities, and a change in the mix between interest-bearing and noninterest-bearing deposits as clients maintained lower noninterest-bearing compensating balances by shifting to interest bearing and/or higher yielding investment alternatives. The growth in average loans and average deposits was due to organic growth as well as the LaSalle merger.

Noninterest income decreased $9.1 billion, or 81 percent, in 2007 compared to 2006, driven by declines in trading account profits (losses) of $8.1 billion and all other income of $1.1 billion. For more information on these decreases, see the *CMAS* discussion.

Provision for credit losses was $652 million in 2007 compared to $9 million in 2006. The increase was driven by the absence of 2006 releases of reserves, higher net charge-offs and an increase in reserves during 2007 reflecting the impact of the weak housing market particularly on the homebuilder loan portfolio. Net charge-offs increased in the retail automotive and other dealer-related portfolios due to growth, seasoning and deterioration, as well as from a lower level of commercial recoveries.

Noninterest expense increased $347 million, or three percent, mainly due to the addition of LaSalle and Visa-related litigation costs, equally allocated to *Treasury Services* and *Card Services* on a management accounting basis, partially offset by a reduction in performance-based incentive compensation in *CMAS*. For additional information on Visa- related litigation, see *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

## Business Lending

*Business Lending* provides a wide range of lending-related products and services to our clients through client relationship teams along with various product partners. Products include commercial and corporate bank loans and commitment facilities which cover our business banking clients, middle market commercial clients and our large multinational corporate clients. Real estate lending products are issued primarily to public and private developers, homebuilders and commercial real estate firms. Leasing and asset-based lending products offer our clients innovative financing solutions. Products also include indirect consumer loans which allow us to offer financing through automotive, marine, motorcycle and recreational vehicle dealerships across the U.S. *Business Lending* also contains the results for the economic hedging of our risk to certain credit counterparties utilizing various risk mitigation tools.

Net income decreased $128 million, or six percent, to $2.1 billion in 2007 compared to 2006 as increases in net interest income and noninterest income were more than offset by increases in provision for credit losses and noninterest expense. Net interest income increased $445 million, or 10 percent, driven by the FTE impact of approximately $350 million related to a one-time tax benefit from restructuring our existing non-U.S. based commercial aircraft leasing business, and average loan growth of 14 percent. These increases were partially offset by the impact of spread compression on the loan portfolio. The increase in average loans and leases was attributable to growth in commercial loans, the LaSalle merger and increases in the indirect consumer loan portfolio related to bulk purchases of retail automotive loans. The increase in noninterest income of $112 million, or 11 percent, was driven by improved economic hedging results of our exposures to certain large corporate clients and higher tax credits from community development activities partially offset by derivative fair value adjustments related to an option to purchase retail automotive loans.

Provision for credit losses was $647 million in 2007 compared to negative $2 million in 2006. The increase was driven by the absence of 2006 releases of reserves related to favorable commercial credit market conditions, higher net charge-offs and an increase in reserves during 2007 reflecting the impact of the weak housing market particularly on the homebuilder loan portfolio. Net charge-offs increased in 2007 as retail automotive and other dealer-related portfolio losses rose due to growth,

seasoning and deterioration, and the level of commercial recoveries declined.

Noninterest expense increased $111 million, or five percent, primarily due to the LaSalle merger.

## Capital Markets and Advisory Services

*CMAS* provides financial products, advisory services and financing globally to our institutional investor clients in support of their investing and trading activities. We also work with our commercial and corporate issuer clients to provide debt and equity underwriting and distribution capabilities, merger-related advisory services and risk management solutions using interest rate, equity, credit, currency and commodity derivatives, foreign exchange, fixed income and mortgage-related products. The business may take positions in these products and participate in market-making activities dealing in government securities, equity and equity-linked securities, high-grade and high-yield corporate debt securities, commercial paper, mortgage-backed securities and ABS. Underwriting debt and equity, securities research and certain market-based activities are executed through *Banc of America Securities, LLC* which is a primary dealer in the U.S.

In January 2008, we announced changes in our *CMAS* business which better align the strategy of this business with *GCIB's* broader integrated platform. We will continue to provide corporate, commercial and sponsored clients with debt and equity capital-raising services, strategic advice, and a full range of corporate banking capabilities. We will reduce activities in certain structured products (e.g., CDOs) and will resize the international platform to emphasize debt, cash management, and trading services, including rates and foreign exchange. The realignment will result in the reduction of front office personnel with additional infrastructure headcount reduction to follow. We also plan to sell our equity prime brokerage business.

*CMAS* evaluates its results using market-based revenue that is comprised of net interest income and noninterest income. The following table presents further detail regarding market-based revenue. Sales and trading revenue is segregated into fixed income from liquid products (primarily interest rate and commodity derivatives, foreign exchange contracts and public finance), credit products (primarily investment and noninvestment grade corporate debt obligations and credit derivatives), structured products (primarily CMBS, residential mortgage-backed securities, structured credit trading and CDOs), and equity income from equity-linked derivatives and cash equity activity.

| (Dollars in millions) | **2007** | 2006 |
|---|---|---|
| **Investment banking income** | | |
| Advisory fees | **$ 446** | $ 337 |
| Debt underwriting | **1,772** | 1,824 |
| Equity underwriting | **319** | 315 |
| Total investment banking income | **2,537** | 2,476 |
| **Sales and trading revenue** | | |
| Fixed income: | | |
| Liquid products | **2,111** | 2,158 |
| Credit products | **(537)** | 821 |
| Structured products | **(5,176)** | 1,449 |
| Total fixed income | **(3,602)** | 4,428 |
| Equity income | **1,298** | 1,571 |
| Total sales and trading revenue | **(2,304)** | 5,999 |
| **Total Capital Markets and Advisory Services market-based revenue [1]** | **$ 233** | $8,475 |

(1) *CMAS* revenue of $303 million for 2007 consists of market-based revenue of $233 million and $70 million of net interest income on loans for which the fair value option has been elected.

A variety of factors influence results including volume of activity, the degree in which we successfully anticipate market movements, and how our hedges perform in the various markets. During the second half of 2007, extreme dislocations emerged in the financial markets, including leveraged finance, subprime mortgage, and the commercial paper markets, and these dislocations were further compounded by the decoupling of typical correlations in the various markets in which we participate. These conditions created less liquidity, a flight to quality, greater volatility, widening of credit spreads and a lack of price transparency. Furthermore, in the fourth quarter of 2007, the credit ratings of certain structured securities (e.g., CDOs) were downgraded which among other things triggered further widening of credit spreads for this type of security. We have been an active participant in the CDO market, maintain ongoing exposure to these securities and incurred losses associated with these exposures. Many of these conditions continued into 2008 and it is unclear how long these conditions and the overall economic slowdown may continue and what impact they will ultimately have on our results.

*CMAS* recognized a net loss of $3.4 billion in 2007, a decrease of $5.0 billion, compared to 2006 driven by a decrease in market-based revenue of $8.2 billion. The decrease was driven by $5.6 billion of losses resulting from our CDO exposure and other trading losses. Partially offsetting this decrease was a reduction in noninterest expense due to lower performance-based incentive compensation.

Investment banking income increased $61 million to $2.5 billion due to growth in advisory fees. This growth was driven by increased market activity primarily in the first half of the year partially offset by reduced debt underwriting fees that were affected by the market disruptions during the second half of the year which included the utilization of fees to distribute leveraged loan commitments.

Sales and trading revenue declined $8.3 billion to a loss of $2.3 billion in 2007. While structured products and credit products reported losses for 2007, liquid products and equities compared reasonably well with 2006 given the market conditions.

- Liquid products revenue decreased $47 million as the negative impact of spread widening and correlations breaking down (e.g., correlation between certain municipal market indices and bond market swap spreads) were partially offset by the strength in interest rate products and foreign exchange contracts.
- Credit products losses were $537 million, a decline in revenue of $1.4 billion compared to 2006. Losses resulted from positions taken in the market as a result of customer market making activities as the widening of spreads during the second half of the year had a negative impact on these positions. In addition, certain indices became extremely volatile and diverged from other related indices and from single name credit risk (bonds, loans or derivatives) in our portfolio. This negatively impacted our hedging of portfolios of single name credits with derivatives based on these indices. One example of this divergence was the widening of the spread between the investment grade cash and the credit derivative markets. In addition, losses also resulted from positions taken in the market as the widening of spreads during the second half of the year had a negative impact on these positions.

We also incurred losses of $292 million, net of $471 million of fees, on leveraged loans, loan commitments and the Corporation's share of the leveraged forward calendar. Losses incurred on our leveraged exposure were not concentrated in any one type (senior secured, covenant light or subordinated/senior unsecured) and were generally due to wider new issuance credit spreads. Since the negotiated spreads were lower than the then current new issuance spread, a fair value loss

resulted. In several instances, commitments were either terminated by the client or interest rate concessions (e.g., an increase in the stated coupon) were obtained from the borrowers, thereby increasing the value of the loans, in each case negating the need for any writedown. At December 31, 2007, the Corporation's share of the leveraged finance forward calendar that consisted primarily of senior secured exposure was $12.2 billion and our funded position held for distribution was $6.1 billion. In addition, we had limited investment grade exposure that was in line with our normal exposure levels.

- Structured products losses were $5.2 billion, with a decline in revenue of $6.6 billion in 2007 compared to the prior year. The decrease was driven by $5.6 billion of losses resulting from our CDO exposure, $125 million of losses on CMBS funded debt and the forward calendar and $875 million related to other structured products. See the detailed CDO exposure discussion to follow. Other structured products, including residential mortgage-backed securities and structured credit trading, were negatively impacted by spread widening due to the credit market disruptions during the second half of the year and by the breakdown of the expected hedge correlations. For example, the divergence in valuation of agency-based mortgage products, principally derivatives and forward sales contracts, used to economically hedge non-agency mortgage exposure resulted in losses on our residential mortgage-backed securities trading positions. At the end of the year, we held $13.7 billion of funded CMBS debt of which $6.9 billion were floating-rate acquisition related financings to major, well known operating companies. In addition, we had a forward calendar of just over $2.0 billion of which $1.1 billion were floating-rate acquisition related financings.
- Equity products revenue decreased $273 million primarily due to lower client activity in equity capital markets and equity derivatives combined with reduced trading results.

**Collateralized Debt Obligation Exposure at December 31, 2007**

CDO vehicles are special purpose entities that hold diversified pools of fixed income securities. CDO vehicles issue multiple tranches of debt securities, including commercial paper, mezzanine and equity securities.

We receive fees for structuring CDO vehicles and/or placing debt securities with third party investors as part of our structured credit products business. Our CDO exposure can be divided into funded and unfunded super senior liquidity commitment exposure, other super senior exposure (i.e., cash positions and derivative contracts), warehouse, and sales and trading positions. For more information on our CDO liquidity commitments refer to Collateralized Debt Obligations as part of Off- and On-Balance Sheet Arrangements beginning on page 35. Super senior exposure represents the most senior class of commercial paper or notes that are issued by the CDO vehicles. These financial instruments benefit from the subordination of all other securities, including AAA-rated securities, issued by the CDO vehicles.

The following table presents our super senior CDO exposure at December 31, 2007.

**Super Senior Collateralized Debt Obligation Exposure**

| | December 31, 2007 | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Subprime Exposure [1] | | | | | Non-Subprime Exposure [2] | | | | | Total CDO Exposure | | | | |
| (Dollars in millions) | Gross | Insured | Net of Insured Amount | Net Write-downs [3] | Net Exposure [3] | Gross | Insured | Net of Insured Amount | Net Write-downs [3] | Net Exposure [3] | Gross | Insured | Net of Insured Amount | Net Write-downs [3] | Net Exposure [3] |
| **Super senior liquidity commitments** | | | | | | | | | | | | | | | |
| High grade | $ 4,610 | $ (1,800) | $ 2,810 | $ (640) | $ 2,170 | $3,053 | $ – | $ 3,053 | $ (57) | $ 2,996 | $ 7,663 | $ (1,800) | $ 5,863 | $ (697) | $ 5,166 |
| Mezzanine | 363 | – | 363 | (5) | 358 | – | – | – | – | – | 363 | – | 363 | (5) | 358 |
| CDOs-squared | 4,240 | – | 4,240 | (2,013) | 2,227 | – | – | – | – | – | 4,240 | – | 4,240 | (2,013) | 2,227 |
| **Total super senior liquidity commitments [4]** | **9,213** | **(1,800)** | **7,413** | **(2,658)** | **4,755** | **3,053** | **–** | **3,053** | **(57)** | **2,996** | **12,266** | **(1,800)** | **10,466** | **(2,715)** | **7,751** |
| **Other super senior exposure** | | | | | | | | | | | | | | | |
| High grade | 4,010 | (2,110) | 1,900 | (233) | 1,667 | 1,192 | (734) | 458 | – | 458 | 5,202 | (2,844) | 2,358 | (233) | 2,125 |
| Mezzanine | 1,547 | – | 1,547 | (752) | 795 | – | – | – | – | – | 1,547 | – | 1,547 | (752) | 795 |
| CDOs-squared | 1,685 | (410) | 1,275 | (316) | 959 | – | – | – | – | – | 1,685 | (410) | 1,275 | (316) | 959 |
| **Total other super senior exposure** | **7,242** | **(2,520)** | **4,722** | **(1,301)** | **3,421** | **1,192** | **(734)** | **458** | **–** | **458** | **8,434** | **(3,254)** | **5,180** | **(1,301)** | **3,879** |
| **Total super senior CDO exposure** | **$16,455** | **$ (4,320)** | **$ 12,135** | **$ (3,959)** | **$ 8,176** | **$4,245** | **$ (734)** | **$ 3,511** | **$ (57)** | **$ 3,454** | **$20,700** | **$ (5,054)** | **$ 15,646** | **$ (4,016)** | **$ 11,630** |

(1)Classified as subprime when subprime consumer real estate loans make up at least 35 percent of the ultimate underlying collateral.
(2)Includes highly-rated CLO and CMBS super senior exposure.
(3)Net of insurance.
(4)For additional information on our super senior liquidity exposure of $12.3 billion, see the CDO discussion beginning on page 37.

At December 31, 2007, super senior exposure, net of writedowns, of $11.6 billion in the form of cash positions, liquidity commitments, and derivative contracts consisted of net subprime super senior exposure of approximately $8.2 billion and net non-subprime super senior exposure of $3.5 billion. During 2007, we recorded losses of $4.0 billion associated with our subprime super senior CDO exposure. The losses reduced trading account profits (losses) by approximately $3.2 billion and other income by approximately $750 million. In addition, we incurred approximately $1.1 billion in losses related to subprime sales and trading positions, approximately $300 million related to our CDO warehouse, and approximately $200 million to cover counterparty risk on the insured CDOs. For more information on our super senior liquidity exposure, see the CDO discussion beginning on page 37.

Our net subprime super senior liquidity commitments were $4.8 billion where we have recorded losses of $2.7 billion. The collateral supporting the high grade exposure consisted of about 60 percent subprime of which approximately 65 percent was made up of 2006 and 2007 vintages while the remaining amount was comprised of higher quality vintages from 2005 and prior. The mezzanine exposure is collateralized with about 40 percent of subprime assets of which approximately 60 percent are of higher quality vintages from 2005 and prior. The CDOs-squared exposure is supported by approximately 75 percent of subprime collateral, the majority of which were later vintages.

Our net other subprime super senior exposure was $3.4 billion where we have recorded losses of $1.3 billion. Other subprime super senior exposure consists primarily of our cash and derivative positions including the unfunded commitments. The collateral underlying the high grade exposure is similar to our high grade collateral discussed above. The mezzanine exposure underlying collateral was heavily weighted to subprime with approximately 65 percent coming from later vintages while the CDOs-squared collateral was made up of approximately 50 percent subprime assets comprised of later vintages.

We also had net non-subprime super senior CDO exposure of $3.5 billion which primarily included highly-rated CLO and CMBS super senior exposures. The net non-subprime super senior exposure is comprised of $3.0 billion of super senior liquidity commitment exposure and $458 million of high grade other super senior exposure. We recorded losses of $57 million associated with these exposures. These losses were primarily driven by spread widening rather than impairment of principal.

In addition to the table above, we also had CDO exposure with a market value of approximately $815 million in our CDO warehouse of which $314 million was classified as subprime, and CDO exposure of approximately $1.0 billion related to our sales and trading activities of which $279 million was classified as subprime. The subprime exposure related to our CDO warehouse and sales and trading activities is carried at approximately 30 percent of par value.

As mentioned above, during the fourth quarter, the credit ratings of certain CDO structures were downgraded which among other things triggered widening of credit spreads for this type of security. CDO-related markets experienced significant liquidity constraints impacting the availability and reliability of transparent pricing. We subsequently valued these CDO structures assuming they would terminate and looked through the structures to the underlying net asset values supported by the underlying securities. We were able to obtain security values using external pricing services for approximately 70 percent of the CDO exposure for which we used the average of all prices obtained by security. The majority of the remaining positions where no pricing quotes were available were valued using matrix pricing by aligning the value to securities that had similar vintage of underlying assets and ratings, using the lowest rating between the rating services. The remaining securities were valued using projected cash flows, similar to the valuation of an interest-only strip, based on

estimated average life, seniority level and vintage of underlying assets. We assigned a zero value to the CDO positions for which an event of default had been triggered. The value of cash held by the trustee for all CDO structures was also incorporated into the resulting net asset value.

At December 31, 2007, we held $5.1 billion of purchased insurance on our CDO exposure of which 66 percent was provided by monolines in the form of CDS, total-return-swaps (TRS) or financial guarantees. The majority of this purchased insurance relates to the high grade super senior exposure. In the case of default we will first look to the underlying securities and then to recovery on purchased insurance. We valued these contracts by referencing the fair value of the CDO and subsequently adjusted these fair values downward by $200 million due to counterparty credit risk. For more information on our credit exposure to monolines, see Industry Concentrations beginning on page 54.

## Treasury Services

*Treasury Services* provides integrated working capital management and treasury solutions to clients worldwide through our network of proprietary offices and special clearing arrangements. Our clients include multinationals, middle-market companies, correspondent banks, commercial real estate firms and governments. Our products and services include treasury management, trade finance, foreign exchange, short-term credit facilities and short-term investing options. Net interest income is derived from interest-bearing and noninterest-bearing deposits, sweep investments, and other liability management products. Deposit products provide a relatively stable source of funding and liquidity. We earn net interest spread revenues from investing this liquidity in earning assets through client-facing lending activity and our ALM activities. The revenue is attributed to the deposit products using our funds transfer pricing process which takes into account the interest rates and maturity characteristics of the deposits. Noninterest income is generated from payment and receipt products, merchant services, wholesale card products, and trade services and is comprised largely of service charges which are net of market-based earnings credit rates applied against noninterest-bearing deposits. During 2007, Merchant Services was transferred to *Treasury Services*. Previously, these results were reported in *Card Services* in *GCSBB*. Prior period amounts have been reclassified.

Net income decreased $237 million, or 10 percent, in 2007 compared to 2006 driven by the increase in noninterest expense combined with a decrease in revenue. Net interest income decreased $64 million, or two percent, due to the negative impact of a change in the mix between interest-bearing and noninterest-bearing deposits as clients maintained lower noninterest-bearing compensating balances by shifting to interest-bearing and/or higher yielding investment alternatives, and spread compression resulting from the rate environment and competitive pricing. Partially offsetting this decrease was an increase in average deposits of $7.3 billion due to organic growth as well as the LaSalle merger. Noninterest income was relatively flat at $3.3 billion as the increase in service charges was more than offset by the decrease in all other income. Service charges increased $102 million due to organic growth, including the impact of deposit product shifts mentioned above, providing a partial offset to lower net interest income. All other income decreased $131 million due to the sale of a business related to our merchant services activities in the prior year. Noninterest expense increased $295 million, or eight percent, mainly due to *Treasury Services'* allocation of the Visa-related litigation costs and the addition of LaSalle.

## ALM/Other

*ALM/Other* includes an allocation of a portion of the Corporation's net interest income from ALM activities as well as our Commercial Insurance business.

Net income decreased $90 million, or 46 percent, in 2007 compared to 2006 mainly due to a decrease in net interest income of $167 million, resulting from a lower contribution from the Corporation's ALM activities, and increased noninterest expense partially offset by an increase in all other income. All other income increased $122 million due to the sale of our Commercial Insurance business in the fourth quarter of 2007. Noninterest expense increased $98 million due to severance costs associated with the *GCIB* strategic review implemented in 2007 as well as increased occupancy costs.

## *Global Wealth and Investment Management*

| (Dollars in millions) | 2007 Total | U.S. Trust (1) | Columbia Management | Premier Banking and Investments | ALM/ Other |
|---|---|---|---|---|---|
| Net interest income (2) | $ 3,857 | $ 1,036 | $ 15 | $ 2,655 | $ 151 |
| Noninterest income: | | | | | |
| Investment and brokerage services | 4,210 | 1,226 | 1,857 | 950 | 177 |
| All other income | (144) | 57 | (366) | 146 | 19 |
| Total noninterest income | 4,066 | 1,283 | 1,491 | 1,096 | 196 |
| Total revenue, net of interest expense | 7,923 | 2,319 | 1,506 | 3,751 | 347 |
| Provision for credit losses | 14 | (14) | – | 27 | 1 |
| Noninterest expense | 4,635 | 1,592 | 1,196 | 1,700 | 147 |
| Income before income taxes | 3,274 | 741 | 310 | 2,024 | 199 |
| Income tax expense (2) | 1,179 | 274 | 114 | 749 | 42 |
| **Net income** | $ 2,095 | $ 467 | $ 196 | $ 1,275 | $ 157 |
| Net interest yield (2) | 3.06% | 2.69% | n/m | 2.70% | n/m |
| Return on average equity (3) | 18.87 | 17.25 | 11.29% | 72.44 | n/m |
| Efficiency ratio (2) | 58.50 | 68.67 | 79.39 | 45.31 | n/m |
| Period end – total assets (4) | $157,157 | $51,044 | $ 2,617 | $ 113,329 | n/m |

| (Dollars in millions) | 2006 Total | U.S. Trust (1) | Columbia Management | Premier Banking and Investments | ALM/ Other |
|---|---|---|---|---|---|
| Net interest income (2) | $ 3,671 | $ 902 | $ (37) | $ 2,552 | $ 254 |
| Noninterest income: | | | | | |
| Investment and brokerage services | 3,383 | 914 | 1,532 | 778 | 159 |
| All other income | 303 | 80 | 44 | 125 | 54 |
| Total noninterest income | 3,686 | 994 | 1,576 | 903 | 213 |
| Total revenue, net of interest expense | 7,357 | 1,896 | 1,539 | 3,455 | 467 |
| Provision for credit losses | (39) | (52) | – | 12 | 1 |
| Noninterest expense | 3,867 | 1,233 | 1,014 | 1,560 | 60 |
| Income before income taxes | 3,529 | 715 | 525 | 1,883 | 406 |
| Income tax expense (2) | 1,306 | 265 | 194 | 697 | 150 |
| **Net income** | $ 2,223 | $ 450 | $ 331 | $ 1,186 | $ 256 |
| Net interest yield (2) | 3.50% | 2.94% | n/m | 2.98% | n/m |
| Return on average equity (3) | 22.28 | 30.43 | 20.42% | 70.57 | n/m |
| Efficiency ratio (2) | 52.57 | 65.04 | 65.88 | 45.15 | n/m |
| Period end – total assets (4) | $125,287 | $33,648 | $ 3,082 | $ 93,992 | n/m |

(1)In July 2007, the operations of the acquired U.S. Trust Corporation were combined with the former *Private Bank* creating *U.S. Trust, Bank of America Private Wealth Management*. The results of the combined business were reported for periods beginning on July 1, 2007. Prior to July 1, 2007, the results solely reflect that of the former *Private Bank*.
(2)FTE basis
(3)Average allocated equity for *GWIM* was $11.1 billion and $10.0 billion in 2007 and 2006.
(4)Total assets include asset allocations to match liabilities (i.e., deposits).
n/m = not meaningful

| (Dollars in millions) | December 31 2007 | 2006 | Average Balance 2007 | 2006 |
|---|---|---|---|---|
| Total loans and leases | **$ 84,600** | $ 65,535 | **$ 73,469** | $ 60,910 |
| Total earning assets [1] | **145,979** | 117,342 | **126,244** | 105,028 |
| Total assets [1] | **157,157** | 125,287 | **135,319** | 112,557 |
| Total deposits | **144,865** | 113,568 | **124,867** | 102,389 |

[1]Total earning assets and total assets include asset allocations to match liabilities (i.e., deposits).

*GWIM* provides a wide offering of customized banking, investment and brokerage services tailored to meet the changing wealth management goals of our individual and institutional customer base. Our clients have access to a range of services offered through three primary businesses: *U.S. Trust, Bank of America Private Wealth Management (U.S. Trust); Columbia Management (Columbia)*; and *Premier Banking and Investments (PB&I)*. In addition, *ALM/Other* primarily includes the results of ALM activities.

In December of 2007, we completed the sale of Marsico and realized a pre-tax gain on this transaction of approximately $1.5 billion recognized in *All Other*. The business results prior to the closing of the Marsico sale are reflected within the *Columbia* business.

Net income decreased $128 million, or six percent, to $2.1 billion in 2007, due mainly to losses associated with the support provided to certain cash funds managed within *Columbia* and an increase in noninterest expense.

Net interest income increased $186 million, or five percent, to $3.9 billion driven by the impact of the U.S. Trust Corporation acquisition and organic growth in average deposit and loan balances. The growth in balances was partially offset by spread compression and a shift in the deposit product mix. *GWIM* deposit growth benefited from the migration of customer relationships and related balances from *GCSBB,* organic growth and the U.S. Trust Corporation acquisition. A more detailed discussion regarding migrated customer relationships and related balances is provided in the *PB&I* discussion.

Noninterest income increased $380 million, or 10 percent, to $4.1 billion driven by an increase in investment and brokerage services of $827 million, or 24 percent. This increase was due to higher AUM primarily attributable to the impact of the U.S. Trust Corporation acquisition, net client inflows and favorable market conditions combined with an increase in brokerage activity. Partially offsetting this increase was a decrease in all other income due to losses associated with the support provided to certain cash funds managed within *Columbia*.

Noninterest expense increased $768 million, or 20 percent, to $4.6 billion driven by the addition of U.S. Trust Corporation, higher revenue-related expenses and increased marketing costs.

### Client Assets

The following table presents client assets which consist of AUM, client brokerage assets and assets in custody.

**Client Assets**

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| Assets under management | **$643,531** | $542,977 |
| Client brokerage assets [1] | **222,661** | 203,799 |
| Assets in custody | **167,575** | 107,902 |
| Less: Client brokerage assets and assets in custody included in assets under management | **(87,071)** | (67,509) |
| **Total net client assets** | **$946,696** | $787,169 |

[1]Client brokerage assets include non-discretionary brokerage and fee-based assets.

AUM increased $100.6 billion, or 19 percent, to $643.5 billion as of December 31, 2007 compared to 2006, driven by the U.S. Trust Corporation acquisition, which contributed $115.6 billion, as well as net inflows and market appreciation partially offset by the sale of Marsico, which resulted in a decrease of $60.9 billion. As of December 31, 2007, client brokerage assets increased by $18.9 billion, or nine percent, to $222.7 billion compared to the same period in 2006, driven by increased brokerage activity. Assets in custody increased $59.7 billion, or 55 percent, to $167.6 billion compared to the same period in 2006, driven mainly by U.S. Trust Corporation which contributed $45.0 billion.

## U.S. Trust, Bank of America Private Wealth Management

In July 2007, we completed the acquisition of U.S. Trust Corporation for $3.3 billion in cash combining it with *The Private Bank* and its ultra-wealthy extension, *Family Wealth Advisors*, to form *U.S. Trust.* The results of the combined business were reported for periods beginning on July 1, 2007. Prior to July 1, 2007, the results solely reflect that of the former *Private Bank*. *U.S. Trust* provides comprehensive wealth management solutions to wealthy and ultra-wealthy clients with investable assets of more than $3 million. In addition, *U.S. Trust* provides resources and customized solutions to meet clients' wealth structuring, investment management, trust and banking services as well as specialty asset management services (oil and gas, real estate, farm and ranch, timberland, private businesses and tax advisory). Clients also benefit from access to resources available through the Corporation including capital markets products, large and complex financing solutions, and its extensive banking platform.

Net income increased $17 million, or four percent, compared to 2006, to $467 million due to higher total revenue partially offset by increases in noninterest expense and provision for credit losses. Net interest income increased $134 million due to the acquisition of U.S. Trust Corporation and organic growth in average loans and leases and average deposits. This increase was partially offset by spread compression and the shift in deposit product mix. Growth in noninterest income was driven by a $312 million increase in investment and brokerage services related to acquisitions and organic growth. Noninterest expense increased $359 million to $1.6 billion driven by acquisitions and higher personnel-related expenses.

## Columbia Management

*Columbia* is an asset management business serving the needs of both institutional clients and individual customers. *Columbia* provides asset management products and services, including mutual funds and separate accounts. *Columbia* mutual fund offerings provide a broad array of investment strategies and products including equity, fixed income (taxable and nontaxable) and money market (taxable and nontaxable) funds. *Columbia* distributes its products and services directly to institutional clients, and distributes to individuals through *U.S. Trust, PB&I* and nonproprietary channels including other brokerage firms.

In December 2007, we completed the sale of Marsico and realized a pre-tax gain on this transaction of approximately $1.5 billion recognized in *All Other*. The business results prior to the closing of the Marsico sale are reflected within the *Columbia* business.

Net income decreased $135 million, or 41 percent, to $196 million driven by a decrease of $410 million in all other income. This decrease was due primarily to losses associated with the support provided to certain cash funds. Partially offsetting this decrease was higher investment and brokerage services income of $325 million driven by the contribution from the U.S. Trust Corporation acquisition, net client inflows and favorable market conditions.

We provided support to certain cash funds managed within *Columbia.* The funds for which we provided support typically invest in high quality, short-term securities with a weighted average maturity of 90 days or less, including a limited number of securities issued by SIVs. Due to market disruptions, certain SIV investments were downgraded by the rating agencies and experienced a decline in fair value. We entered into capital commitments which required the Corporation to provide up to $565 million in cash to the funds in the event the net asset value per unit of a fund declines below certain thresholds. The capital commitments expire no later than the third quarter of 2010. At December 31, 2007, losses of $382 million had been recognized and $183 million is still outstanding associated with this capital commitment.

Additionally, we purchased SIV investments from the funds at their fair value of $561 million. Losses of $394 million on these investments were recorded within *All Other* due to declines in fair value subsequent to the purchase of such securities.

We may from time to time, but are under no obligation to, provide additional support to funds managed within *Columbia.* Future support, if any, may take the form of additional capital commitments to the funds or the purchase of assets from the funds.

We are not the primary beneficiary of the cash funds and do not consolidate the cash funds managed within *Columbia* because the subordinated support provided by the Corporation will not absorb a majority of the variability created by the assets of the funds. The cash funds had total AUM of approximately $189 billion at December 31, 2007.

## Premier Banking and Investments

*PB&I* includes *Banc of America Investments*, our full-service retail brokerage business and our *Premier Banking* channel. *PB&I* brings personalized banking and investment expertise through priority service with client-dedicated teams. *PB&I* provides a high-touch client experience through a network of approximately 5,600 client facing associates to our affluent customers with a personal wealth profile that includes investable assets plus a mortgage that exceeds $500,000 or at least $100,000 of investable assets.

*PB&I* includes the impact of migrating qualifying affluent customers, including their related deposit balances, from *GCSBB* to our *PB&I* model. After migration, the associated net interest income, service charges and noninterest expense is recorded in *PB&I*. The growth reported in the financial results of *PB&I* includes both the impact of migration, as well as the impact of incremental organic growth from providing a broader array of financial products and services to *PB&I* customers. For 2007 and 2006, a total of $11.4 billion and $10.7 billion of deposits were migrated from *GCSBB* to *PB&I*.

Net income increased $89 million, or eight percent, to $1.3 billion compared to the same period in 2006 due to an increase in total revenues. Net interest income increased $103 million, or four percent, to $2.7 billion driven by higher average deposit and loan balances partially offset by a shift of the product mix in the deposit portfolio and spread compression. Noninterest income increased $193 million, or 21 percent, to $1.1 billion driven by higher investment and brokerage services income. Noninterest expense increased $140 million, or nine percent, to $1.7 billion primarily due to increases in personnel-related expense driven by the expansion of client facing associates and higher incentives.

The growth in *PB&I* revenues was nine percent, of which approximately seven percent was attributable to the impact of migration and two percent reflected incremental organic growth.

## ALM/Other

*ALM/Other* primarily includes the results of ALM activities.

Net income decreased $99 million, or 39 percent, to $157 million compared to 2006. The decrease was driven by a $103 million decrease in net interest income due to a reduction in the contribution from ALM activities and an increase in noninterest expense of $87 million.

## *All Other*

| (Dollars in millions) | 2007 Reported Basis (1) | 2007 Securitization Offset (2) | 2007 As Adjusted | 2006 Reported Basis (1) | 2006 Securitization Offset (2) | 2006 As Adjusted |
|---|---|---|---|---|---|---|
| Net interest income (3) | **$ (7,701)** | **$ 8,027** | **$ 326** | $ (5,930) | $ 7,593 | $ 1,663 |
| Noninterest income: | | | | | | |
| Card income | **2,816** | **(3,356)** | **(540)** | 3,795 | (4,566) | (771) |
| Equity investment income | **3,745** | **–** | **3,745** | 2,872 | – | 2,872 |
| Gains (losses) on sales of debt securities | **180** | **–** | **180** | (475) | – | (475) |
| All other income | **6** | **288** | **294** | 98 | 335 | 433 |
| Total noninterest income | **6,747** | **(3,068)** | **3,679** | 6,290 | (4,231) | 2,059 |
| Total revenue, net of interest expense | **(954)** | **4,959** | **4,005** | 360 | 3,362 | 3,722 |
| Provision for credit losses | **(5,210)** | **4,959** | **(251)** | (3,494) | 3,362 | (132) |
| Merger and restructuring charges (4) | **410** | **–** | **410** | 805 | – | 805 |
| All other noninterest expense | **(20)** | **–** | **(20)** | 972 | – | 972 |
| Income before income taxes | **3,866** | **–** | **3,866** | 2,077 | – | 2,077 |
| Income tax expense (3) | **947** | **–** | **947** | 577 | – | 577 |
| **Net income** | **$ 2,919** | **$ –** | **$ 2,919** | $ 1,500 | $ – | $ 1,500 |

(1)Provision for credit losses represents the provision for credit losses in *All Other* combined with the *GCSBB* securitization offset.
(2)The securitization offset on net interest income is on a funds transfer pricing methodology consistent with the way funding costs are allocated to the businesses.
(3)FTE basis
(4)For more information on merger and restructuring charges, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

*GCSBB* is reported on a managed basis which includes a "securitization impact" adjustment which has the effect of assuming that loans that have been securitized were not sold and presenting these loans in a manner similar to the way loans that have not been sold are presented. *All Other's* results include a corresponding "securitization offset" which removes the impact of these securitized loans in order to present the consolidated results on a GAAP basis (i.e., held basis). See the *GCSBB* section beginning on page 21 for information on the *GCSBB* managed results. The following *All Other* discussion focuses on the results on an as adjusted basis excluding the securitization offset. For additional information, see *Note 22 – Business Segment Information* to the Consolidated Financial Statements.

In addition to the securitization offset discussed above, *All Other* includes our *Equity Investments* businesses and *Other*.

*Equity Investments* includes Principal Investing, Corporate Investments and Strategic Investments. Principal Investing is comprised of a diversified portfolio of investments in privately-held and publicly-traded companies at all stages of their life cycle from start-up to buyout. These investments are made either directly in a company or held through a fund and are accounted for at fair value. In addition, Principal Investing has unfunded equity commitments related to some of these investments. For more information on these commitments, see *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

Corporate Investments primarily includes investments in publicly-traded equity securities and funds which are accounted for as AFS marketable equity securities. Strategic Investments includes investments of $16.4 billion in CCB, $2.6 billion in Grupo Financiero Santander, S.A. (Santander), $2.6 billion Banco Itaú and other investments. Beginning in the fourth quarter of 2007, the shares of CCB are accounted for as AFS marketable equity securities and carried at fair value with a corresponding net-of-tax offset to accumulated OCI. Prior to the fourth quarter of 2007, these shares were accounted for at cost as they are non-transferable until October 2008. We also hold an option to increase our ownership interest in CCB to 19.1 percent. Additional shares received upon exercise of this option are restricted through August 2011. This option expires in February 2011. The strike price of the option is based on the IPO price that steps up on an annual basis and is currently at 103 percent of the IPO price. The strike price of the option is capped at 118 percent of the IPO price depending when the option is exercised. Our investment in Santander is accounted for under the equity method of accounting. The restricted shares of Banco Itaú are currently carried at cost but, similar to CCB, will be accounted for as AFS marketable equity securities and carried at fair value with an offset net-of-tax to accumulated OCI beginning in the second quarter of 2008. Income associated with *Equity Investments* is recorded in equity investment income.

*Other* includes the residual impact of the allowance for credit losses and the cost allocation processes, merger and restructuring charges, intersegment eliminations, and the results of certain businesses that are expected to be or have been sold or are in the process of being liquidated. *Other* also includes certain amounts associated with ALM activities, including the residual impact of funds transfer pricing allocation methodologies, amounts associated with the change in the value of derivatives used as economic hedges of interest rate and foreign exchange rate fluctuations that do not qualify for SFAS 133 hedge accounting treatment, foreign exchange rate fluctuations related to SFAS 52 revaluation of foreign denominated debt issuances, certain gains (losses) on sales of whole mortgage loans, and gains (losses) on sales of debt securities. *Other* also includes adjustments to noninterest income and income tax expense to remove the FTE impact of items (primarily low-income housing tax credits) that have been grossed up within noninterest income to a FTE amount in the business segments.

Net income increased $1.4 billion to $2.9 billion primarily due to an increase in noninterest income combined with decreases in all other noninterest expense, merger and restructuring charges and provision for credit losses partially offset by a decrease in net interest income.

Net interest income decreased $1.3 billion resulting largely from the absence of net interest income due to the sale of the Latin American operations and Hong Kong-based retail and commercial banking business which were included in our 2006 results. Net interest income was also adversely impacted by the implementation of new accounting guidance (FSP 13-2) which decreased net interest income by approximately $230 million.

Noninterest income increased $1.6 billion driven by the $1.5 billion gain from the sale of Marsico. In addition, noninterest income increased

due to higher equity investment income and the absence of a loss of $496 million on the sale of mortgage-backed debt securities which occurred in the prior year. Partially offsetting these items was a $720 million gain on the sale of our Brazilian operations in 2006 and losses in 2007 of $394 million on securities after they were purchased at fair value from certain cash funds managed within *GWIM*. In addition, all noninterest income line items were impacted by the absence of noninterest income due to the sale of the Latin American operations and Hong Kong-based retail and commercial banking business which were included in our 2006 results.

The following table presents the components of *All Other's* equity investment income and a reconciliation to the total consolidated equity investment income for 2007 and 2006.

**Components of Equity Investment Income**

| (Dollars in millions) | **2007** | 2006 |
|---|---|---|
| Principal Investing | **$2,217** | $1,894 |
| Corporate and Strategic Investments | **1,528** | 978 |
| Total equity investment income included in All Other | **3,745** | 2,872 |
| Total equity investment income included in the business segments | **319** | 317 |
| **Total consolidated equity investment income** | **$4,064** | $3,189 |

Equity investment income increased $873 million primarily due to the $600 million gain on the sale of private equity funds to Conversus Capital and an increase of $533 million in dividends from CCB, including a special dividend of $184 million prior to CCB's 2007 share listing. Partially offsetting these increases was a $341 million gain in 2006 recorded on the liquidation of a strategic European investment.

Provision for credit losses decreased $119 million to negative $251 million compared to negative $132 million in 2006, mainly due to reserve reductions from the sale of our Argentina portfolio during the first quarter of 2007 and improved performance of the remaining portfolios from certain consumer finance businesses that we have previously exited.

Merger and restructuring charges decreased $395 million to $410 million compared to $805 million for 2006 due to declining integration costs associated with the MBNA acquisition offset by costs associated with the integration of U.S. Trust Corporation and LaSalle. For additional information on merger and restructuring charges, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

The decrease in all other noninterest expense of $992 million was largely driven by the absence of operating costs after the sale of the Latin America operations and Hong Kong-based retail and commercial banking business which were included in our 2006 results.

## Off- and On-Balance Sheet Arrangements

In the ordinary course of business, we support our customers' financing needs by facilitating their access to the commercial paper market. In addition, we utilize certain financing arrangements to meet our balance sheet management, funding and liquidity needs. For additional information on our liquidity risk, see Liquidity Risk and Capital Management beginning on page 41. These activities utilize SPEs, typically in the form of corporations, limited liability companies, or trusts, which raise funds by issuing short-term commercial paper or similar instruments to third party investors. These SPEs typically hold various types of financial assets whose cash flows are the primary source of repayment for the liabilities of the SPEs. Investors have recourse to the assets in the SPE and often benefit from other credit enhancements, such as overcollateralization in the form of excess assets in the SPE, liquidity facilities, and other arrangements. As a result, the SPEs can typically obtain a favorable credit rating from the rating agencies, resulting in lower financing costs for our customers.

## Table 8 Special Purpose Entities Liquidity Exposure [1]

| (Dollars in millions) | December 31, 2007 VIEs Consolidated [2] | VIEs Unconsolidated | QSPEs Unconsolidated | Total |
|---|---|---|---|---|
| Corporation-sponsored multi-seller conduits | $ 16,984 | $ 47,335 | $ – | $ 64,319 |
| Municipal bond trusts and corporate SPEs | 7,359 | 3,120 | 7,251 | 17,730 |
| Collateralized debt obligation vehicles [3] | 3,240 | 9,026 | – | 12,266 |
| Asset acquisition conduits | 1,623 | 6,399 | – | 8,022 |
| Customer-sponsored conduits | – | 1,724 | – | 1,724 |
| **Total liquidity exposure** | $ 29,206 | $ 67,604 | $ 7,251 | $104,061 |

| (Dollars in millions) | December 31, 2006 VIEs Consolidated [2] | VIEs Unconsolidated | QSPEs Unconsolidated | Total |
|---|---|---|---|---|
| Corporation-sponsored multi-seller conduits | $ 11,515 | $ 29,836 | $ – | $ 41,351 |
| Municipal bond trusts and corporate SPEs | 272 | 48 | 7,593 | 7,913 |
| Collateralized debt obligation vehicles | – | 7,658 | – | 7,658 |
| Asset acquisition conduits | 1,083 | 5,952 | – | 7,035 |
| Customer-sponsored conduits | – | 4,586 | – | 4,586 |
| **Total liquidity exposure** | $ 12,870 | $ 48,080 | $ 7,593 | $ 68,543 |

(1) *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements is related to this table but only reflects those entities in which we hold a significant variable interest.
(2) We consolidate VIEs when we are the primary beneficiary that will absorb the majority of the expected losses or expected residual returns of the VIEs or both.
(3) For additional information on our CDO exposures and related writedowns at December 31, 2007, see the CDO discussion beginning on page 28.

We have liquidity agreements, SBLCs or other arrangements with the SPEs, as described below, under which we are obligated to provide funding in the event of a market disruption or other specified event or otherwise provide credit support to the entities (hereinafter referred to as liquidity exposure). We manage our credit risk and any market risk on these arrangements by subjecting them to our normal underwriting and risk management processes. Our credit ratings and changes thereto will affect the borrowing cost and liquidity of these SPEs. In addition, significant changes in counterparty asset valuation and credit standing may also affect the ability of the SPEs to issue commercial paper. The contractual or notional amount of these commitments as presented in Table 8, represents our maximum possible funding obligation and is not, in management's view, representative of expected losses or funding requirements. From time to time, we may purchase commercial paper issued by these SPEs in connection with market-making activities or for investment purposes. During the second half of 2007, there were instances in which the asset-backed commercial paper market became illiquid due to market perceptions of uncertainty and certain investment activities were affected. As a result, at December 31, 2007, we held $6.6 billion of commercial paper on the Corporation's Consolidated Balance Sheet that was issued in connection with our liquidity obligations to unconsolidated CDOs summarized in the table above. At December 31, 2006, we held $123 million of commercial paper issued by the SPEs included in the table above.

The table above presents our liquidity exposure to these consolidated and unconsolidated SPEs, which include VIEs and QSPEs. VIEs are SPEs which lack sufficient equity at risk or whose equity investors do not have a controlling financial interest. QSPEs are SPEs whose activities are strictly limited to holding and servicing financial assets. Some, but not all, of the liquidity commitments to VIEs are considered to be significant variable interests and are disclosed in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements. Those liquidity commitments that are not significant variable interests are not required to be included in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

At December 31, 2007 the Corporation's total liquidity exposure to SPEs was $104.1 billion, an increase of $35.5 billion from December 31, 2006. The increase was primarily due to increases in corporation-sponsored multi-seller conduits and municipal bond trusts and corporate SPEs. The increase of $23.0 billion in corporation-sponsored multi-seller conduits was primarily due to organic growth in the business. The increase of $9.8 billion in municipal bond trusts and corporate SPEs was mainly due to the acquisition of LaSalle.

### Corporation-Sponsored Multi-Seller Conduits

We administer three multi-seller conduits which provide a low-cost funding alternative to our customers by facilitating their access to the commercial paper market. Our customers sell or otherwise transfer assets to the conduits, which in turn issue high-grade, short-term commercial paper that is collateralized by the underlying assets. We receive fees for providing combinations of liquidity and SBLCs or similar loss protection commitments to the conduits. These commitments represent significant variable interests in the SPEs, which are discussed in more detail in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements. Third parties participate in a small number of the liquidity facilities on a pari passu basis with the Corporation.

At December 31, 2007, our liquidity commitments to the conduits were collateralized by various classes of assets. Assets held in the conduits incorporate features such as overcollateralization and cash reserves which are designed to provide credit support at a level that is equivalent to an investment grade as determined in accordance with internal risk rating guidelines. During 2007, there were no material write-downs or downgrades of assets.

We are the primary beneficiary of one conduit which is included in our Consolidated Financial Statements. At December 31, 2007, our liquidity commitments to this conduit were collateralized by credit card loans (21 percent), auto loans (14 percent), equipment loans (13 percent), and student loans (eight percent). None of these assets are subprime residential mortgages. In addition, 29 percent of our commitments were

collateralized by projected cash flows from long-term contracts (e.g., television broadcast contracts, stadium revenues and royalty payments) which, as mentioned above, incorporate features that provide credit support at a level equivalent to an investment grade. At December 31, 2007, the weighted average life of assets in the consolidated conduit was 5.4 years and the weighted average maturity of commercial paper issued by this conduit was 40 days. Assets of the Corporation are not available to pay creditors of the consolidated conduit except to the extent the Corporation may be obligated to perform under the liquidity commitments and SBLCs. Assets of the consolidated conduit are not available to pay creditors of the Corporation.

We do not consolidate the other two conduits as we do not expect to absorb a majority of the variability of the conduits. At December 31, 2007, our liquidity commitments to the unconsolidated conduits were collateralized by student loans (27 percent), credit card loans and trade receivables (10 percent each), and auto loans (eight percent). Less than one percent of these assets are subprime residential mortgages. In addition, 29 percent of our commitments were collateralized by the conduits' short-term lending arrangements with investment funds, primarily real estate funds, which as mentioned above, incorporate features that provide credit support at a level equivalent to an investment grade. Amounts advanced under these arrangements will be repaid when the investment funds issue capital calls to their qualified equity investors. At December 31, 2007, the weighted average life of assets in the unconsolidated conduits was 2.6 years and the weighted average maturity of commercial paper issued by these conduits was 36 days.

The liquidity commitments and SBLCs provided to unconsolidated conduits are included in Table 10 in the Obligations and Commitments section beginning on page 38. We have no other contractual obligations to the unconsolidated conduits, nor do we intend to provide noncontractual or other forms of support.

On a combined basis, the unconsolidated conduits issued approximately $27 million of capital notes and equity interests to third parties. This represents the maximum amount of loss that would be absorbed by the third party investors. Based on an analysis of projected cash flows, we have determined that the Corporation will not absorb a majority of the variability created by the assets of the conduits.

Despite the market disruptions in the second half of 2007, the conduits did not experience any material difficulties in issuing commercial paper. The Corporation did not purchase any commercial paper issued by the conduits other than incidentally and in its role as commercial paper dealer.

### Municipal Bond Trusts and Corporate SPEs

We have provided a total of $17.7 billion and $7.9 billion in liquidity support to municipal bond trusts and corporate SPEs at December 31, 2007 and 2006. We administer municipal bond trusts that hold highly-rated, long-term, fixed-rate municipal bonds, some of which are callable prior to maturity, for which we provided liquidity support of $13.4 billion and $2.6 billion at December 31, 2007 and 2006. In addition, we administer several conduits to which we provided $4.3 billion and $5.3 billion of liquidity support at December 31, 2007 and 2006.

As it relates to the municipal bond trusts the weighted average remaining life of the bonds at December 31, 2007 was 20.8 years. Substantially all of the bonds are rated AAA or AA and some of the bonds benefit from being wrapped by monolines. There were no material write-downs or downgrades of assets or issuers during 2007. The trusts obtain financing by issuing floating-rate trust certificates that reprice on a weekly basis to third party investors. The floating-rate investors have the right to tender the certificates at any time upon seven days notice. We serve as remarketing agent and liquidity provider for the trusts. Should we be unable to remarket the tendered certificates, we are generally obligated to purchase them at par. We are not obligated to purchase the certificate if a bond's credit rating declines below investment grade or in the event of certain defaults or bankruptcy of the issuer and/or insurer. The total notional amount of floating-rate certificates for which we provide liquidity support was $13.4 billion and $2.6 billion at December 31, 2007 and 2006. Some of these trusts are QSPEs. We consolidate those trusts that are not QSPEs if we hold the residual interest or otherwise expect to absorb a majority of the variability of the trusts. We have $6.1 billion of liquidity commitments to unconsolidated trusts at December 31, 2007, which are included in Table 10 in the Obligations and Commitments section beginning on page 38.

Assets of the other corporate conduits consisted primarily of high-grade, long-term municipal, corporate, and mortgage-backed securities which had a weighted average remaining life of approximately 7.5 years at December 31, 2007. Substantially all of the securities are rated AAA or AA and some of the bonds benefit from being wrapped by monolines. There were no material write-downs or downgrades of assets or insurers during 2007. These conduits, which are QSPEs, obtain funding by issuing commercial paper to third party investors. At December 31, 2007, the weighted average maturity of the commercial paper was 25 days. We have entered into derivative contracts which provide interest rate, currency and a pre-specified amount of credit protection to the entities in exchange for the commercial paper rate. In addition, we may be obligated to purchase assets from the vehicles if the assets or insurers are downgraded. If an asset's rating declines below a certain investment quality as evidenced by its credit rating or defaults, we are no longer exposed to the risk of loss. Due to the market disruptions during the second half of 2007, these conduits began to experience difficulties in issuing commercial paper as credit spreads widened. On occasion, including in the first quarter of 2008, we held some of the issued commercial paper when marketing attempts were unsuccessful. In the event that we are unable to remarket the conduits' commercial paper such that it no longer qualifies as a QSPE, we would consolidate the conduit which may have an adverse impact on the fair value of the related derivative contracts. At December 31, 2007 we did not hold any commercial paper issued by the conduits.

We have no other contractual obligations to the unconsolidated bond trusts and conduits described above, nor do we intend to provide noncontractual or other forms of support.

Derivative activity related to these entities is included in *Note 4 – Derivatives* to the Consolidated Financial Statements. For more information on QSPEs, see *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements. For additional information on our monoline exposure, see Industry Concentrations beginning on page 54.

### Collateralized Debt Obligation Vehicles

CDOs are SPEs that hold diversified pools of fixed income securities. They issue multiple tranches of debt securities, including commercial paper and equity securities. We receive fees for structuring the CDOs and/or placing debt securities with third party investors. We provided total liquidity support of $12.3 billion and $7.7 billion at December 31, 2007 and 2006 consisting of $10.0 billion and $2.1 billion of written put options and $2.3 billion and $5.5 billion of other forms of liquidity support.

At December 31, 2007 and 2006, we provided liquidity support in the form of written put options on $10.0 billion and $2.1 billion of commercial paper issued by CDOs, including $3.2 billion issued by a consolidated CDO at December 31, 2007. No third parties provide similar

commitments to these CDOs. The commercial paper is the most senior class of securities issued by the CDOs and benefits from the subordination of all other securities, including AAA-rated securities. The amount that is principally backed by subprime residential mortgage exposure (net of insurance and prior to writedowns) totaled $7.4 billion. This amount included approximately $2.8 billion of high grade ABS, $4.2 billion of CDOs-squared, of which $3.2 billion were consolidated, and $363 million of mezzanine ABS.

The commercial paper subject to the put options is the most senior class of securities issued by the CDOs and benefits from the subordination of all other securities, including AAA-rated securities. We are obligated under the written put options to provide funding to the CDOs by purchasing the commercial paper at predetermined contractual yields in the event of a severe disruption in the short-term funding market as evidenced by the inability of the CDOs to issue commercial paper at spreads below a predetermined rate.

Prior to the second half of 2007, we believed that the likelihood of our experiencing an economic loss as the result of our obligations under the written put options was remote. However, due to severe market disruptions during the second half of 2007, the CDOs holding the put options began to experience difficulties in issuing commercial paper. Shortly thereafter, a significant portion of the assets held in these CDOs were downgraded or threatened with downgrade by the rating agencies. As a result of these factors, we began to purchase commercial paper that could not be issued to third parties at less than the contractual yield specified in our liquidity obligations. See *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements for more information on the written put options. These written put options are recorded as derivatives on the Consolidated Balance Sheet and are carried at fair value with changes in fair value recorded in trading account profits (losses). Derivative activity related to these entities is included in *Note 4 – Derivatives* to the Consolidated Financial Statements.

We also administer a CDO conduit that obtains funds by issuing commercial paper to third party investors. The conduit held $2.3 billion and $5.5 billion of assets at December 31, 2007 and 2006 consisting of super senior tranches of debt securities issued by other CDOs, none of which are principally backed by subprime residential mortgages at December 31, 2007. We provide liquidity support equal to the amount of assets in this conduit which obligates us to purchase the commercial paper at a predetermined contractual yield in the event of a severe disruption in the short-term funding market as evidenced by the inability of the conduit to issue commercial paper at spreads below a predetermined rate. In addition, we are obligated to purchase assets from the conduit or absorb market losses on the sale of assets in the event of a downgrade or decline in credit quality of the assets. Our $2.3 billion liquidity commitment to the conduit at December 31, 2007 is included in Table 10 in the Obligations and Commitments section. We are the sole provider of liquidity to the CDO vehicle.

During the fourth quarter of 2007, as contractually allowed in our role as conduit administrator, the Corporation removed certain assets from the CDO conduit due to a decline in credit quality. The CDO conduit also began to experience difficulties in issuing commercial paper due to market disruptions during the second half of 2007, and we began to purchase commercial paper that could not be issued to third parties at less than the contractual yield specified in our liquidity obligations.

At December 31, 2007, we held $6.6 billion of commercial paper on the balance sheet that was issued by unconsolidated CDO vehicles of which $5.0 billion related to the written put options and $1.6 billion related to other liquidity support. We also held AFS debt securities in consolidated CDO vehicles with a fair value of $2.8 billion that were principally related to certain assets that were removed from the CDO conduit, as discussed above. We recorded losses of $3.2 billion, net of insurance, in trading account profits (losses) in 2007 of which $2.7 billion related to written put options and $519 million related to other liquidity support. These losses are included in the $4.0 billion of net writedowns on super senior CDO exposure which is discussed in more detail beginning on page 28.

### Asset Acquisition Conduits

We administer two unconsolidated conduits which acquire assets on behalf of our customers. The return on the assets held in the conduits, which consist principally of liquid exchange-traded securities and some leveraged loans, is passed through to our customers through a series of derivative contracts. We consolidate a third conduit which holds subordinated debt securities for our benefit. These conduits obtain funding through the issuance of commercial paper and subordinated certificates to third party investors. Repayment of the commercial paper and certificates is assured by derivative contracts between the Corporation and the conduits, and we are reimbursed through the derivative contracts with our customers. Our performance under the derivatives is collateralized by the underlying assets. Derivative activity related to these entities is included in *Note 4 – Derivatives* to the Consolidated Financial Statements.

Despite the market disruptions in the second half of 2007, the conduits did not experience any material difficulties in issuing commercial paper. The Corporation did not hold a significant amount of commercial paper issued by the conduits at any time during 2007. At December 31, 2007, the weighted average life of commercial paper issued by the conduits was 34 days.

We have no other contractual obligations to the conduits described above, nor do we intend to provide noncontractual or other forms of support.

### Customer-Sponsored Conduits

We provide liquidity facilities to conduits that are sponsored by our customers and which provide them with direct access to the commercial paper market. We are typically one of several liquidity providers for a customer's conduit. We do not provide SBLCs or other forms of credit enhancement to these conduits. Assets of these conduits consist primarily of auto loans, student loans and credit card receivables. The liquidity commitments benefit from structural protections which vary depending upon the program, but given these protections, the exposures are viewed to be of investment grade quality.

These commitments are included in Table 10 in the Obligations and Commitments section. As we typically provide less than 20 percent of the total liquidity commitments to these conduits and do not provide other forms of support, we have concluded that we do not hold a significant variable interest in the conduits and they are not included in our discussion of VIEs in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

## Obligations and Commitments

We have contractual obligations to make future payments on debt and lease agreements. Additionally, in the normal course of business, we enter into contractual arrangements whereby we commit to future purchases of products or services from unaffiliated parties. Obligations that are legally binding agreements whereby we agree to purchase products or services with a specific minimum quantity defined at a fixed, minimum or variable price over a specified period of time are defined as purchase obligations.

Included in purchase obligations are vendor contracts of $4.9 billion, commitments to purchase securities of $3.7 billion and commitments to purchase loans of $27.1 billion. The most significant of our vendor contracts include communication services, processing services and software contracts. Other long-term liabilities include our contractual funding obligations related to the Qualified Pension Plans, Nonqualified Pension Plans and Postretirement Health and Life Plans (the Plans). Obligations to the Plans are based on the current and projected obligations of the Plans, performance of the Plans' assets and any participant contributions, if applicable. During 2007 and 2006, we contributed $243 million and $2.6 billion to the Plans, and we expect to make at least $206 million of contributions during 2008. The following table does not include UTBs of $3.1 billion associated with FIN 48 and tax-related interest and penalties of $573 million.

Debt, lease, equity and other obligations are more fully discussed in *Note 12 – Short-term Borrowings and Long-term Debt* and *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements. The Plans and UTBs are more fully discussed in *Note 16 – Employee Benefit Plans* and *Note 18 – Income Taxes* to the Consolidated Financial Statements.

Table 9 presents total long-term debt and other obligations at December 31, 2007.

**Table 9 Long-term Debt and Other Obligations**

| | December 31, 2007 | | | | |
|---|---|---|---|---|---|
| (Dollars in millions) | Due in 1 year or less | Due after 1 year through 3 years | Due after 3 years through 5 years | Due after 5 years | Total |
| Long-term debt and capital leases | $ 30,435 | $ 50,693 | $ 28,115 | $88,265 | $197,508 |
| Purchase obligations [1] | 12,266 | 21,994 | 624 | 842 | 35,726 |
| Operating lease obligations | 2,049 | 3,405 | 2,480 | 8,151 | 16,085 |
| Other long-term liabilities | 493 | 694 | 432 | 480 | 2,099 |
| **Total long-term debt and other obligations** | $ 45,243 | $ 76,786 | $ 31,651 | $97,738 | $251,418 |

(1) Obligations that are legally binding agreements whereby we agree to purchase products or services with a specific minimum quantity defined at a fixed, minimum or variable price over a specified period of time are defined as purchase obligations.

Many of our lending relationships contain funded and unfunded elements. The funded portion is reflected on our balance sheet. For lending relationships carried at historical cost, the unfunded component of these commitments is not recorded on our balance sheet until a draw is made under the credit facility; however, a reserve is established for probable losses. For lending commitments for which we have elected to account for under SFAS 159, the fair value of the commitment is recorded in accrued expenses and other liabilities. The Corporation also manages certain concentrations of commitments (e.g., bridge financing) through its established "originate to distribute" strategy.

For more information on these commitments and guarantees, including equity commitments, see *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements. For more information on the adoption of SFAS 159, see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

We enter into commitments to extend credit such as loan commitments, SBLCs and commercial letters of credit to meet the financing needs of our customers. The table below summarizes the total unfunded, or off-balance sheet, credit extension commitment amounts by expiration date. At December 31, 2007, the unfunded lending commitments related to charge cards (nonrevolving card lines) to individuals and government entities guaranteed by the U.S. Government in the amount of $9.9 billion (related outstandings of $193 million) were not included in credit card line commitments in the table below.

### Other Commitments

We provided support to cash funds managed within *GWIM* by purchasing certain assets at fair value and by committing to provide a limited amount of capital to the funds. For more information, see *Note 13 – Commitments and Contingenc*ies to the Consolidated Financial Statements.

**Table 10 Credit Extension Commitments**

| | December 31, 2007 | | | | |
|---|---|---|---|---|---|
| (Dollars in millions) | Expires in 1 year or less | Expires after 1 year through 3 years | Expires after 3 years through 5 years | Expires after 5 years | Total |
| Loan commitments | $ 178,931 | $ 92,153 | $ 106,904 | $ 27,902 | $ 405,890 |
| Home equity lines of credit | 8,482 | 1,828 | 2,758 | 107,055 | 120,123 |
| Standby letters of credit and financial guarantees | 31,629 | 14,493 | 7,943 | 8,731 | 62,796 |
| Commercial letters of credit | 3,753 | 50 | 33 | 717 | 4,553 |
| Legally binding commitments [1] | 222,795 | 108,524 | 117,638 | 144,405 | 593,362 |
| Credit card lines | 876,393 | 17,864 | – | – | 894,257 |
| **Total credit extension commitments** | $ 1,099,188 | $ 126,388 | $ 117,638 | $ 144,405 | $1,487,619 |

(1) Includes commitments of $47.3 billion to corporation-sponsored multi-seller conduits, $2.3 billion to CDOs, $6.1 billion to municipal bond trusts and $1.7 billion to customer-sponsored conduits at December 31, 2007.

# Managing Risk

## Overview

Our management governance structure enables us to manage all major aspects of our business through an integrated planning and review process that includes strategic, financial, associate, customer and risk planning. We derive much of our revenue from managing risk from customer transactions for profit. In addition to qualitative factors, we utilize quantitative measures to optimize risk and reward trade offs in order to achieve growth targets and financial objectives while reducing the variability of earnings and minimizing unexpected losses. Risk metrics that allow us to measure performance include economic capital targets and corporate risk limits. By allocating economic capital to a line of business, we effectively manage that business's ability to take on risk. Review and approval of business plans incorporate approval of economic capital allocation, and economic capital usage is monitored through financial and risk reporting. Industry, country, trading, asset allocation and other limits supplement the allocation of economic capital. These limits are based on an analysis of risk and reward in each line of business and management is responsible for tracking and reporting performance measurements as well as any exceptions to guidelines or limits. Our risk management process continually evaluates risk and appropriate metrics needed to measure it.

Our business exposes us to the following major risks: strategic, liquidity, credit, market and operational risk. Strategic risk is the risk that adverse business decisions, ineffective or inappropriate business plans or failure to respond to changes in the competitive environment, business cycles, customer preferences, product obsolescence, execution and/or other intrinsic risks of business will impact our ability to meet our objectives. Liquidity risk is the inability to accommodate liability maturities and deposit withdrawals, fund asset growth and meet contractual obligations through unconstrained access to funding at reasonable market rates. Credit risk is the risk of loss arising from a borrower's or counterparty's inability to meet its obligations. Market risk is the risk that values of assets and liabilities or revenues will be adversely affected by changes in market conditions, such as interest rate movements. Operational risk is the risk of loss resulting from inadequate or failed internal processes, people and systems or external events. The following sections, Strategic Risk Management on page 41, Liquidity Risk and Capital Management beginning on page 41, Credit Risk Management beginning on page 44, Market Risk Management beginning on page 61 and Operational Risk Management beginning on page 68, address in more detail the specific procedures, measures and analyses of the major categories of risk that we manage.

## Risk Management Processes and Methods

We have established and continually enhance control processes and use various methods to align risk-taking and risk management throughout our organization. These control processes and methods are designed around "three lines of defense": lines of business, enterprise functions and Corporate Audit.

The lines of business are the first line of defense and are responsible for identifying, quantifying, mitigating and monitoring all risks within their lines of business, while certain enterprise-wide risks are managed centrally. For example, except for trading-related business activities, interest rate risk associated with our business activities is managed centrally as part of our ALM activities. Line of business management makes and executes the business plan and is closest to the changing nature of risks and, therefore, we believe is best able to take actions to manage and mitigate those risks. Our lines of business prepare periodic self-assessment reports to identify the status of risk issues, including mitigation plans, if appropriate. These reports roll up to executive management to ensure appropriate risk management and oversight, and to identify enterprise-wide issues. Our management processes, structures and policies aid us in complying with laws and regulations and provide clear lines for decision-making and accountability. Wherever practical, we attempt to house decision-making authority as close to the transaction as possible while retaining supervisory control functions from both in and outside of the lines of business.

The key elements of the second line of defense are Risk Management, Compliance, Finance, Global Technology and Operations, Human Resources, and Legal functions. These groups are independent of the lines of businesses and are organized on both a line of business and enterprise-wide basis. For example, for Risk Management, a senior risk executive is assigned to each of the lines of business and is responsible for the oversight of all the risks associated with that line of business. Enterprise-level risk executives have responsibility to develop and implement polices and practices to assess and manage enterprise-wide credit, market and operational risks.

Corporate Audit, the third line of defense, provides an independent assessment of our management and internal control systems. Corporate Audit activities are designed to provide reasonable assurance that resources are adequately protected; significant financial, managerial and operating information is materially complete, accurate and reliable; and employees' actions are in compliance with corporate policies, standards, procedures, and applicable laws and regulations.

We use various methods to manage risks at the line of business levels and corporate-wide. Examples of these methods include planning and forecasting, risk committees and forums, limits, models, and hedging strategies. Planning and forecasting facilitates analysis of actual versus planned results and provides an indication of unanticipated risk levels. Generally, risk committees and forums are composed of lines of business, risk management, treasury, compliance, legal and finance personnel, among others, who actively monitor performance against plan, limits, potential issues, and introduction of new products. Limits, the amount of exposure that may be taken in a product, relationship, region or industry, seek to align corporate-wide risk goals with those of each line of business and are part of our overall risk management process to help reduce the volatility of market, credit and operational losses. Models are used to estimate market value and net interest income sensitivity, and to estimate expected and unexpected losses for each product and line of business, where appropriate. Hedging strategies are used to manage the risk of borrower or counterparty concentration risk and to manage market risk in the portfolio.

The formal processes used to manage risk represent only one portion of our overall risk management process. Corporate culture and the actions of our associates are also critical to effective risk management. Through our Code of Ethics, we set a high standard for our associates. The Code of Ethics provides a framework for all of our associates to conduct themselves with the highest integrity in the delivery of our products or services to our customers. We instill a risk-conscious culture through communications, training, policies, procedures, and organizational roles and responsibilities. Additionally, we continue to strengthen the linkage between the associate performance management process and individual compensation to encourage associates to work toward corporate-wide risk goals.

### Oversight

The Board oversees the risk management of the Corporation through its committees, management committees and the Chief Executive Officer. The Board's Audit Committee monitors (1) the effectiveness of our internal controls, (2) the integrity of our Consolidated Financial Statements and (3) compliance with legal and regulatory requirements. In addition, the Audit Committee oversees the internal audit function and the independent registered public accountant. The Board's Asset Quality Committee oversees credit risks and related topics that may impact our assets and earnings. The Finance Committee, a management committee, oversees the development and performance of the policies and strategies for managing the strategic, credit, market, and operational risks to our earnings and capital. The Asset Liability Committee (ALCO), a subcommittee of the Finance Committee, oversees our policies and processes designed to assure sound market risk and balance sheet management. The Global Markets Risk Committee (GRC) has been designated by ALCO as the primary governance authority for Global Markets Risk Management. The Compliance and Operational Risk Committee, a subcommittee of the Finance Committee, oversees our policies and processes designed to assure sound operational and compliance risk management. The Credit Risk Committee (CRC), a subcommittee of the Finance Committee, oversees and approves our adherence to sound credit risk management policies and practices. Certain CRC approvals are subject to the oversight of the Board's Asset Quality Committee. The Executive Management Team (i.e., Chief Executive Officer and select executives of the management team) reviews our corporate strategies and objectives, evaluates business performance, and reviews business plans including economic capital allocations to the Corporation and lines of business. Management continues to direct corporate-wide efforts to address the Basel Committee on Banking Supervision's new risk-based capital standards (Basel II). The Audit Committee and Finance Committee oversee management's plans to comply with Basel II. For additional information, see the Basel II discussion on page 43 and *Note 15 – Regulatory Requirements and Restrictions* to the Consolidated Financial Statements.

## Strategic Risk Management

Strategic risk is the risk that adverse business decisions, ineffective or inappropriate business plans, or failure to respond to changes in the competitive environment, business cycles, customer preferences, product obsolescence, execution and/or other intrinsic risks of business will impact our ability to meet our objectives. We use an integrated planning process to help manage strategic risk. A key component of the planning process aligns strategies, goals, tactics and resources throughout the enterprise. The process begins with the creation of a corporate-wide business plan which incorporates an assessment of the strategic risks. This business plan establishes the corporate strategic direction. The planning process then cascades through the lines of business, creating business line plans that are aligned with the Corporation's strategic direction. At each level, tactics and metrics are identified to measure success in achieving goals and assure adherence to the plans. As part of this process, the lines of business continuously evaluate the impact of changing market and business conditions, and the overall risk in meeting objectives. See the Operational Risk Management section beginning on page 68 for a further description of this process. Corporate Audit in turn monitors, and independently reviews and evaluates, the plans and measurement processes.

One of the key tools we use to manage strategic risk is economic capital allocation. Through the economic capital allocation process, we effectively manage each line of business's ability to take on risk. Review and approval of business plans incorporate approval of economic capital allocation, and economic capital usage is monitored through financial and risk reporting. Economic capital allocation plans for the lines of business are incorporated into the Corporation's operating plan that is approved by the Board on an annual basis.

## Liquidity Risk and Capital Management

### Liquidity Risk

Liquidity is the ongoing ability to accommodate liability maturities and deposit withdrawals, fund asset growth and business operations, and meet contractual obligations through unconstrained access to funding at reasonable market rates. Liquidity management involves forecasting funding requirements and maintaining sufficient capacity to meet the needs and accommodate fluctuations in asset and liability levels due to changes in our business operations or unanticipated events. Sources of liquidity include deposits and other customer-based funding, and wholesale market-based funding.

We manage liquidity at two levels. The first is the liquidity of the parent company, which is the holding company that owns the banking and nonbanking subsidiaries. The second is the liquidity of the banking subsidiaries. The management of liquidity at both levels is essential because the parent company and banking subsidiaries have different funding needs and sources, and are subject to certain regulatory guidelines and requirements. Through ALCO, the Finance Committee is responsible for establishing our liquidity policy as well as approving operating and contingency procedures, and monitoring liquidity on an ongoing basis. Corporate Treasury is responsible for planning and executing our funding activities and strategy.

In order to ensure adequate liquidity through the full range of potential operating environments and market conditions, we conduct our liquidity management and business activities in a manner that will preserve and enhance funding stability, flexibility and diversity. Key components of this operating strategy include a strong focus on customer-based funding, maintaining direct relationships with wholesale market funding providers, and maintaining the ability to liquefy certain assets when, and if, requirements warrant.

We develop and maintain contingency funding plans for both the parent company and bank liquidity positions. These plans evaluate our liquidity position under various operating circumstances and allow us to ensure that we would be able to operate through a period of stress when access to normal sources of funding is constrained. The plans project funding requirements during a potential period of stress, specify and quantify sources of liquidity, outline actions and procedures for effectively managing through the problem period, and define roles and responsibilities. They are reviewed and approved annually by ALCO.

Our borrowing costs and ability to raise funds are directly impacted by our credit ratings. The credit ratings of Bank of America Corporation and Bank of America, N.A. are reflected in the table below.

**Table 11 Credit Ratings**

| | December 31, 2007 | | | | |
|---|---|---|---|---|---|
| | Bank of America Corporation | | | Bank of America, N.A. | |
| | Senior Debt | Subordinated Debt | Commercial Paper | Short-term Borrowings | Long-term Debt |
| Moody's Investors Service | Aa1 | Aa2 | P-1 | P-1 | Aaa |
| Standard & Poor's | AA | AA- | A-1+ | A-1+ | AA+ |
| Fitch Ratings | AA | AA- | F1+ | F1+ | AA |

Under normal business conditions, primary sources of funding for the parent company include dividends received from its banking and nonbanking subsidiaries, and proceeds from the issuance of senior and subordinated debt, as well as commercial paper and equity. Primary uses of funds for the parent company include repayment of maturing debt and commercial paper, share repurchases, dividends paid to shareholders, and subsidiary funding through capital or debt.

The parent company maintains a cushion of excess liquidity that would be sufficient to fully fund the holding company and nonbank affiliate operations for an extended period during which funding from normal sources is disrupted. The primary measure used to assess the parent company's liquidity is the "Time to Required Funding" during such a period of liquidity disruption. This measure assumes that the parent company is unable to generate funds from debt or equity issuance, receives no dividend income from subsidiaries, and no longer pays dividends to shareholders while continuing to meet nondiscretionary uses needed to maintain bank operations and repayment of contractual principal and interest payments owed by the parent company and affiliated companies. Under this scenario, the amount of time the parent company and its nonbank subsidiaries can operate and meet all obligations before the current liquid assets are exhausted is considered the "Time to Required Funding." ALCO approves the target range set for this metric, in months, and monitors adherence to the target. Maintaining excess parent company cash ensures that "Time to Required Funding" remains in the target range of 21 to 27 months and is the primary driver of the timing and amount of the Corporation's debt issuances. As of December 31, 2007 "Time to Required Funding" was 19 months compared to 24 months at December 31, 2006. The reduction reflects the funding of the LaSalle acquisition for $21.0 billion in cash which closed on October 1, 2007. We had anticipated in the fourth quarter of 2007 that the "Time to Required Funding" would decrease slightly below our target range as a result of the funding of the LaSalle acquisition. We anticipate returning to our target range in 2008 due in part to the issuance of preferred stock in the first quarter of 2008. For additional information on our recent preferred stock issuances, see the Preferred Stock discussion on page 44.

The primary sources of funding for our banking subsidiaries include customer deposits and wholesale market–based funding. Primary uses of funds for the banking subsidiaries include growth in the core asset portfolios, including loan demand, and in the ALM portfolio. We use the ALM portfolio primarily to manage interest rate risk and liquidity risk.

One ratio that can be used to monitor the stability of funding composition is the "loan to domestic deposit" ratio. This ratio reflects the percent of loans and leases that are funded by domestic core deposits, a relatively stable funding source. A ratio below 100 percent indicates that our loan portfolio is completely funded by domestic core deposits. The ratio was 127 percent at December 31, 2007 compared to 118 percent at December 31, 2006. The increase was primarily attributable to organic growth in the loan and lease portfolio, and a decision to retain a larger share of mortgage production on the Corporation's balance sheet.

The strength of our balance sheet is a result of rigorous financial and risk discipline. Our core deposit base, which is a low cost funding source, is often used to fund the purchase of incremental assets (primarily loans and securities), the composition of which impacts our loan to deposit ratio. Mortgage-backed securities and mortgage loans have prepayment risk which must be managed. Repricing of deposits is a key variable in this process. The capital generated in excess of capital adequacy targets and to support business growth, is available for the payment of dividends and share repurchases.

ALCO determines prudent parameters for wholesale market-based borrowing and regularly reviews the funding plan for the bank subsidiaries to ensure compliance with these parameters. The contingency funding plan for the banking subsidiaries evaluates liquidity over a 12-month period in a variety of business environment scenarios assuming different levels of earnings performance and credit ratings as well as public and investor relations factors. Funding exposure related to our role as liquidity provider to certain off-balance sheet financing entities is also measured under a stress scenario. In this analysis, ratings are downgraded such that the off-balance sheet financing entities are not able to issue commercial paper and backup facilities that we provide are drawn upon. In addition, potential draws on credit facilities to issuers with ratings below a certain level are analyzed to assess potential funding exposure.

We originate loans for retention on our balance sheet and for distribution. As part of our "originate to distribute" strategy, commercial loan originations are distributed through syndication structures, and residential mortgages originated by *Consumer Real Estate* are frequently distributed in the secondary market. In connection with our balance sheet management activities, we may retain mortgage loans originated as well as purchase and sell loans based on our assessment of market conditions.

## Regulatory Capital

At December 31, 2007, the Corporation operated its banking activities primarily under three charters: Bank of America, N.A., FIA Card Services, N.A. and LaSalle Bank, N.A. As a regulated financial services company, we are governed by certain regulatory capital requirements. At December 31, 2007 and 2006, the Corporation, Bank of America, N.A., and FIA Card Services, N.A., were classified as "well-capitalized" for regulatory purposes, the highest classification. At December 31, 2007, LaSalle Bank, N.A. was also classified as "well-capitalized" for regulatory purposes. There have been no conditions or events since December 31, 2007 that management believes have changed the Corporation's, Bank of America, N.A.'s, FIA Card Services, N.A.'s, and LaSalle Bank, N.A.'s capital classifications.

**Table 12 Reconciliation of Tier 1 and Total Capital**

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| Tier 1 Capital | | |
| Total shareholders' equity | **$ 146,803** | $ 135,272 |
| Goodwill | **(77,530)** | (65,662) |
| Nonqualifying intangible assets [1] | **(5,239)** | (3,782) |
| Effect of net unrealized (gains) losses on AFS debt and marketable equity securities and net (gains) losses on derivatives recorded in accumulated OCI, net-of-tax | **(2,149)** | 6,565 |
| Unamortized net periodic benefit costs recorded in accumulated OCI, net-of-tax | **1,301** | 1,428 |
| Trust securities [2] | **16,863** | 15,942 |
| Other | **3,323** | 1,301 |
| Total Tier 1 Capital | **83,372** | 91,064 |
| Long-term debt qualifying as Tier 2 Capital | **31,771** | 24,546 |
| Allowance for loan and lease losses | **11,588** | 9,016 |
| Reserve for unfunded lending commitments | **518** | 397 |
| Other [3] | **6,471** | 203 |
| **Total Capital** | **$ 133,720** | $ 125,226 |

(1)Nonqualifying intangible assets of the Corporation are comprised of certain core deposit intangibles, affinity relationships and other intangibles.
(2)Trust securities are net of unamortized discounts.
(3)Includes 45 percent, or $6.0 billion, of the pre-tax fair value adjustment related to the Corporation's stock investment in CCB.

Certain corporate sponsored trust companies which issue trust preferred securities (Trust Securities) are deconsolidated under FIN 46R. As a result, the Trust Securities are not included on our Consolidated Balance Sheets. On March 1, 2005, the FRB issued Risk-Based Capital Standards: Trust Preferred Securities and the Definition of Capital (the Final Rule) which allows Trust Securities to continue to qualify as Tier 1 Capital with revised quantitative limits that would be effective after a five-year transition period. As a result, we continue to include Trust Securities in Tier 1 Capital.

The Final Rule limits restricted core capital elements to 15 percent for internationally active bank holding companies. In addition, the FRB revised the qualitative standards for capital instruments included in regulatory capital. Internationally active bank holding companies are those with consolidated assets greater than $250 billion or on-balance sheet exposure greater than $10 billion. At December 31, 2007, our restricted core capital elements comprised 20.3 percent of total core capital elements. We expect to be fully compliant with the revised limits prior to the implementation date of March 31, 2009.

Table 12 reconciles the Corporation's total shareholders' equity to Tier 1 and Total Capital as defined by the regulations issued by the FRB, the FDIC, and the OCC at December 31, 2007 and 2006.

At December 31, 2007, the Corporation's Tier 1 Capital, Total Capital and Tier 1 Leverage ratios were 6.87 percent, 11.02 percent, and 5.04 percent, respectively. During 2007, the Corporation completed its acquisitions of U.S. Trust Corporation for $3.3 billion in cash and LaSalle for $21.0 billion in cash. As a result of these acquisitions, the Corporation's Tier 1 Capital, Total Capital, and Tier 1 Leverage ratios were reduced by approximately 130 bps, 145 bps and 90 bps, respectively, at December 31, 2007.

In January 2008, we issued 240 thousand shares of Bank of America Corporation Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K with a par value of $0.01 per share for $6.0 billion. The fixed rate is 8.00 percent through January 29, 2018 and then adjusts to three-month LIBOR plus 363 bps thereafter. In addition, we issued 6.9 million shares of Bank of America Corporation 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L with a par value of $0.01 per share for $6.9 billion. Based on December 31, 2007 balances, the Corporation's Tier 1 and Total Capital ratios are expected to increase by approximately 105 bps and its Tier 1 Leverage ratio is expected to increase by approximately 75 bps as a result of these issuances. See *Note 15 – Regulatory Requirements and Restrictions* to the Consolidated Financial Statements for more information on the Corporation's regulatory capital.

## Basel II

In June 2004, the Basel II Accord was published with the intent of more closely aligning regulatory capital requirements with underlying risks. Similar to economic capital measures, Basel II seeks to address credit risk, market risk and operational risk.

While economic capital is measured to cover unexpected losses, the Corporation also maintains a certain threshold in terms of regulatory capital to adhere to legal standards of capital adequacy. These thresholds or leverage ratios will continue to be utilized for the foreseeable future.

On December 7, 2007, the U.S. regulatory agencies published the final Basel II rules (Basel II Rules). The Basel II Rules establish requirements for the U.S. implementation and provide detailed capital requirements for credit and operational risk under Pillar 1, supervisory requirements under Pillar 2 and disclosure requirements under Pillar 3. We are still awaiting final rules for market risk requirements under Basel II.

The Basel II Rules allow U.S. financial institutions to begin parallel reporting as early as 2008. During the parallel period, the resulting capital calculations under both the current (Basel I) rules and the Basel II Rules should be reported to the financial institutions' regulatory supervisors for examination and compliance for at least four consecutive quarterly periods. Once the parallel period and subsequent three-year transition period are successfully completed, the financial institution will utilize Basel II as their means of capital adequacy assessment, measurement and reporting and discontinue use of Basel I. We continue execution efforts to ensure preparedness with all Basel II requirements. The goal is to achieve full compliance by the end of the three-year implementation period in 2011. Further, internationally Basel II was implemented in several countries during the second half of 2007, while others will begin implementation in 2008 and 2009.

### Dividends

In 2007, the Corporation paid cash dividends of $10.7 billion on its common stock. Effective for the third quarter 2007 dividend, the Board increased the quarterly cash dividend 14 percent from $0.56 to $0.64 per share. In October 2007, the Board declared a fourth quarter cash dividend of $0.64 which was paid on December 28, 2007 to common shareholders of record on December 7, 2007. In January 2008, the Board authorized a quarterly cash dividend of $0.64 per common share payable on March 28, 2008 to shareholders of record on March 7, 2008.

In 2007, the Corporation paid a total of $182 million in cash dividends on its various series of preferred stock. In January 2008, we also declared five dividends in regards to preferred stock. The first was a $1.75 regular quarterly cash dividend on the 7 percent Cumulative Redeemable Preferred Stock, Series B, payable April 25, 2008 to shareholders of record on April 11, 2008. The second was a regular quarterly cash dividend of $0.38775 per depositary share on the 6.204% Non-Cumulative Preferred Stock, Series D, payable March 14, 2008 to shareholders of record on February 29, 2008. The third was a regular quarterly cash dividend of $0.33342 per depositary share on the Floating Rate Non-Cumulative Preferred Stock, Series E, payable on February 15, 2008 to shareholders of record on January 31, 2008. The fourth was a regular quarterly cash dividend of $0.41406 per depositary share on the 6.625% Non-Cumulative Preferred Stock, Series I, payable April 1, 2008 to shareholders of record on March 15, 2008. The fifth was the initial cash dividend of $0.35750 per depositary share on the 7.25% Non-Cumulative Preferred Stock, Series J, payable on February 1, 2008 to shareholders of record on January 15, 2008.

### Common Share Repurchases

We expect to continue to repurchase shares, from time to time, in the open market or in private transactions through our approved repurchase programs. We repurchased approximately 73.7 million shares of common stock in 2007 which more than offset the 53.5 million shares issued under employee stock plans.

In January 2007, the Board authorized a stock repurchase program of up to 200 million shares of the Corporation's common stock at an aggregate cost not to exceed $14.0 billion to be completed within a period of 12 to 18 months of which the lesser of approximately $13.5 billion, or 189.4 million shares, remains available for repurchase under the program at December 31, 2007.

### Preferred Stock

In January 2008, we issued 240 thousand shares of Bank of America Corporation Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K with a par value of $0.01 per share for $6.0 billion. The fixed rate is 8.00 percent through January 29, 2018 and then adjusts to three-month LIBOR plus 363 bps thereafter. In addition, we issued 6.9 million shares of Bank of America Corporation 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L with a par value of $0.01 per share for $6.9 billion.

In November and December 2007, the Corporation issued 41 thousand shares of Bank of America Corporation 7.25% Non-Cumulative Preferred Stock, Series J, with a par value of $0.01 per share for $1.0 billion.

In September 2007, the Corporation issued 22 thousand shares of Bank of America Corporation 6.625% Non-Cumulative Preferred Stock, Series I, with a par value of $0.01 per share for $550 million.

For additional information on the issuance and redemption of preferred stock, see *Note 14 – Shareholders' Equity and Earnings per Common Share* to the Consolidated Financial Statements.

## Credit Risk Management

Credit risk is the risk of loss arising from the inability of a borrower or counterparty to meet its obligations. Credit risk can also arise from operational failures that result in an erroneous advance, commitment or investment of funds. We define the credit exposure to a borrower or counterparty as the loss potential arising from all product classifications including loans and leases, derivatives, trading account assets, assets held-for-sale, deposit overdrafts and unfunded lending commitments that include loan commitments, letters of credit and financial guarantees. Derivative positions, trading account assets and assets held-for-sale are recorded at fair value, or the lower of cost or fair value. Loans and unfunded commitments, which the Corporation elected to account for at fair value in accordance with SFAS 159, are also recorded at fair value. Credit risk for these categories of assets is not accounted for as part of the allowance for credit losses but as part of the fair value adjustment recorded in earnings in the period incurred. For derivative positions, our credit risk is measured as the net replacement cost in the event the counterparties with contracts in a gain position to us fail to perform under the terms of those contracts. We use the current mark-to-market value to represent credit exposure without giving consideration to future mark-to-market changes. The credit risk amounts take into consideration the effects of legally enforceable master netting agreements and cash collateral. Our consumer and commercial credit extension and review procedures take into account funded and unfunded credit exposures. For additional information on derivatives and credit extension commitments, see *Note 4 – Derivatives* and *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

For credit risk purposes, we evaluate our consumer businesses on both a held and managed basis. Managed basis assumes that loans that have been securitized were not sold and presents earnings on these loans in a manner similar to the way loans that have not been sold (i.e., held loans) are presented. We evaluate credit performance on a managed basis as the receivables that have been securitized are subject to the same underwriting standards and ongoing monitoring as held loans. In addition to the discussion of credit quality statistics of both held and managed loans included in this section, refer to the *Card Services* discussion beginning on page 22. For additional information on our managed portfolio and securitizations, see *Note 8 – Securitizations* to the Consolidated Financial Statements.

We manage credit risk based on the risk profile of the borrower or counterparty, repayment sources, the nature of underlying collateral, and other support given current events, conditions and expectations. We classify our portfolios as either consumer or commercial and monitor credit risk in each as discussed below.

The financial market conditions that existed in the second half of 2007 have continued to affect the economy and the financial services sector in 2008. It remains unclear what impact the housing downturn, declines in real estate values and the overall economic slowdown will ultimately have and how long these conditions will exist. We expect that certain industry sectors, in particular those that are dependent on the housing sector, and certain geographic regions, will experience further stress. Continued deterioration of the housing market, including recessionary conditions, will negatively impact the credit quality of our consumer portfolio as well as the credit quality of the consumer dependent sectors of our commercial portfolio and will result in a higher provision for credit losses in future periods. The degree of the impact will be dependent upon the duration and severity of the housing downturn. As part of our credit risk management culture, we continually evaluate our credit standards and adjust them to be consistent with changes in the environment. For exam-

ple, we have adjusted our underwriting criteria, as well as enhanced our line management and collection strategies across the consumer businesses. In the commercial businesses, we have increased the frequency of portfolio monitoring and are aggressively managing exposure when we begin to see signs of deterioration.

## *Consumer Portfolio Credit Risk Management*

Credit risk management for the consumer portfolio begins with initial underwriting and continues throughout a borrower's credit cycle. Statistical techniques in conjunction with experiential judgment are used in all aspects of portfolio management including underwriting, product pricing, risk appetite, setting credit limits, operating processes and metrics to quantify and balance risks and returns. In addition, credit decisions are statistically based with tolerances set to decrease the percentage of approvals as the risk profile increases. Statistical models are built using detailed behavioral information from external sources such as credit bureaus and/or internal historical experience. These models are a critical component of our consumer credit risk management process and are used in the determination of both new and existing credit decisions, portfolio management strategies including authorizations and line management, collection practices and strategies, determination of the allowance for credit losses, and economic capital allocations for credit risk.

For information on our accounting policies regarding delinquencies, nonperforming status and charge-offs for the consumer portfolio, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

### Management of Consumer Credit Risk Concentrations

Consumer credit risk is evaluated and managed with a goal that credit concentrations do not result in undesirable levels of risk. We review, measure and manage credit exposure in numerous ways such as by product and geography in order to achieve the desired mix. Additionally, to enhance our overall risk management strategy credit protection is purchased on certain portions of our portfolio.

Our consumer loan portfolio in the states of California, Florida, New York and Texas represented in aggregate 43 percent and 42 percent of total managed consumer loans at December 31, 2007 and 2006. Our consumer loan portfolio in the state of California represented approximately 24 percent and 23 percent of total managed consumer loans at December 31, 2007 and 2006, primarily driven by the consumer real estate portfolio. Our consumer loan portfolio in the state of Florida is our second largest concentration and represented approximately eight percent of total managed consumer loans at both December 31, 2007 and 2006, primarily driven by the consumer real estate portfolio. New York and Texas represented six percent and five percent of total managed consumer loans at both December 31, 2007 and 2006. No state other than California, and no single Metropolitan Statistical Area (MSA) within California represented more than 10 percent of the total managed consumer portfolio. No other single state represented over five percent of total managed consumer loans.

We have mitigated a portion of our credit risk in our residential mortgage loan portfolio by using synthetic securitizations. These agreements are cash collateralized and will reimburse us in the event that losses exceed established loss levels. As of December 31, 2007 and 2006, approximately $140.0 billion and $130.0 billion of mortgage loans were protected by these agreements. In addition, we have entered into credit protection agreements with government-sponsored agencies on approximately $33.0 billion and $5.0 billion as of December 31, 2007 and 2006, providing full protection on conforming residential mortgage loans that become severely delinquent. Our regulatory risk-weighted assets were reduced as a result of these transactions because we transferred a portion of our credit risk to unaffiliated parties. At December 31, 2007 and 2006, these transactions had the cumulative effect of reducing our risk-weighted assets by $49.0 billion and $36.4 billion, and resulted in increases of 27 bps and 30 bps in our Tier 1 Capital ratio at December 31, 2007 and 2006.

## Table 13 Consumer Loans and Leases

| (Dollars in millions) | December 31 Outstandings 2007 | Outstandings 2006 | Nonperforming [1, 2] 2007 | Nonperforming [1, 2] 2006 | Accruing Past Due 90 Days or More [3] 2007 | Accruing Past Due 90 Days or More [3] 2006 | Year Ended December 31 Net Charge-offs/Losses 2007 | Net Charge-offs/Losses 2006 | Net Charge-off/ Loss Ratios [4] 2007 | Net Charge-off/ Loss Ratios [4] 2006 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Held basis** | | | | | | | | | | |
| Residential mortgage | **$274,949** | $241,181 | **$ 1,999** | $ 660 | **$ 237** | $ 118 | **$ 57** | $ 39 | **0.02%** | 0.02% |
| Credit card – domestic | **65,774** | 61,195 | **n/a** | n/a | **1,855** | 1,991 | **3,063** | 3,094 | **5.29** | 4.85 |
| Credit card – foreign | **14,950** | 10,999 | **n/a** | n/a | **272** | 184 | **378** | 225 | **3.06** | 2.46 |
| Home equity [5] | **114,834** | 87,893 | **1,340** | 291 | **–** | – | **274** | 51 | **0.28** | 0.07 |
| Direct/Indirect consumer [5, 6] | **76,844** | 59,378 | **8** | 2 | **745** | 378 | **1,373** | 610 | **1.95** | 1.14 |
| Other consumer [5, 7] | **3,850** | 5,059 | **95** | 77 | **4** | 7 | **278** | 217 | **6.54** | 2.97 |
| Total held | **551,201** | 465,705 | **3,442** | 1,030 | **3,113** | 2,678 | **5,423** | 4,236 | **1.07** | 1.01 |
| **Securitization impact** | **108,646** | 110,151 | **2** | 2 | **2,764** | 2,407 | **5,003** | 3,371 | **4.54** | 3.22 |
| **Total consumer loans and leases – managed** | **$659,847** | $575,856 | **$ 3,444** | $ 1,032 | **$5,877** | $5,085 | **$10,426** | $7,607 | **1.69** | 1.45 |
| **Managed basis** | | | | | | | | | | |
| Residential mortgage | **$278,733** | $245,840 | **$ 1,999** | $ 660 | **$ 237** | $ 118 | **$ 57** | $ 39 | **0.02%** | 0.02% |
| Credit card – domestic | **151,862** | 142,599 | **n/a** | n/a | **4,170** | 3,828 | **6,960** | 5,395 | **4.91** | 3.89 |
| Credit card – foreign | **31,829** | 27,890 | **n/a** | n/a | **714** | 608 | **1,254** | 980 | **4.24** | 3.95 |
| Home equity [5] | **115,009** | 88,202 | **1,342** | 293 | **–** | – | **274** | 51 | **0.28** | 0.07 |
| Direct/Indirect consumer [5, 6] | **78,564** | 66,266 | **8** | 2 | **752** | 524 | **1,603** | 925 | **2.14** | 1.49 |
| Other consumer [5, 7] | **3,850** | 5,059 | **95** | 77 | **4** | 7 | **278** | 217 | **6.54** | 2.97 |
| **Total consumer loans and leases – managed** | **$659,847** | $575,856 | **$ 3,444** | $ 1,032 | **$5,877** | $5,085 | **$10,426** | $7,607 | **1.69** | 1.45 |

(1) The definition of nonperforming does not include consumer credit card and consumer non-real estate loans and leases. These loans are charged-off no later than the end of the month in which the account becomes 180 days past due.
(2) Nonperforming consumer loans and leases as a percentage of outstanding consumer loans and leases were 0.62 percent and 0.22 percent on a held basis, and 0.52 percent and 0.18 percent on a managed basis at December 31, 2007 and 2006.
(3) Accruing consumer loans and leases past due 90 days or more as a percentage of outstanding consumer loans and leases were 0.57 percent and 0.58 percent on a held basis, and 0.89 percent and 0.88 percent on a managed basis at December 31, 2007 and 2006.
(4) Net charge-off/loss ratios are calculated as held net charge-offs or managed net losses divided by average outstanding held or managed loans and leases during the year for each loan and lease category.
(5) Home equity loan balances previously included in direct/indirect consumer and other consumer were reclassified to home equity to conform to current year presentation. Additionally, certain foreign consumer balances were reclassified from other consumer to direct/indirect consumer to conform to current year presentation.
(6) Outstandings include foreign consumer loans of $3.4 billion and $3.9 billion at December 31, 2007 and 2006.
(7) Outstandings include foreign consumer loans of $829 million and $2.3 billion and consumer finance loans of $3.0 billion and $2.8 billion at December 31, 2007 and 2006.

n/a= not applicable

### Consumer Credit Portfolio

Table 13 presents our held and managed consumer loans and leases, and related credit quality information for 2007 and 2006. Overall, consumer credit quality indicators deteriorated from the favorable levels experienced in 2006. Weakness in the housing markets resulted in rising credit risk, most notably in home equity.

#### Residential Mortgage

The residential mortgage portfolio makes up the largest percentage of our consumer loan portfolio at 50 percent of held consumer loans and leases and 42 percent of managed consumer loans and leases at December 31, 2007. Approximately 24 percent of the managed residential portfolio is in *GCSBB* and *GWIM* and represents residential mortgages that are originated for the home purchase and refinancing needs of our customers. The remaining portion of the managed portfolio is mostly in *All Other*, and is comprised of purchased and originated residential mortgage loans used in our overall ALM activities.

Residential mortgage loans to borrowers in the state of California represented 34 percent and 33 percent of total residential mortgage loans at December 31, 2007 and 2006. The Los Angeles-Long Beach-Santa Ana MSA within California represented 11 percent of the total residential mortgage portfolio at both 2007 and 2006. In addition, residential mortgage loans to borrowers in the state of Florida represented six percent and seven percent of the total residential mortgage portfolio at December 31, 2007 and 2006. No single MSA within Florida represented more than 10 percent of the residential mortgage portfolio at December 31, 2007 and 2006. A portion of our credit risk on 68 percent and 56 percent of our residential mortgage loans in California and Florida was mitigated through the purchase of credit protection. See Management of Consumer Credit Risk Concentrations beginning on page 45 for more information.

On a held basis, outstanding loans and leases increased $33.8 billion at December 31, 2007 compared to 2006 driven by retained mortgage production and the acquisition of LaSalle. Nonperforming balances increased $1.3 billion due to portfolio seasoning reflective of growth in the business and the impact of the weak housing market. At December 31, 2007 and 2006, loans past due 90 days or more and still accruing interest of $237 million and $118 million were related to repurchases pursuant to our servicing agreements with Government National Mortgage Association (GNMA) mortgage pools where repayments are insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs.

Due to current market conditions, members of the mortgage servicing industry are evaluating a number of programs for identifying subprime residential mortgage loan borrowers who are at risk of default and offering loss mitigation strategies, including repayment plans and loan modifications, to such borrowers. Generally these programs require that the borrower and subprime residential mortgage loan meet certain criteria in order to qualify for a modification. The SEC's Office of the Chief Accountant (OCA) noted that if certain loan modification requirements are met, the OCA will not object to continued status of the transferee as a QSPE under SFAS 140. We do not currently originate or service significant subprime residential mortgage loans, nor do we hold a significant amount of beneficial interests in QSPE securitizations of subprime residential mortgage loans. We do not expect that the implementation of these programs will have a significant impact on our financial condition and results of operations.

**Credit Card – Domestic**

The consumer domestic credit card portfolio is managed in *Card Services*. Outstandings in the held domestic credit card loan portfolio increased $4.6 billion in 2007 compared to 2006 due to organic growth in the portfolio partially offset by an increase in securitized levels. The $136 million decrease in held domestic loans past due 90 days or more and still accruing interest was driven by the addition of higher loss profile accounts to the securitization trust and an increased level of securitizations partially offset by portfolio seasoning.

Net charge-offs for the held domestic portfolio decreased $31 million to $3.1 billion, or 5.29 percent of total average held credit card – domestic loans compared to 4.85 percent (5.00 percent excluding the impact of SOP 03-3) in 2006. Net charge-offs decreased primarily due to the addition of higher loss profile accounts to the securitization trust and an increased level of securitizations as well as the absence of 2006 charge-offs related to changes made in credit card minimum payment requirements. These decreases were partially offset by portfolio seasoning and increases from the unusually low charge-off levels experienced in 2006 post bankruptcy reform.

Managed domestic credit card outstandings increased $9.3 billion to $151.9 billion in 2007 compared to 2006 due to an increase in retail and cash volumes and lower payment rates. Managed net losses increased $1.6 billion to $7.0 billion, or 4.91 percent of total average managed domestic loans compared to 3.89 percent (3.96 percent excluding the impact of SOP 03-3) in 2006. The increases were primarily due to portfolio seasoning and increases from the unusually low loss levels experienced in 2006 post bankruptcy reform.

See page 48 for a discussion of the impact of SOP 03-3 on managed losses and net charge-offs.

**Credit Card – Foreign**

The consumer foreign credit card portfolio is managed in *Card Services*. Outstandings in the held foreign credit card loan portfolio increased $4.0 billion to $15.0 billion in 2007 compared to 2006 due to the strengthening of foreign currencies against the U.S. dollar, organic growth and portfolio acquisitions. Net charge-offs for the held foreign portfolio increased $153 million to $378 million, or 3.06 percent of total average held credit card – foreign loans compared to 2.46 percent (3.05 percent excluding the impact of SOP 03-3) in 2006. The increases in held net charge-offs were due to seasoning of the European portfolio and strengthening of foreign currencies against the U.S. dollar.

Managed foreign credit card outstandings increased $3.9 billion to $31.8 billion in 2007 compared to 2006 due to the same reasons as the increase in held outstandings stated above. Net losses for the managed foreign portfolio increased $274 million to $1.3 billion, or 4.24 percent of total average managed credit card – foreign loans compared to 3.95 percent (4.17 percent excluding the impact of SOP 03-3) in 2006. The increases in managed net losses were due to the same reasons as the increases in held net charge-offs stated above.

See page 48 for a discussion of the impact of SOP 03-3 on managed losses and net charge-offs.

**Home Equity**

At December 31, 2007, approximately 74 percent of the managed home equity portfolio was included in *GCSBB*, while the remainder of the portfolio was mostly in *GWIM*. This portfolio consists of both revolving and non-revolving first and second lien residential mortgage loans and lines of credit. On a held basis, outstanding home equity loans increased $26.9 billion, or 31 percent, at December 31, 2007 compared to 2006, largely due to organic home equity production and the LaSalle acquisition.

Nonperforming home equity loans increased $1.0 billion and net charge-offs increased $223 million to $274 million or 0.28 percent of total average held home equity loans compared to 0.07 percent in 2006. These increases were driven by deterioration in the housing markets, including significant declines in home prices in certain geographic areas, as well as the seasoning of the portfolio reflective of growth. Although it remains unclear how long the recent and accelerated declines in the consumer housing markets will continue, this recent deterioration will negatively impact our home equity portfolio and will result in a higher provision for credit losses.

**Direct/Indirect Consumer**

At December 31, 2007, approximately 50 percent of the managed direct/indirect portfolio was included in *Business Lending* (automotive, marine, motorcycle and recreational vehicle loans); 44 percent was included in *GCSBB* (student and other non-real estate secured and unsecured personal loans) and the remainder was included in *GWIM* (other non-real estate secured and unsecured personal loans).

On a held basis, outstanding loans and leases increased $17.5 billion in 2007 compared to 2006 due to growth in the *Card Services* unsecured lending product, retail automotive portfolio purchases and reduced securitization activity. Loans past due 90 days or more and still accruing interest increased $367 million due to portfolio seasoning reflective of growth in the businesses and reduced securitization activity. Net charge-offs increased $763 million to $1.4 billion, or 1.95 percent of total average held direct/indirect loans compared to 1.14 percent (1.36 percent excluding the impact of SOP 03-3) in 2006. The increases were primarily driven by growth, seasoning and increases from the unusually low charge-off levels experienced in 2006 post bankruptcy reform in the *Card Services* unsecured lending portfolio, growth, seasoning and deterioration in the retail automotive and other dealer-related portfolios and the impact of the Corporation discontinuing sales of receivables into the unsecured lending trust.

Managed direct/indirect loans outstanding increased $12.3 billion to $78.6 billion in 2007 compared to 2006, driven by growth in the *Card Services* unsecured lending product and retail automotive portfolio purchases. Net losses for the managed loan portfolio increased $678 million to $1.6 billion, or 2.14 percent of total average managed direct/indirect loans compared to 1.49 percent (1.69 percent excluding the impact of SOP 03-3) in 2006. The increases were primarily driven by growth, seasoning and increases from the unusually low loss levels experienced in 2006 post bankruptcy reform in the *Card Services* unsecured lending portfolio and higher losses in the retail automotive and other dealer-related portfolios due to growth, seasoning and deterioration.

See page 48 for a discussion of the impact of SOP 03-3 on managed losses and net charge-offs.

**Other Consumer**

At December 31, 2007, approximately 78 percent of the other consumer portfolio was primarily associated with the portfolios from certain consumer finance businesses that we have previously exited and was included in *All Other*. The remainder consisted of the foreign consumer loan portfolio which was mostly included in *Card Services*. Other consumer outstanding loans and leases decreased $1.2 billion, or 24 percent, at December 31, 2007 compared to December 31, 2006, driven mainly by the sale of our Latin American operations. The Corporation classifies deposit overdraft charge-offs as other consumer. Net charge-offs increased $61 million, or 357 bps, compared to 2006 driven by overdraft net charge-offs associated with deposit account growth.

**SOP 03-3**

SOP 03-3 addresses accounting for differences between contractual cash flows and cash flows expected to be collected from an investor's initial investment in loans acquired in a transfer if those differences are attributable, at least in part, to credit quality. SOP 03-3 requires that impaired loans be recorded at fair value and prohibits "carrying over" or the creation of valuation allowances in the initial accounting of loans acquired in a transfer that are within the scope of this SOP (categories of loans for which it is probable, at the time of acquisition, that all amounts due according to the contractual terms of the loan agreement will not be collected). The prohibition of the valuation allowance carryover applies to the purchase of an individual loan, a pool of loans, a group of loans, and loans acquired in a purchase business combination.

In accordance with SOP 03-3, certain acquired loans of LaSalle in 2007 and MBNA in 2006 that were considered impaired were written down to fair value at the acquisition date. Therefore, reported net charge-offs and managed net losses were lower since these impaired loans that would have been charged off during the period were reduced to fair value as of the acquisition date. SOP 03-3 does not apply to the acquired loans that have been securitized as they are not held on the Corporation's Balance Sheet.

Consumer net charge-offs, managed net losses, and associated ratios excluding the impact of SOP 03-3 for 2007 and 2006 are presented in Table 14. Management believes that excluding the impact of SOP 03-3 provides a more accurate reflection of portfolio credit quality.

**Table 14 Consumer Net Charge-offs/Managed Net Losses (Excluding the Impact of SOP 03-3)[1, 2, 3, 4]**

| | Held | | | | Managed | | | |
|---|---|---|---|---|---|---|---|---|
| | Net Charge-offs | | Ratio | | Net Losses | | Ratio | |
| (Dollars in millions) | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 |
| Residential mortgage | **$ 59** | $ 39 | **0.02 %** | 0.02 % | **$ 59** | $ 39 | **0.02 %** | 0.02 % |
| Credit card – domestic | **3,063** | 3,193 | **5.29** | 5.00 | **6,960** | 5,494 | **4.91** | 3.96 |
| Credit card – foreign | **378** | 278 | **3.06** | 3.05 | **1,254** | 1,033 | **4.24** | 4.17 |
| Home equity | **282** | 51 | **0.29** | 0.07 | **282** | 51 | **0.29** | 0.07 |
| Direct/Indirect consumer | **1,375** | 729 | **1.96** | 1.36 | **1,605** | 1,044 | **2.14** | 1.69 |
| Other consumer | **278** | 217 | **6.54** | 2.97 | **278** | 217 | **6.54** | 2.97 |
| **Total consumer** | **$5,435** | $4,507 | **1.07** | 1.07 | **$10,438** | $7,878 | **1.69** | 1.50 |

(1) Excluding the impact of SOP 03-3 is a non-GAAP financial measure. The impact of SOP 03-3 on average outstanding held and managed consumer loans and leases in 2007 and 2006 was not material.
(2) Net charge-off/loss ratios are calculated as held net charge-offs or managed net losses divided by average outstanding held or managed loans and leases during the year for each loan and lease category.
(3) Historical ratios have been adjusted for home equity, direct/indirect consumer and other consumer due to the reclassification of home equity loan balances from direct/indirect consumer to home equity, and certain foreign consumer loans from other consumer to direct/indirect consumer.
(4) Including the impact of SOP 03-3 would decrease net charge-offs on residential mortgage $2 million, home equity $8 million, direct/indirect consumer $2 million in 2007. Including the impact of SOP 03-3 would decrease net charge-offs on credit card – domestic $99 million, credit card – foreign $53 million and direct/indirect consumer $119 million in 2006.

**Table 15 Nonperforming Consumer Assets Activity [1]**

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| **Nonperforming loans and leases** | | |
| Balance, January 1 | **$1,030** | $ 785 |
| Additions to nonperforming loans and leases: | | |
| LaSalle balance, October 1, 2007 | **232** | – |
| New nonaccrual loans and leases | **3,829** | 1,432 |
| Reductions in nonperforming loans and leases: | | |
| Paydowns and payoffs | **(260)** | (157) |
| Sales | **–** | (117) |
| Returns to performing status [2] | **(855)** | (698) |
| Charge-offs [3] | **(374)** | (150) |
| Transfers to foreclosed properties | **(152)** | (65) |
| Transfers to loans held-for-sale | **(8)** | – |
| Total net additions to nonperforming loans and leases | **2,412** | 245 |
| **Total nonperforming loans and leases, December 31** | **3,442** | 1,030 |
| **Foreclosed properties** | | |
| Balance, January 1 | **59** | 61 |
| Additions to foreclosed properties: | | |
| LaSalle balance, October 1, 2007 | **70** | – |
| New foreclosed properties | **468** | 159 |
| Reductions in foreclosed properties: | | |
| Sales | **(82)** | (76) |
| Writedowns | **(239)** | (85) |
| Total net additions to (reductions in) foreclosed properties | **217** | (2) |
| **Total foreclosed properties, December 31** | **276** | 59 |
| **Nonperforming consumer assets, December 31** | **$3,718** | $1,089 |
| Nonperforming consumer loans and leases as a percentage of outstanding consumer loans and leases | **0.62%** | 0.22% |
| Nonperforming consumer assets as a percentage of outstanding consumer loans, leases and foreclosed properties | **0.67** | 0.23 |

(1) Balances do not include nonperforming loans held-for-sale included in other assets of $95 million and $30 million in 2007 and 2006.
(2) Consumer loans and leases may be restored to performing status when all principal and interest is current and full repayment of the remaining contractual principal and interest is expected, or when the loan otherwise becomes well-secured and is in the process of collection.
(3) Our policy is not to classify consumer credit card and consumer non-real estate loans and leases as nonperforming; therefore, the charge-offs on these loans have no impact on nonperforming activity.

### Nonperforming Consumer Assets Activity

Table 15 presents the additions and reductions to nonperforming assets in the held consumer portfolio during 2007 and 2006. Net additions to nonperforming loans and leases in 2007 were $2.4 billion compared to $245 million in 2006. The increase in 2007 was driven by seasoning of the home equity and residential mortgage portfolios reflective of growth in these businesses and the weakening housing market. The nonperforming consumer loans and leases ratio increased 40 bps compared to 2006 driven by increases in the home equity and residential mortgage portfolios, especially in geographic regions most impacted by home price declines and in part due to our Community Reinvestment Act portfolio. These factors also drove the increase in foreclosed properties of $217 million and home price declines drove higher writedowns.

## *Commercial Portfolio Credit Risk Management*

Credit risk management for the commercial portfolio begins with an assessment of the credit risk profile of the borrower or counterparty based on an analysis of their financial position. As part of the overall credit risk assessment of a borrower or counterparty, most of our commercial credit exposure or transactions are assigned a risk rating and are subject to approval based on defined credit approval standards. Subsequent to loan origination, risk ratings are monitored on an ongoing basis. If necessary, risk ratings are adjusted to reflect changes in the financial condition, cash flow or financial situation of a borrower or counterparty. We use risk rating aggregations to measure and evaluate concentrations within portfolios.

Risk ratings are a factor in determining the level of assigned economic capital and the allowance for credit losses. In making credit decisions, we consider risk rating, collateral, country, industry and single name concentration limits while also balancing the total borrower or counterparty relationship. Our lines of business and risk management personnel use a variety of tools to continuously monitor the ability of a borrower or counterparty to perform under its obligations.

For information on our accounting policies regarding delinquencies, nonperforming status and charge-offs for the commercial portfolio, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

### Management of Commercial Credit Risk Concentrations

Portfolio credit risk is evaluated and managed with a goal that concentrations of credit exposure do not result in undesirable levels of risk. We review, measure, and manage concentrations of credit exposure by industry, product, geography and customer relationship. Distribution of loans and leases by loan size is an additional measure of the portfolio risk diversification. We also review, measure, and manage commercial real estate loans by geographic location and property type. In addition, within our international portfolio, we evaluate borrowings by region and by country. Tables 19, 21, 24 and 25 summarize our concentrations. Additionally, we utilize syndication of exposure to third parties, loan sales, hedging and other risk mitigation techniques to manage the size and risk profile of the loan portfolio.

From the perspective of portfolio risk management, customer concentration management is most relevant in *GCIB*. Within that segment's *Business Lending* and *CMAS* businesses, we facilitate bridge financing (high grade debt, high yield debt, CMBS and equity) to fund acquisitions, recapitalizations and other short-term needs as well as provide syndicated financing for our clients. These concentrations are managed in part through our established "originate to distribute" strategy. These client transactions are sometimes large and leveraged. They can also have a higher degree of risk as we are providing offers or commitments for various components of the clients' capital structures, including lower rated unsecured and subordinated debt tranches and/or equity. In many cases, these offers to finance will not be accepted. If accepted, these conditional commitments are often retired prior to or shortly following funding via the placement of securities, syndication or the client's decision to terminate. Where we have a binding commitment and there is a market disruption or other unexpected event, there may be heightened exposure in the portfolios and forward calendar, and a higher potential for writedown or loss unless the terms of the commitment can be modified and/or an orderly disposition of the exposure can be made.

The Corporation's share of the leveraged finance and CMBS forward calendars were $12.2 billion and $2.0 billion, respectively, at December 31, 2007. Funded leveraged finance and CMBS exposure included in assets held-for-sale totaled $6.1 billion and $13.7 billion at December 31, 2007. The funded CMBS exposure includes amounts assumed with the acquisition of LaSalle. The funded CMBS debt consisted of $6.9 billion of floating-rate acquisition related financings to major, well known operating companies. In addition, of the CMBS forward calendar, $1.1 billion were floating-rate acquisition related financings. Writedowns were taken on both funded and forward calendar commitments to reflect the current market prices, if available, or the estimated price at which the exposures could be distributed in the market. In the first quarter of 2008 the leveraged finance markets began to experience disruptions similar to those experienced in the second half of 2007 and it is unclear what impact these conditions will have on our results.

Prior to January 1, 2007, the Corporation accounted for all loans in the held-to-maturity portfolio on a historical cost basis and incurred losses on this portfolio were charged against the allowance for loan and lease losses. Effective January 1, 2007, the Corporation elected to account for certain large corporate loans and loan commitments (including issued but unfunded letters of credit which are considered utilized for credit risk management purposes), which exceed the Corporation's single name credit risk concentration guidelines at fair value in accordance with SFAS 159.

The Corporation initially adopted the fair value option for $4.0 billion of outstanding commercial loans as of January 1, 2007 and recorded pre-tax net losses of $21 million (net of adjustments related to the allowance for loan and lease losses and direct loan origination fees and costs) representing the excess of carrying value over fair value of the funded loans, with the after-tax amount recorded in retained earnings. The Corporation also initially adopted the fair value option for $21.1 billion of unfunded commercial commitments, including letters of credit, as of January 1, 2007, and recorded pre-tax net losses of $321 million (net of associated adjustments related to the reserve for unfunded lending commitments) representing the difference between the carrying value and the fair value of the unfunded lending commitments, with the after-tax amount recorded in retained earnings.

After the initial application of SFAS 159, any fair value adjustment upon origination and subsequent changes in the fair value of loans and unfunded commitments is recorded in other income. By including the credit risk of the borrower in the fair value adjustments, any credit deterioration or improvement is recorded immediately as part of the fair value adjustment. As a result, the allowance for loan and lease losses and the reserve for unfunded lending commitments are no longer used to capture credit losses inherent in these nonperforming or impaired loans and unfunded commitments. The remaining Commercial Credit Portfolio tables have been modified to exclude loans and unfunded commitments that are carried at fair value and to adjust certain ratios for this accounting change. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional information on the adoption of SFAS 159.

At December 31, 2007, outstanding commercial loans measured at fair value had an aggregate fair value of $4.59 billion recorded in loans and leases and included commercial – domestic loans of $3.50 billion, commercial – foreign loans of $790 million and commercial real estate loans of $304 million. The Corporation recorded net losses of $139 million in other income resulting from changes in the fair value of the loan portfolio during 2007.

In addition, unfunded lending commitments and letters of credit had an aggregate fair value of $660 million and were recorded in accrued expenses and other liabilities. The December 31, 2007 aggregate notional amount of unfunded lending commitments and letters of credit subject to fair value treatment was $20.9 billion. Net losses resulting from changes in fair value of commitments and letters of credit of $274 million were recorded in other income during 2007.

## Commercial Credit Portfolio

Commercial credit quality indicators deteriorated from favorable levels experienced in 2006, in part attributable to the weakness in the housing and financial markets. The loans and leases net charge-off ratio increased to 0.40 percent from 0.13 percent a year ago. The increase was principally attributable to seasoning and deterioration in our small business portfolio in *GCSBB* as well as a lower level of commercial recoveries in *GCIB* and *GWIM*. Excluding small business commercial – domestic the total commercial net charge-off ratio was 0.08 percent compared to a net recovery ratio of 0.03 percent in 2006, primarily due to a lower level of recoveries in 2007. The nonperforming loan and commercial utilized criticized exposure ratios were 0.67 percent and 4.17 percent at December 31, 2007 compared to 0.31 percent and 2.20 percent at December 31, 2006, mostly related to the addition of LaSalle and exposure to the homebuilder and mortgage lender sectors.

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Table 16 presents our commercial loans and leases and related credit quality information for 2007 and 2006.

## Table 16 Commercial Loans and Leases

| | December 31 | | | | | | Year Ended December 31 | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Outstandings | | Nonperforming [1] | | Accruing Past Due 90 Days or More [2] | | Net Charge-offs [3] | | Net Charge-off Ratios [4] | |
| (Dollars in millions) | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 |
| **Commercial loans and leases** | | | | | | | | | | |
| Commercial – domestic [5] | **$190,541** | $148,255 | **$ 869** | $ 505 | **$119** | $ 66 | **$ 138** | $ (25) | **0.09%** | (0.02)% |
| Commercial real estate [6] | **61,298** | 36,258 | **1,099** | 118 | **36** | 78 | **47** | 3 | **0.11** | 0.01 |
| Commercial lease financing | **22,582** | 21,864 | **33** | 42 | **25** | 26 | **2** | (28) | **0.01** | (0.14) |
| Commercial – foreign | **28,376** | 20,681 | **19** | 13 | **16** | 9 | **1** | (8) | **–** | (0.04) |
| | **302,797** | 227,058 | **2,020** | 678 | **196** | 179 | **188** | (58) | **0.08** | (0.03) |
| Small business commercial – domestic [7] | **17,756** | 13,727 | **135** | 79 | **427** | 199 | **869** | 361 | **5.57** | 3.00 |
| Total measured at historical cost | **320,553** | 240,785 | **2,155** | 757 | **623** | 378 | **1,057** | 303 | **0.40** | 0.13 |
| Total measured at fair value [8] | **4,590** | n/a | **–** | n/a | **–** | n/a | **n/a** | n/a | **n/a** | n/a |
| **Total commercial loans and leases** | **$325,143** | $240,785 | **$ 2,155** | $ 757 | **$623** | $378 | **$1,057** | $303 | **0.40** | 0.13 |

(1) Nonperforming commercial loans and leases as a percentage of outstanding commercial loans and leases measured at historical cost were 0.67 percent and 0.31 percent at December 31, 2007 and 2006. Including commercial loans and leases measured at fair value the ratio would have been 0.66 percent at December 31, 2007.
(2) Accruing commercial loans and leases past due 90 days or more as a percentage of outstanding commercial loans and leases measured at historical cost were 0.19 percent and 0.16 percent at December 31, 2007 and 2006. Including commercial loans and leases measured at fair value the ratio would have remained unchanged at December 31, 2007.
(3) Includes a reduction in net charge-offs on commercial – domestic of $34 million, commercial – real estate of $27 million and commercial lease financing of $2 million as a result of the impact of SOP 03-3 for 2007. Includes a reduction to small business commercial – domestic of $17 million as a result of the impact of SOP 03-3 for 2006. The impact of SOP 03-3 on average outstanding loans and leases was not material.
(4) Net charge-off ratios are calculated as net charge-offs divided by average outstanding loans and leases measured at historical cost during the year for each loan and lease category.
(5) Excludes small business commercial – domestic loans.
(6) Outstandings include domestic commercial real estate loans of $60.2 billion and $35.7 billion, and foreign commercial real estate loans of $1.1 billion and $578 million at December 31, 2007 and 2006.
(7) Small business commercial – domestic is primarily card related.
(8) Certain commercial loans are measured at fair value in accordance with SFAS 159 and include commercial – domestic loans of $3.5 billion, commercial – foreign loans of $790 million and commercial real estate loans of $304 million at December 31, 2007.
n/a = not applicable

Table 17 presents commercial credit exposure by type for utilized, unfunded and total binding committed credit exposure. The increase in 2007 to commercial committed exposure was due to the addition of LaSalle and organic growth as discussed in the sections on the following pages. The increase in derivative assets of $11.2 billion was centered in credit derivatives, interest rate and foreign exchange contracts, and was driven by growth in the businesses, widening credit spreads and the strengthening of foreign currencies against the U.S. dollar.

## Table 17 Commercial Credit Exposure by Type

| | December 31 | | | | | |
|---|---|---|---|---|---|---|
| | Commercial Utilized [1, 2] | | Commercial Unfunded [3, 4] | | Total Commercial Committed | |
| (Dollars in millions) | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 |
| Loans and leases | **$ 325,143** | $ 240,785 | **$329,396** | $ 269,937 | **$ 654,539** | $ 510,722 |
| Standby letters of credit and financial guarantees | **58,747** | 48,729 | **4,049** | 4,277 | **62,796** | 53,006 |
| Derivative assets [5] | **34,662** | 23,439 | **–** | – | **34,662** | 23,439 |
| Assets held-for-sale [6] | **26,475** | 23,904 | **1,489** | 1,136 | **27,964** | 25,040 |
| Commercial letters of credit | **4,413** | 4,258 | **140** | 224 | **4,553** | 4,482 |
| Bankers' acceptances | **2,411** | 1,885 | **2** | 1 | **2,413** | 1,886 |
| Securitized assets | **790** | 1,292 | **–** | – | **790** | 1,292 |
| Foreclosed properties | **75** | 10 | **–** | – | **75** | 10 |
| **Total commercial credit exposure** | **$ 452,716** | $ 344,302 | **$335,076** | $ 275,575 | **$ 787,792** | $ 619,877 |

(1) Exposure includes standby letters of credit, financial guarantees, commercial letters of credit and bankers' acceptances for which the bank is legally bound to advance funds under prescribed conditions, during a specified period. Although funds have not been advanced, these exposure types are considered utilized for credit risk management purposes.
(2) Total commercial utilized exposure at December 31, 2007 includes loans and issued letters of credit measured at fair value in accordance with SFAS 159 and is comprised of loans outstanding of $4.59 billion and letters of credit at notional value of $1.1 billion.
(3) Total commercial unfunded exposure at December 31, 2007 includes loan commitments measured at fair value in accordance with SFAS 159 with a notional value of $19.8 billion.
(4) Excludes unused business card lines which are not legally binding.
(5) Derivative assets are reported on a mark-to-market basis, reflect the effects of legally enforceable master netting agreements, and have been reduced by cash collateral of $12.8 billion and $7.3 billion at December 31, 2007 and 2006. In addition to cash collateral, derivative assets are also collateralized by $8.5 billion and $7.6 billion of primarily other marketable securities at December 31, 2007 and 2006 for which credit risk has not been reduced.
(6) Total commercial committed exposure consists of $23.9 billion and $11.0 billion of commercial loans held-for-sale exposure (e.g., commercial mortgage and leveraged finance) and $4.1 billion and $14.0 billion of investments held-for-sale exposure at December 31, 2007 and 2006.

## Table 18 Commercial Utilized Criticized Exposure [1, 2]

| (Dollars in millions) | December 31, 2007 Amount | December 31, 2007 Percent [3] | December 31, 2006 Amount | December 31, 2006 Percent [3] |
|---|---|---|---|---|
| Commercial – domestic [4] | **$ 8,829** | **3.37%** | $ 4,803 | 2.39% |
| Commercial real estate | **6,825** | **10.35** | 806 | 1.98 |
| Commercial lease financing | **594** | **2.63** | 504 | 2.31 |
| Commercial – foreign | **509** | **0.98** | 571 | 1.32 |
| | **16,757** | **4.16** | 6,684 | 2.18 |
| Small business commercial – domestic | **796** | **4.46** | 377 | 2.72 |
| **Total commercial utilized criticized exposure** | **$17,553** | **4.17** | $ 7,061 | 2.20 |

(1) Criticized exposure corresponds to the Special Mention, Substandard and Doubtful asset categories defined by regulatory authorities. Balances and ratios have been adjusted to exclude assets held-for-sale at December 31, 2007 and 2006 and exposure measured at fair value in accordance with SFAS 159 at December 31, 2007. Had criticized exposure in the assets held-for-sale and fair value portfolios been included, the ratio of commercial utilized criticized exposure to total commercial utilized exposure would have been 4.77 percent and 2.23 percent at December 31, 2007 and 2006.
(2) Exposure includes standby letters of credit, financial guarantees, commercial letters of credit and bankers' acceptances for which the bank is legally bound to advance funds under prescribed conditions, during a specified period. Although funds have not been advanced, these exposure types are considered utilized for credit risk management purposes.
(3) Ratios are calculated as commercial utilized criticized exposure divided by total commercial utilized exposure for each exposure category.
(4) Excludes small business commercial – domestic exposure.

Table 18 presents commercial utilized criticized exposure by product type and as a percentage of total commercial utilized exposure. Commercial utilized criticized exposure increased $10.5 billion, or 149 percent, primarily due to increases in commercial real estate and commercial – domestic of which LaSalle contributed $5.1 billion as discussed in more detail in the product sections below. The table above excludes utilized criticized exposure related to assets held-for-sale of $2.9 billion and $600 million at December 31, 2007 and 2006 and other utilized criticized exposure measured at fair value in accordance with SFAS 159 of $1.1 billion at December 31, 2007. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for a discussion of the fair value portfolio. Criticized assets in the held-for-sale portfolio, are carried at the lower of cost or market, including bridge exposure of $2.3 billion and $550 million at December 31, 2007 and 2006 which funded in the normal course of our *Business Lending* and *CMAS* businesses and are managed in part through our "originate to distribute" strategy (see Management of Commercial Credit Risk Concentrations beginning on page 49 for more information on bridge financing). The level of funded, criticized bridge exposures in the held-for-sale portfolio increased as a result of adverse market conditions in the second half of 2007. Had criticized exposure in the assets held-for-sale and fair value portfolios been included, the ratio of commercial utilized criticized exposure to total commercial utilized exposure would have been 4.77 percent and 2.23 percent at December 31, 2007 and 2006.

### Commercial – Domestic

At December 31, 2007, approximately 89 percent of the commercial – domestic portfolio, excluding small business, was included in *Business Lending* (business banking, middle market and large multinational corporate loans and leases) and *CMAS* (acquisition and bridge financing). The remaining 11 percent was mostly in *GWIM* (business-purpose loans for wealthy individuals). Outstanding commercial – domestic loans and leases including loans measured at fair value, increased $45.8 billion to $194.0 billion at December 31, 2007 compared to December 31, 2006 driven primarily by an increase in loans within *GCIB* related to the addition of LaSalle and organic growth. Nonperforming commercial – domestic loans increased by $364 million to $869 million primarily driven by the addition of LaSalle. Net charge-offs were up $163 million from 2006 driven primarily by a lower level of recoveries. Criticized utilized commercial – domestic exposure excluding assets in the held-for-sale and fair value portfolios, increased $4.0 billion to $8.8 billion primarily driven by the addition of LaSalle, higher exposure to mortgage lenders and asset-based lending.

### Commercial Real Estate

The commercial real estate portfolio is mostly managed in *Business Lending* and consists of loans issued primarily to public and private developers, homebuilders and commercial real estate firms. Outstanding loans and leases, including loans measured at fair value, increased $25.3 billion to $61.6 billion at December 31, 2007 compared to 2006. The increase was related to the acquisition of LaSalle, which increased outstandings by approximately $18.8 billion, and organic growth. The portfolio remains diversified across property types and geographic regions with increases in Illinois, the Midwest and California largely related to the addition of LaSalle. Organic growth was strong in the Northeast and in retail, office and apartment property types. The addition of LaSalle contributed to growth in residential and broadly across all other property types.

Nonperforming commercial real estate loans increased $981 million to $1.1 billion and utilized criticized exposure increased $6.0 billion to $6.8 billion attributable to the continuing impact of the housing slowdown on the homebuilding sector as well as the addition of LaSalle. Nonperforming loans and utilized criticized exposure in the homebuilding sector were $792 million and $5.4 billion, respectively, at December 31, 2007 compared to $71 million and $348 million at December 31, 2006. Net charge-offs were up $44 million from 2006 principally related to the homebuilder sector of the portfolio. At December 31, 2007, we had homebuilder-related exposure of $13.6 billion in loans and $21.6 billion in commercial committed exposure, of which 39 percent was criticized and six percent was classified as nonperforming. Assets held-for-sale associated with commercial real estate increased $8.6 billion to $13.8 billion at December 31, 2007 compared to 2006, driven by reduced market liquidity resulting in a higher level of warehoused assets pending commercial mortgage-backed securitizations and the addition of LaSalle. Refer to Management of Commercial Credit Risk Concentrations on page 49 for a discussion of our CMBS exposure.

Table 19 presents outstanding commercial real estate loans by geographic region and property type diversification.

## Table 19 Outstanding Commercial Real Estate Loans[1]

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| **By Geographic Region** [2] | | |
| California | **$ 9,369** | $ 7,781 |
| Northeast | **8,951** | 6,368 |
| Midwest | **7,832** | 1,292 |
| Illinois | **6,731** | 979 |
| Southeast | **6,472** | 5,097 |
| Southwest | **5,400** | 3,787 |
| Florida | **4,870** | 3,898 |
| Midsouth | **2,843** | 2,006 |
| Northwest | **2,417** | 2,053 |
| Other | **3,370** | 870 |
| Geographically diversified [3] | **2,282** | 1,549 |
| Non-U.S. | **1,065** | 578 |
| **Total outstanding commercial real estate loans** [4] | **$61,602** | $36,258 |
| **By Property Type** | | |
| Residential | **$11,157** | $ 8,151 |
| Office buildings | **8,837** | 4,823 |
| Shopping centers/retail | **8,722** | 3,955 |
| Apartments | **7,806** | 4,277 |
| Industrial/warehouse | **5,662** | 3,247 |
| Land and land development | **4,551** | 3,956 |
| Multiple use | **1,672** | 1,257 |
| Hotels/motels | **1,535** | 1,185 |
| Resorts | **297** | 180 |
| Other [5] | **11,363** | 5,227 |
| **Total outstanding commercial real estate loans** [4] | **$61,602** | $36,258 |

(1) Primarily includes commercial loans and leases secured by non owner-occupied real estate which are dependent on the sale or lease of the real estate as the primary source of repayment.
(2) Distribution is based on geographic location of collateral. Geographic regions are in the U.S. unless otherwise noted.
(3) The geographically diversified category is comprised primarily of unsecured outstandings to real estate investment trusts and national home builders whose portfolios of properties span multiple geographic regions.
(4) Includes commercial real estate loans measured at fair value in accordance with SFAS 159 of $304 million at December 31, 2007.
(5) Represents loans to borrowers whose primary business is commercial real estate, but the exposure is not secured by the listed property types.

### Commercial Lease Financing

The commercial lease financing portfolio is managed in *Business Lending*. Outstanding loans and leases increased $718 million in 2007 compared to 2006 primarily due to the addition of LaSalle which was partially offset by the adoption of FSP 13-2. Net charge-offs were $2 million compared to net recoveries of $28 million in 2006.

### Commercial – Foreign

The commercial – foreign portfolio is managed primarily in *Business Lending* and *CMAS*. Outstanding loans and leases, including loans measured at fair value, increased by $8.5 billion to $29.2 billion at December 31, 2007 compared to December 31, 2006 driven by organic growth combined with strengthening of foreign currencies against the U.S. dollar, partially offset by the sale of our Latin American operations. Criticized utilized exposure, excluding criticized assets in the held-for-sale and fair value portfolios, decreased $62 million to $509 million, primarily attributable to the sale of our Latin American operations. Net charge-offs were $1 million compared to net recoveries of $8 million in 2006. This increase was driven primarily by a lower level of recoveries in our large corporate portfolio. For additional information on the commercial – foreign portfolio, refer to the Foreign Portfolio discussion beginning on page 56.

### Small Business Commercial – Domestic

The small business commercial – domestic portfolio (business card and small business loans) is managed in *GCSBB*. Outstanding small business commercial – domestic loans and leases increased $4.0 billion to $17.8 billion at December 31, 2007 compared to December 31, 2006 driven by organic growth in the small business card portfolio. Approximately 64 percent of the small business commercial – domestic outstanding loans and leases at December 31, 2007 was credit card related products. Nonperforming small business commercial – domestic loans increased $56 million to $135 million, loans past due 90 days or more and still accruing interest increased $228 million to $427 million and criticized loans increased $419 million or 174 bps, to $796 million, or 4.46 percent, at December 31, 2007 compared to 2006. Small business commercial – domestic net charge-offs were up $508 million, or 257 bps, to $869 million, or 5.57 percent. The increases were driven by portfolio seasoning as well as deterioration particularly in states with the weakest housing markets. Approximately 70 percent of the small business commercial – domestic net charge-offs for 2007 were credit card related products.

**Nonperforming Commercial Assets Activity**

Table 20 presents the additions and reductions to nonperforming assets in the commercial portfolio during 2007 and 2006. The increase in nonaccrual loans and leases for 2007 was primarily attributable to homebuilder and mortgage company exposure, and the addition of LaSalle.

**Table 20 Nonperforming Commercial Assets Activity** [1, 2]

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| **Nonperforming loans and leases** | | |
| **Balance, January 1** | **$ 757** | $ 726 |
| Additions to nonperforming loans and leases: | | |
| LaSalle balance, October 1, 2007 | **413** | – |
| New nonaccrual loans and leases | **2,467** | 980 |
| Advances | **85** | 32 |
| Reductions in nonperforming loans and leases: | | |
| Paydowns and payoffs | **(781)** | (403) |
| Sales | **(82)** | (152) |
| Returns to performing status [3] | **(239)** | (80) |
| Charge-offs [4] | **(370)** | (331) |
| Transfers to foreclosed properties | **(75)** | (3) |
| Transfers to loans held-for-sale | **(20)** | (12) |
| Total net additions to nonperforming loans and leases | **1,398** | 31 |
| **Total nonperforming loans and leases, December 31** | **2,155** | 757 |
| **Foreclosed properties** | | |
| **Balance, January 1** | **10** | 31 |
| Additions to foreclosed properties: | | |
| LaSalle balance, October 1, 2007 | **16** | – |
| New foreclosed properties | **75** | 6 |
| Reductions in foreclosed properties: | | |
| Sales | **(22)** | (18) |
| Writedowns | **(4)** | (9) |
| Total net additions to (reductions in) foreclosed properties | **65** | (21) |
| **Total foreclosed properties, December 31** | **75** | 10 |
| **Nonperforming commercial assets, December 31** | **$2,230** | $ 767 |
| Nonperforming commercial loans and leases as a percentage of outstanding commercial loans and leases measured at historical cost | **0.67%** | 0.31% |
| Nonperforming commercial assets as a percentage of outstanding commercial loans and leases measured at historical cost and foreclosed properties | **0.70** | 0.32 |

(1) Balances do not include nonperforming loans held-for-sale included in other assets of $93 million and $50 million in 2007 and 2006. There were no nonperforming loans measured at fair value in accordance with SFAS 159 in 2007. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for a discussion of the changes in the fair value portfolio during 2007.
(2) Includes small business commercial – domestic activity.
(3) Commercial loans and leases may be restored to performing status when all principal and interest is current and full repayment of the remaining contractual principal and interest is expected, or when the loan otherwise becomes well-secured and is in the process of collection.
(4) Certain loan and lease products, including business card, are not classified as nonperforming; therefore, the charge-offs on these loans have no impact on nonperforming activity.

## Industry Concentrations

Table 21 presents commercial committed and commercial utilized credit exposure by industry and the total net credit default protection purchased to cover the funded and the unfunded portion of certain credit exposure. Our commercial credit exposure is diversified across a broad range of industries.

Industry limits are used internally to manage industry concentrations and are based on committed exposure and capital usage that are allocated on an industry-by-industry basis. A risk management framework is in place to set and approve industry limits, as well as to provide ongoing monitoring. The CRC oversees industry limits governance.

Total commercial committed credit exposure increased by $167.9 billion, or 27 percent, in 2007 compared to 2006, with $86.6 billion, or 52 percent of the increase, attributable to LaSalle. Total commercial utilized credit exposure increased by $108.4 billion, or 31 percent, in 2007 compared to 2006, with $57.6 billion, or 53 percent, of the increase attributable to LaSalle. The overall commercial credit utilization rate was largely unchanged year over year, increasing from 56 percent to 57 percent.

Real estate remains our largest industry concentration, accounting for 14 percent of total commercial committed exposure at December 31, 2007. Growth of $38.2 billion, or 52 percent, was driven primarily by LaSalle, which contributed $27.0 billion. Diversified financials grew by $19.1 billion, or 28 percent, due to a combination of increased activity in interest rate products, client transactions booked in the bank sponsored multi-seller conduits, and LaSalle. Government and public education exposure increased $18.2 billion, or 46 percent, due primarily to financing commitments to student lenders. Retailing exposure grew by $11.1 billion, or 25 percent, principally due to LaSalle. Capital goods grew by $15.0 billon, or 40 percent, attributed equally to organic growth and LaSalle.

Monolines exposure is reported in the insurance industry and managed under the insurance portfolio industry limits. Direct commercial committed exposure to monolines, consisted of revolvers of $203 million and net mark-to-market derivative exposure, of $420 million at December 31, 2007.

We have indirect exposure to monolines primarily in the form of guarantees supporting our loans, investment portfolios, securitizations, credit enhanced securities as part of our public finance business and other selected products. Such indirect exposure exists when we purchase credit protection from monolines to hedge all or a portion of the credit risk on certain credit exposures including loans and CDOs. We underwrite our public finance exposure by evaluating the underlying

securities. In the case of default we first look to the underlying securities and then to recovery on the purchased insurance. See page 28 for discussion on credit protection purchased on our CDO exposure.

We also have indirect exposure as we invest in securities where the issuers have purchased wraps (i.e., insurance). For example, municipalities and corporations purchase protection in order to enhance their pricing power which has the effect of reducing their cost of borrowings. If the rating agencies downgrade the monolines, the credit rating of the bond may fall and may have an adverse impact on the market value of the security.

We have further exposure related to our public finance business where we are the lead manager or remarketing agent for transactions that are wrapped including auction rate securities (ARS), tender option municipal bonds (TOBs), and variable rate demand bonds (VRDBs). We are the lead manager on municipal and, to a lesser extent, student loan ARS where a high percentage of the programs are wrapped by either monolines or other financial guarantors. However, we are only the remarketing agent on TOBs and VRDBs transactions. Recent concerns about monoline downgrades or insolvency has caused disruptions in each of these markets as investor concerns have impacted overall market liquidity and bond prices. We continue to have liquidity exposure to these markets and instruments, and as market conditions continue to evolve, these conditions may impact our results. For information on our liquidity exposure to our public finance business, see the municipal bond trusts and corporate SPEs discussion beginning on page 37.

Credit protection is purchased to cover the funded portion as well as the unfunded portion of certain credit exposure. To lessen the cost of obtaining our desired credit protection levels, credit exposure may be added within an industry, borrower or counterparty group by selling protection. Since December 31, 2006, our net credit default protection purchased has been reduced by $1.1 billion to $7.1 billion as we continue to reposition the level of purchased protection based on our current view of the underlying credit risk in the portfolio.

At December 31, 2007 and 2006, we had net notional credit default protection purchased in our credit derivatives portfolio of $7.1 billion and $8.3 billion. The net mark-to-market impacts, including the cost of credit default protection, resulted in net gains of $160 million in 2007 compared to net losses of $241 million in 2006. The average VAR for these credit derivative hedges was $22 million and $54 million for the twelve months ended December 31, 2007 and 2006. The decrease in VAR was driven by a reduction in the average amount of credit protection outstanding during the year. There is a diversification effect between the credit derivative hedges and the market-based trading portfolio such that their combined average VAR was $55 million and $57 million for the twelve months ended December 31, 2007 and 2006. Refer to the Trading Risk Management discussion beginning on page 62 for a description of our VAR calculation for the market-based trading portfolio.

## Table 21 Commercial Credit Exposure by Industry [1, 2]

| | December 31 | | | |
|---|---|---|---|---|
| | Commercial Utilized | | Total Commercial Committed | |
| (Dollars in millions) | **2007** | 2006 | **2007** | 2006 |
| Real estate [3] | **$ 81,260** | $ 49,259 | **$ 111,742** | $ 73,544 |
| Diversified financials | **37,872** | 24,813 | **86,118** | 67,038 |
| Government and public education | **31,743** | 22,495 | **57,437** | 39,254 |
| Retailing | **33,280** | 27,226 | **55,184** | 44,064 |
| Capital goods | **25,908** | 16,830 | **52,356** | 37,363 |
| Healthcare equipment and services | **24,337** | 15,881 | **40,962** | 31,189 |
| Materials | **22,176** | 15,978 | **38,717** | 28,789 |
| Consumer services | **23,382** | 19,191 | **38,650** | 32,734 |
| Banks | **21,261** | 26,405 | **35,323** | 36,735 |
| Individuals and trusts | **22,323** | 18,792 | **32,425** | 29,167 |
| Commercial services and supplies | **21,175** | 15,224 | **31,858** | 23,532 |
| Food, beverage and tobacco | **13,919** | 11,384 | **25,701** | 21,124 |
| Energy | **12,772** | 9,505 | **23,510** | 18,460 |
| Media | **7,901** | 8,784 | **19,343** | 19,181 |
| Utilities | **6,438** | 6,624 | **19,281** | 17,222 |
| Transportation | **12,803** | 11,637 | **18,824** | 17,375 |
| Insurance | **7,162** | 6,759 | **16,014** | 14,122 |
| Religious and social organizations | **8,208** | 7,840 | **10,982** | 10,507 |
| Consumer durables and apparel | **5,802** | 4,827 | **10,907** | 9,124 |
| Technology hardware and equipment | **4,615** | 3,326 | **10,239** | 8,093 |
| Software and services | **4,739** | 2,763 | **10,128** | 6,212 |
| Pharmaceuticals and biotechnology | **4,349** | 2,530 | **8,563** | 6,289 |
| Telecommunication services | **3,475** | 3,565 | **8,235** | 7,981 |
| Automobiles and components | **2,648** | 1,584 | **6,960** | 5,153 |
| Food and staples retailing | **2,732** | 2,153 | **5,318** | 4,222 |
| Household and personal products | **889** | 779 | **2,776** | 2,264 |
| Semiconductors and semiconductor equipment | **1,140** | 802 | **1,734** | 1,364 |
| Other | **8,407** | 7,346 | **8,505** | 7,775 |
| **Total commercial credit exposure by industry** | **$452,716** | $344,302 | **$ 787,792** | $ 619,877 |
| Net credit default protection purchased on total commitments [4] | | | **$ (7,146)** | $ (8,260) |

(1) Total commercial utilized and total commercial committed exposure includes loans and letters of credit measured at fair value in accordance with SFAS 159 and are comprised of loans outstanding of $4.59 billion and issued letters of credit at notional value of $1.1 billion at December 31, 2007. In addition, total commercial committed exposure includes unfunded loan commitments at notional value of $19.8 billion at December 31, 2007.
(2) Includes small business commercial – domestic exposure.
(3) Industries are viewed from a variety of perspectives to best isolate the perceived risks. For purposes of this table, the real estate industry is defined based upon the borrowers' or counterparties' primary business activity using operating cash flow and primary source of repayment as key factors.
(4) Represents net notional credit protection purchased.

Tables 22 and 23 present the maturity profiles and the credit exposure debt ratings of the net credit default protection portfolio at December 31, 2007 and 2006.

### Table 22 Net Credit Default Protection by Maturity Profile

| | December 31 | |
|---|---|---|
| | **2007** | 2006 |
| Less than or equal to one year | **2%** | 7% |
| Greater than one year and less than or equal to five years | **67** | 46 |
| Greater than five years | **31** | 47 |
| **Total net credit default protection** | **100%** | 100% |

### Table 23 Net Credit Default Protection by Credit Exposure Debt Rating [1]

| (Dollars in millions) | December 31 | | | |
|---|---|---|---|---|
| | **2007** | | 2006 | |
| Ratings | **Net Notional** | **Percent** | Net Notional | Percent |
| AAA | **$ (13)** | **0.2%** | $ (23) | 0.3% |
| AA | **(92)** | **1.3** | (237) | 2.9 |
| A | **(2,408)** | **33.7** | (2,598) | 31.5 |
| BBB | **(3,328)** | **46.6** | (3,968) | 48.0 |
| BB | **(1,524)** | **21.3** | (1,341) | 16.2 |
| B | **(180)** | **2.5** | (334) | 4.0 |
| CCC and below | **(75)** | **1.0** | (50) | 0.6 |
| NR [2] | **474** | **(6.6)** | 291 | (3.5) |
| **Total net credit default protection** | **$ (7,146)** | **100.0%** | $ (8,260) | 100.0% |

(1) In order to mitigate the cost of purchasing credit protection, credit exposure can be added by selling credit protection. The distribution of debt rating for net notional credit default protection purchased is shown as a negative and the net notional credit protection sold is shown as a positive amount.
(2) In addition to unrated names, "NR" includes $550 million and $302 million in net credit default swaps index positions at December 31, 2007 and 2006. While index positions are principally investment grade, credit default swaps indices include names in and across each of the ratings categories.

## *Foreign Portfolio*

Our foreign credit and trading portfolio is subject to country risk. We define country risk as the risk of loss from unfavorable economic and political developments, currency fluctuations, social instability and changes in government policies. A risk management framework is in place to measure, monitor and manage foreign risk and exposures. Management oversight of country risk including cross-border risk is provided by the Country Risk Committee.

Table 24 presents total foreign exposure broken out by region at December 31, 2007 and 2006. Total foreign exposure includes credit exposure net of local liabilities, securities, and other investments domiciled in countries other than the United States. Credit card exposure is reported on a funded basis. Total foreign exposure can be adjusted for externally guaranteed exposure and certain collateral types. Exposure which is assigned external guarantees are reported under the country of the guarantor. Exposure with tangible collateral is reflected in the country where the collateral is held. For securities received, other than cross-border resale agreements, exposure is assigned to the domicile of the issuer of the securities. Resale agreements are generally presented based on the domicile of the counterparty consistent with FFIEC reporting rules.

Our total foreign exposure was $138.1 billion at December 31, 2007, an increase of $8.1 billion from December 31, 2006. Europe accounted for $74.7 billion, or 54 percent, of total foreign exposure. The European exposure was mostly in Western Europe and was distributed across a variety of industries with the largest concentration in the commercial sector which accounted for approximately 46 percent of the total exposure in Europe. The decline of $10.6 billion was driven by lower cross-border other financing exposure, as well as higher local funding available to net against local exposures in the United Kingdom.

Asia Pacific was our second largest foreign exposure at $42.1 billion, or 30 percent, of total foreign exposure at December 31, 2007. The growth of $14.7 billion in Asia Pacific was primarily driven by the fair value adjustment associated with our CCB investment.

### Table 24 Regional Foreign Exposure [1, 2, 3]

| (Dollars in millions) | December 31 | |
|---|---|---|
| | **2007** | 2006 |
| Europe | **$ 74,725** | $ 85,279 |
| Asia Pacific | **42,081** | 27,403 |
| Latin America | **10,944** | 8,998 |
| Middle East | **1,481** | 811 |
| Africa | **470** | 317 |
| Other | **8,361** | 7,131 |
| **Total regional foreign exposure** | **$ 138,062** | $ 129,939 |

(1) In the balances above, local funding or liabilities are subtracted from local exposures as allowed by the FFIEC.
(2) Exposures have been reduced by $6.3 billion at December 31, 2007 and $4.3 billion at December 31, 2006 related to the cash applied as collateral to derivative assets.
(3) Generally, cross-border resale agreements are presented based on the domicile of the counterparty consistent with FFIEC reporting rules. Cross-border resale agreements where the underlying securities are U.S. Treasury securities, in which case the domicile is the U.S., are excluded from this presentation.

Latin America accounted for $10.9 billion, or eight percent of total foreign exposure at December 31, 2007, an increase of $1.9 billion, or 22 percent, from December 31, 2006. The increase in exposure in Latin America was primarily due to higher exposures in Brazil, Mexico, and Chile. For more information on our Asia Pacific and Latin America exposure, see the discussion below on foreign exposure to selected countries defined as emerging markets.

At December 31, 2007, China was the only country where total cross-border exposure of $17.0 billion, which mostly related to our investment in CCB, was between 0.75 percent and 1.00 percent of total assets. At December 31, 2007, we did not operate in any country where the total cross-border exposure exceeded one percent of our total assets. At December 31, 2007 and 2006, the United Kingdom had total cross-border exposure of $12.7 billion and $17.3 billion representing 0.74 percent and 1.18 percent of total assets.

As presented in Table 25, foreign exposure to borrowers or counterparties in emerging markets increased $19.6 billion to $40.4 billion at December 31, 2007, compared to $20.9 billion at December 31, 2006. The increase was primarily due to the fair value adjustment associated with our CCB investment as well as higher exposures across most categories in all regions. Foreign exposure to borrowers or counterparties in emerging markets represented 29 percent and 16 percent of total foreign exposure at December 31, 2007 and 2006.

At December 31, 2007, 71 percent of the emerging markets exposure was in Asia Pacific, compared to 58 percent at December 31, 2006. Asia Pacific emerging markets exposure increased by $16.5 billion. Growth was driven by higher cross-border exposure mainly in China, India, South Korea and Singapore. Our exposure in China was primarily related to the carrying value of our equity investment in CCB which accounted for $16.4 billion and $3.0 billion at December 31, 2007 and 2006.

At December 31, 2007, 23 percent of the emerging markets exposure was in Latin America compared to 36 percent at December 31, 2006. Latin America emerging markets exposure increased by $2.0 billion driven by higher cross-border exposure in Brazil, Mexico, and Chile, as well as an increase in our equity investment in Banco Itaú. During the first quarter of 2007, the Corporation completed the sale of its operations in Chile and Uruguay for approximately $750 million in equity of Banco Itaú. The carrying value of our investment in Banco Itaú accounted for $2.6 billion and $1.9 billion of exposure in Brazil at December 31, 2007 and 2006. The December 31, 2007 equity investment in Banco Itaú represents seven percent of its outstanding voting and non-voting shares. Our investment in Banco Itaú is currently carried at cost and will be accounted for as AFS marketable equity securities and carried at fair value beginning in the second quarter of 2008.

## Table 25 Selected Emerging Markets [1]

| (Dollars in millions) | Loans and Leases, and Loan Commitments | Other Financing [2] | Derivative Assets [3] | Securities/ Other Investments [4] | Total Cross-border Exposure [5] | Local Country Exposure Net of Local Liabilities [6] | **Total Emerging Market Exposure at December 31, 2007** | Increase (Decrease) From December 31, 2006 |
|---|---|---|---|---|---|---|---|---|
| **Region/Country** | | | | | | | | |
| **Asia Pacific** | | | | | | | | |
| China [7] | $ 262 | $ 70 | $ 79 | $ 16,629 | $ 17,040 | $ – | **$ 17,040** | $ 13,426 |
| South Korea | 157 | 1,000 | 177 | 3,068 | 4,402 | – | **4,402** | 1,025 |
| India | 1,141 | 470 | 355 | 1,168 | 3,134 | 158 | **3,292** | 1,257 |
| Singapore | 381 | 25 | 192 | 694 | 1,292 | – | **1,292** | 420 |
| Taiwan | 345 | 41 | 45 | 169 | 600 | 467 | **1,067** | 325 |
| Hong Kong | 416 | 100 | 53 | 226 | 795 | – | **795** | (69) |
| Other Asia Pacific [8] | 133 | 79 | 35 | 401 | 648 | 39 | **687** | 96 |
| **Total Asia Pacific** | 2,835 | 1,785 | 936 | 22,355 | 27,911 | 664 | **28,575** | 16,480 |
| **Latin America** | | | | | | | | |
| Mexico | 1,181 | 229 | 38 | 2,990 | 4,438 | – | **4,438** | 507 |
| Brazil | 701 | 104 | 42 | 2,617 | 3,464 | 223 | **3,687** | 1,036 |
| Chile | 644 | 55 | – | 14 | 713 | 6 | **719** | 393 |
| Other Latin America [8] | 186 | 170 | – | 110 | 466 | 181 | **647** | 113 |
| **Total Latin America** | 2,712 | 558 | 80 | 5,731 | 9,081 | 410 | **9,491** | 2,049 |
| **Middle East and Africa [8]** | 838 | 711 | 170 | 222 | 1,941 | – | **1,941** | 825 |
| **Central and Eastern Europe [8]** | 42 | 86 | 75 | 221 | 424 | – | **424** | 209 |
| **Total emerging market exposure** | $ 6,427 | $ 3,140 | $ 1,261 | $ 28,529 | $ 39,357 | $ 1,074 | **$ 40,431** | $ 19,563 |

(1) There is no generally accepted definition of emerging markets. The definition that we use includes all countries in Asia Pacific excluding Japan, Australia and New Zealand; all countries in Latin America excluding Cayman Islands and Bermuda; all countries in Middle East and Africa; and all countries in Central and Eastern Europe excluding Greece. There was no emerging market exposure included in the portfolio measured at fair value in accordance with SFAS 159 at December 31, 2007.

(2) Includes acceptances, standby letters of credit, commercial letters of credit and formal guarantees.

(3) Derivative assets are reported on a mark-to-market basis and have been reduced by the amount of cash collateral applied of $57 million and $9 million at December 31, 2007 and 2006. At December 31, 2007 and 2006 there were $2 million and less than $1 million of other marketable securities collateralizing derivative assets for which credit risk has not been reduced.

(4) Generally, cross-border resale agreements are presented based on the domicile of the counterparty, consistent with FFIEC reporting rules. Cross-border resale agreements where the underlying securities are U.S. Treasury securities, in which case the domicile is the U.S., are excluded from this presentation.

(5) Cross-border exposure includes amounts payable to the Corporation by borrowers or counterparties with a country of residence other than the one in which the credit is booked, regardless of the currency in which the claim is denominated, consistent with FFIEC reporting rules.

(6) Local country exposure includes amounts payable to the Corporation by borrowers with a country of residence in which the credit is booked, regardless of the currency in which the claim is denominated. Local funding or liabilities are subtracted from local exposures as allowed by the FFIEC. Total amount of available local liabilities funding local country exposure at December 31, 2007 was $21.6 billion compared to $20.7 billion at December 31, 2006. Local liabilities at December 31, 2007 in Asia Pacific and Latin America were $19.7 billion and $1.9 billion, of which $7.9 billion were in Hong Kong, $6.2 billion in Singapore, $2.5 billion in South Korea, $1.8 billion in Mexico, $1.1 billion in China, $836 million in India, and $508 million in Taiwan. There were no other countries with available local liabilities funding local country exposure greater than $500 million.

(7) Securities/Other Investments include an investment of $16.4 billion in CCB. Beginning in the fourth quarter of 2007, the Corporation's equity investment in CCB was accounted for at fair value. Previously, the investment in CCB was accounted for at cost.

(8) No country included in Other Asia Pacific, Other Latin America, Middle East and Africa, and Central and Eastern Europe had total foreign exposure of more than $500 million.

The increased exposures in Mexico were attributable to higher cross-border corporate securities trading exposure and loans and loan commitments. Our 24.9 percent investment in Santander accounted for $2.6 billion and $2.3 billion of exposure in Mexico at December 31, 2007 and 2006.

At both December 31, 2007 and 2006, five percent of the emerging markets exposure was in Middle East and Africa. Middle East and Africa emerging markets exposure increased by $825 million driven by higher cross-border other financing exposure and loans and loan commitments.

## *Provision for Credit Losses*

The provision for credit losses increased $3.4 billion, or 67 percent, to $8.4 billion in 2007 compared to 2006.

The consumer portion of the provision for credit losses increased $1.8 billion to $6.5 billion compared to 2006. Higher net charge-offs from portfolio seasoning, reflective of growth in the businesses and increases from the unusually low charge-off levels experienced in 2006 post bankruptcy reform drove a portion of the increase. Additionally, reserve increases related to higher losses inherent in our home equity portfolio, reflecting growth in the business and the impact of the weak housing market, as well as seasoning of the *Card Services* consumer portfolios contributed to the increased provision expense. The increases were partially offset by reserve reductions from the addition of higher loss profile accounts to the domestic credit card securitization trust and to a lesser extent, improved performance of the remaining portfolios from certain consumer finance businesses that we have previously exited.

The commercial portion of the provision for credit losses increased $1.6 billion to $1.9 billion compared to 2006. Higher net charge-offs from seasoning and deterioration in our small business portfolios within *GCSBB* as well as a lower level of commercial recoveries in *GCIB* and *GWIM* drove a portion of the increase. Reserve increases for seasoning of growth and deterioration in the small business portfolio within *GCSBB*, the absence of prior year reserve releases in *GCIB* and portfolio deterioration reflecting the impact of the weak housing market, particularly on our homebuilder loan portfolio within *GCIB*, also drove the year over year increase. Partially offsetting these increases was a reduction of reserves in *All Other* reflecting the sale of our Argentina portfolio during the first quarter of 2007.

The provision for credit losses related to unfunded lending commitments was $28 million in 2007 compared to $9 million in 2006.

## *Allowance for Credit Losses*

### Allowance for Loan and Lease Losses

The allowance for loan and lease losses excludes loans measured at fair value in accordance with SFAS 159 as subsequent mark-to-market adjustments related to loans measured at fair value include a credit risk component. The allowance for loan and lease losses is allocated based on two components. We evaluate the adequacy of the allowance for loan and lease losses based on the combined total of these two components.

The first component of the allowance for loan and lease losses covers those commercial loans measured at historical cost that are either nonperforming or impaired. An allowance is allocated when the discounted cash flows (or collateral value or observable market price) are lower than the carrying value of that loan. For purposes of computing the specific loss component of the allowance, larger impaired loans are evaluated individually and smaller impaired loans are evaluated as a pool using historical loss experience for the respective product type and risk rating of the loans.

The second component of the allowance for loan and lease losses covers performing consumer and commercial loans and leases measured at historical cost. The allowance for commercial loan and lease losses is established by product type after analyzing historical loss experience by internal risk rating, current economic conditions, industry performance trends, geographic or obligor concentrations within each portfolio segment, and any other pertinent information. The commercial historical loss experience is updated quarterly to incorporate the most recent data reflective of the current economic environment. As of December 31, 2007, quarterly updating of historical loss experience did not have a material impact on the allowance for loan and lease losses. The allowance for consumer and certain homogeneous commercial loan and lease products is based on aggregated portfolio segment evaluations, generally by product type. Loss forecast models are utilized that consider a variety of factors including, but not limited to, historical loss experience, estimated defaults or foreclosures based on portfolio trends, delinquencies, economic trends and credit scores. These loss forecast models are updated on a quarterly basis in order to incorporate information reflective of the current economic environment. As of December 31, 2007, quarterly updating of the loss forecast models resulted in increases in the allowance for loan and lease losses primarily due to growth and seasoning of the consumer portfolios and higher inherent losses in the home equity and small business portfolios. Included within this second component of the allowance for loan and lease losses and determined separately from the procedures outlined above are reserves which are maintained to cover uncertainties that affect our estimate of probable losses including domestic and global economic uncertainty and large single name defaults.

We monitor differences between estimated and actual incurred loan and lease losses. This monitoring process includes periodic assessments by senior management of loan and lease portfolios and the models used to estimate incurred losses in those portfolios.

Additions to the allowance for loan and lease losses are made by charges to the provision for credit losses. Credit exposures deemed to be uncollectible are charged against the allowance for loan and lease losses. Recoveries of previously charged off amounts are credited to the allowance for loan and lease losses.

The allowance for loan and lease losses for the consumer portfolio as presented in Table 27 was $6.8 billion at December 31, 2007, an increase of $1.2 billion from December 31, 2006. The increase was attributable to an increase in reserves during 2007 for higher losses inherent in our home equity portfolio reflective of the impact of the weak housing market as well as growth and seasoning of the *Card Services* consumer portfolios. These increases were partially offset by reserve reductions from the addition of higher loss profile accounts to the domestic credit card securitizations trust, net new issuances of securitizations, and improved performance of the remaining portfolios from certain consumer finance businesses that we have previously exited.

The allowance for commercial loan and lease losses was $4.8 billion at December 31, 2007, a $1.4 billion increase from December 31, 2006. The LaSalle acquisition increased the allowance for commercial loan and lease losses $676 million. In addition, the increase in commercial – domestic allowance levels was primarily attributable to an increase in reserves for higher losses inherent in the small business portfolio within *GCSBB*. Commercial real estate allowance levels increased mainly due to the LaSalle acquisition and portfolio deterioration reflecting the impact of the weak housing market, particularly on our homebuilder loan portfolio within *GCIB*. Commercial – foreign allowance levels decreased due to the sales of our Latin American portfolios and operations.

The allowance for loan and lease losses as a percentage of total loans and leases outstanding was 1.33 percent at December 31, 2007, compared to 1.28 percent at December 31, 2006. The increase in the ratio was driven by reserve increases for higher inherent losses in the small business and home equity portfolios within *GCSBB*, reflecting growth of these businesses and deterioration in the portfolios, and seasoning of the *Card Services* unsecured lending portfolio as well as discontinuing sales of new receivables into the unsecured lending trust. These increases were partially offset by growth in the residential mortgage portfolio, which has a low loss profile, as the Corporation increased retention of residential mortgage loans for ALM purposes. Also offsetting the increases were reserve reductions related to the addition of higher loss profile accounts to the domestic credit card securitization trust and the sales of our Latin American portfolios and operations.

## Reserve for Unfunded Lending Commitments

In addition to the allowance for loan and lease losses, we also estimate probable losses related to unfunded lending commitments measured at historical cost, such as letters of credit and financial guarantees, and binding unfunded loan commitments. Unfunded lending commitments are subject to the same assessment as funded loans, except utilization assumptions are considered. The reserve for unfunded lending commitments is included in accrued expenses and other liabilities on the Consolidated Balance Sheet with changes to the reserve generally made through the provision for credit losses.

The reserve for unfunded lending commitments at December 31, 2007 was $518 million, a $121 million increase from December 31, 2006 primarily driven by the acquisition of LaSalle.

Table 26 presents a rollforward of the allowance for credit losses for 2007 and 2006.

## Table 26 Allowance for Credit Losses

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| **Allowance for loan and lease losses, January 1** | **$ 9,016** | $ 8,045 |
| **Adjustment due to the adoption of SFAS 159** | **(32)** | – |
| **LaSalle balance, October 1, 2007** | **725** | – |
| **U.S. Trust Corporation balance, July 1, 2007** | **25** | – |
| **MBNA balance, January 1, 2006** | **–** | 577 |
| **Loans and leases charged off** | | |
| Residential mortgage | **(79)** | (74) |
| Credit card – domestic | **(3,410)** | (3,546) |
| Credit card – foreign | **(452)** | (292) |
| Home equity | **(286)** | (67) |
| Direct/Indirect consumer | **(1,885)** | (857) |
| Other consumer | **(346)** | (327) |
| Total consumer charge-offs | **(6,458)** | (5,163) |
| Commercial – domestic [1] | **(1,135)** | (597) |
| Commercial real estate | **(54)** | (7) |
| Commercial lease financing | **(55)** | (28) |
| Commercial – foreign | **(28)** | (86) |
| Total commercial charge-offs | **(1,272)** | (718) |
| Total loans and leases charged off | **(7,730)** | (5,881) |
| **Recoveries of loans and leases previously charged off** | | |
| Residential mortgage | **22** | 35 |
| Credit card – domestic | **347** | 452 |
| Credit card – foreign | **74** | 67 |
| Home equity | **12** | 16 |
| Direct/Indirect consumer | **512** | 247 |
| Other consumer | **68** | 110 |
| Total consumer recoveries | **1,035** | 927 |
| Commercial – domestic [2] | **128** | 261 |
| Commercial real estate | **7** | 4 |
| Commercial lease financing | **53** | 56 |
| Commercial – foreign | **27** | 94 |
| Total commercial recoveries | **215** | 415 |
| Total recoveries of loans and leases previously charged off | **1,250** | 1,342 |
| Net charge-offs | **(6,480)** | (4,539) |
| Provision for loan and lease losses | **8,357** | 5,001 |
| Other | **(23)** | (68) |
| Allowance for loan and lease losses, December 31 | **11,588** | 9,016 |
| **Reserve for unfunded lending commitments, January 1** | **397** | 395 |
| Adjustment due to the adoption of SFAS 159 | **(28)** | – |
| LaSalle balance, October 1, 2007 | **124** | – |
| Provision for unfunded lending commitments | **28** | 9 |
| Other | **(3)** | (7) |
| Reserve for unfunded lending commitments, December 31 | **518** | 397 |
| **Allowance for credit losses, December 31** | **$ 12,106** | $ 9,413 |
| Loans and leases outstanding measured at historical cost at December 31 | **$871,754** | $706,490 |
| Allowance for loan and lease losses as a percentage of total loans and leases outstanding measured at historical cost at December 31 [3] | **1.33%** | 1.28% |
| Consumer allowance for loan and lease losses as a percentage of total consumer loans and leases outstanding at December 31 | **1.23** | 1.19 |
| Commercial allowance for loan and lease losses as a percentage of total commercial loans and leases outstanding measured at historical cost at December 31 [3] | **1.51** | 1.44 |
| Average loans and leases outstanding measured at historical cost during the year | **$773,142** | $652,417 |
| Net charge-offs as a percentage of average loans and leases outstanding measured at historical cost during the year [3, 4, 5] | **0.84%** | 0.70% |
| Allowance for loan and lease losses as a percentage of total nonperforming loans and leases measured at historical cost at December 31 | **207** | 505 |
| Ratio of the allowance for loan and lease losses at December 31 to net charge-offs [4, 5] | **1.79** | 1.99 |

(1) Includes small business commercial – domestic charge offs of $911 million and $409 million in 2007 and 2006.
(2) Includes small business commercial – domestic recoveries of $42 million and $48 million in 2007 and 2006.
(3) Ratios do not include loans measured at fair value in accordance with SFAS 159 at and for the year ended December 31, 2007. Loans measured at fair value were $4.59 billion at December 31, 2007.
(4) In 2007, the impact of SOP 03-3 decreased net charge-offs by $75 million. Excluding the impact of SOP 03-3, net charge-offs as a percentage of average loans and leases outstanding measured at historical cost in 2007 would have been 0.85 percent and the ratio of the allowance for loan and lease losses to net charge-offs would have been 1.77 percent at December 31, 2007.
(5) In 2006, the impact of SOP 03-3 decreased net charge-offs by $288 million. Excluding the impact of SOP 03-3, net charge-offs as a percentage of average loans and leases outstanding measured at historical cost in 2006 would have been 0.74 percent, and the ratio of the allowance for loan and lease losses to net charge-offs would have been 1.87 percent at December 31, 2006.

For reporting purposes, we allocate the allowance for credit losses across products. However, the allowance is available to absorb any credit losses without restriction. Table 27 presents our allocation by product type.

**Table 27 Allocation of the Allowance for Credit Losses by Product Type**

| | December 31 | | | |
|---|---|---|---|---|
| | 2007 | | 2006 | |
| (Dollars in millions) | Amount | Percent of Total | Amount | Percent of Total |
| **Allowance for loan and lease losses** | | | | |
| Residential mortgage | **$ 207** | **1.8%** | $ 248 | 2.8% |
| Credit card – domestic | **2,919** | **25.2** | 3,176 | 35.2 |
| Credit card – foreign | **441** | **3.8** | 336 | 3.7 |
| Home equity | **963** | **8.3** | 133 | 1.5 |
| Direct/Indirect consumer | **2,077** | **17.9** | 1,378 | 15.3 |
| Other consumer | **151** | **1.3** | 289 | 3.2 |
| Total consumer | **6,758** | **58.3** | 5,560 | 61.7 |
| Commercial – domestic [1] | **3,194** | **27.6** | 2,162 | 24.0 |
| Commercial real estate | **1,083** | **9.3** | 588 | 6.5 |
| Commercial lease financing | **218** | **1.9** | 217 | 2.4 |
| Commercial – foreign | **335** | **2.9** | 489 | 5.4 |
| Total commercial [2] | **4,830** | **41.7** | 3,456 | 38.3 |
| **Allowance for loan and lease losses** | **11,588** | **100.0%** | 9,016 | 100.0% |
| **Reserve for unfunded lending commitments** | **518** | | 397 | |
| **Allowance for credit losses** | **$ 12,106** | | $ 9,413 | |

(1) Includes allowance for small business commercial – domestic loans of $1.4 billion and $578 million at December 31, 2007 and 2006.
(2) Includes allowance for loan and lease losses for impaired commercial loans of $123 million and $43 million at December 31, 2007 and 2006.

## Market Risk Management

Market risk is the risk that values of assets and liabilities or revenues will be adversely affected by changes in market conditions such as market movements. This risk is inherent in the financial instruments associated with our operations and/or activities including loans, deposits, securities, short-term borrowings, long-term debt, trading account assets and liabilities, and derivatives. Market-sensitive assets and liabilities are generated through loans and deposits associated with our traditional banking business, customer and proprietary trading operations, ALM process, credit risk mitigation activities and mortgage banking activities. In the event of market volatility, factors such as underlying market movements and liquidity have an impact on the results of the Corporation.

Our traditional banking loan and deposit products are nontrading positions and are reported at amortized cost for assets or the amount owed for liabilities (historical cost). GAAP requires a historical cost view of traditional banking assets and liabilities. However, these positions are still subject to changes in economic value based on varying market conditions, primarily changes in the levels of interest rates. The risk of adverse changes in the economic value of our nontrading positions is managed through our ALM activities. We have elected to fair value certain loan and deposit products in accordance with SFAS 159. For further information on fair value of certain financial assets and liabilities, see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

Our trading positions are reported at fair value with changes currently reflected in income. Trading positions are subject to various risk factors, which include exposures to interest rates and foreign exchange rates, as well as mortgage, equity, commodity, issuer and market liquidity risk factors. We seek to mitigate these risk exposures by using techniques that encompass a variety of financial instruments in both the cash and derivatives markets. The following discusses the key risk components along with respective risk mitigation techniques.

### Interest Rate Risk

Interest rate risk represents exposures to instruments whose values vary with the level or volatility of interest rates. These instruments include, but are not limited to, loans, debt securities, certain trading-related assets and liabilities, deposits, borrowings and derivative instruments. Hedging instruments used to mitigate these risks include related derivatives such as options, futures, forwards and swaps.

### Foreign Exchange Risk

Foreign exchange risk represents exposures to changes in the values of current holdings and future cash flows denominated in other currencies. The types of instruments exposed to this risk include investments in foreign subsidiaries, foreign currency-denominated loans and securities, future cash flows in foreign currencies arising from foreign exchange transactions, foreign currency-denominated debt and various foreign exchange derivative instruments whose values fluctuate with changes in the level or volatility of currency exchange rates or foreign interest rates. Hedging instruments used to mitigate this risk include foreign exchange options, currency swaps, futures, forwards and deposits.

### Mortgage Risk

Mortgage risk represents exposures to changes in the value of mortgage-related instruments. The values of these instruments are sensitive to prepayment rates, mortgage rates, agency debt ratings, default, market liquidity, other interest rates and interest rate volatility. Our exposure to these instruments takes several forms. First, we trade and engage in market-making activities in a variety of mortgage securities including whole loans, pass-through certificates, commercial mortgages, and collateralized mortgage obligations including CDOs using mortgages as underlying collateral. Second, we originate a variety of mortgage-backed securities which involves the accumulation of mortgage-related loans in anticipation of eventual securitization. Third, we may hold positions in mortgage secu-

rities and residential mortgage loans as part of the ALM portfolio. Fourth, we create MSRs as part of our mortgage origination activities. See *Note 1* – Summary of Significant Accounting Principles and *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements for additional information on MSRs. Hedging instruments used to mitigate this risk include options, futures, forwards, swaps, swaptions and securities.

### Equity Market Risk

Equity market risk represents exposures to securities that represent an ownership interest in a corporation in the form of domestic and foreign common stock or other equity-linked instruments. Instruments that would lead to this exposure include, but are not limited to, the following: common stock, exchange traded funds, American Depositary Receipts (ADRs), convertible bonds, listed equity options (puts and calls), over-the-counter equity options, equity total return swaps, equity index futures and other equity derivative products. Hedging instruments used to mitigate this risk include options, futures, swaps, convertible bonds and cash positions.

### Commodity Risk

Commodity risk represents exposures to instruments traded in the petroleum, natural gas, power, and metals markets. These instruments consist primarily of futures, forwards, swaps and options. Hedging instruments used to mitigate this risk include options, futures and swaps in the same or similar commodity product, as well as cash positions.

### Issuer Credit Risk

Issuer credit risk represents exposures to changes in the creditworthiness of individual issuers or groups of issuers. Our portfolio is exposed to issuer credit risk where the value of an asset may be adversely impacted by changes in the levels of credit spreads, by credit migration, or by defaults. Hedging instruments used to mitigate this risk include bonds, CDS and other credit fixed income instruments.

### Market Liquidity Risk

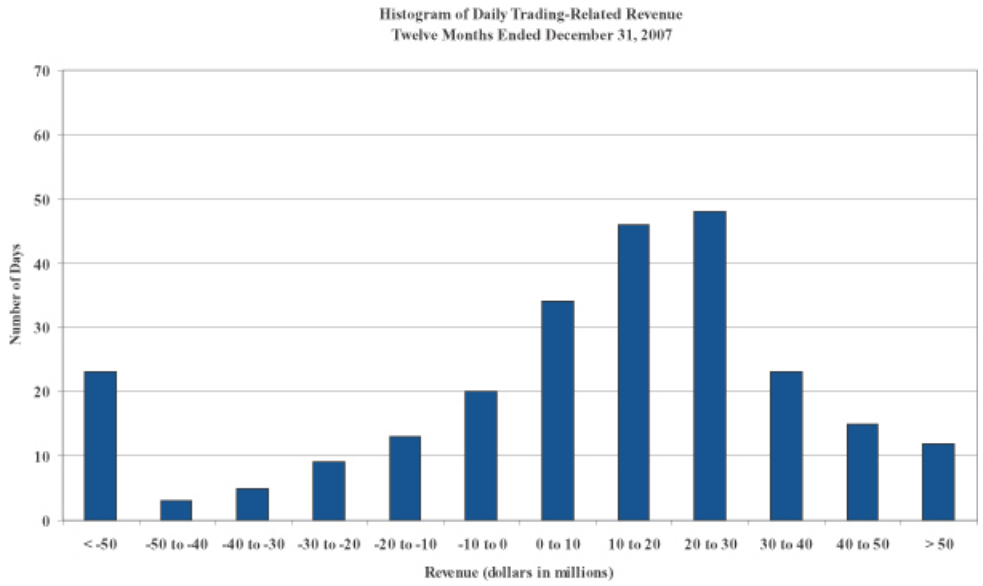
Market liquidity risk represents the risk that expected market activity changes dramatically and in certain cases may even cease to exist. This exposes us to the risk that we will not be able to transact in an orderly manner and may impact our results. This impact could further be exacerbated if expected hedging or pricing correlations are impacted by the disproportionate demand or lack of demand for certain instruments. We utilize various risk mitigating techniques as discussed in more detail in Trading Risk Management.

## *Trading Risk Management*

Trading-related revenues represent the amount earned from trading positions, including market-based net interest income, which are taken in a diverse range of financial instruments and markets. Trading account assets and liabilities and derivative positions are reported at fair value. For more information on fair value, see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements and Complex Accounting Estimates beginning on page 68. Trading-related revenues can be volatile and are largely driven by general market conditions and customer demand. Trading-related revenues are dependent on the volume and type of transactions, the level of risk assumed, and the volatility of price and rate movements at any given time within the ever-changing market environment.

The GRC, chaired by the Global Markets Risk Executive, has been designated by ALCO as the primary governance authority for Global Markets Risk Management including trading risk management. The GRC's focus is to take a forward-looking view of the primary credit and market risks impacting *CMAS* and prioritize those that need a proactive risk mitigation strategy.

At the GRC meetings, the committee considers significant daily revenues and losses by business along with an explanation of the primary driver of the revenue or loss. Thresholds are established for each of our businesses in order to determine if the revenue or loss is considered to be significant for that business. If any of the thresholds are exceeded, an explanation of the variance is made to the GRC. The thresholds are developed in coordination with the respective risk managers to highlight those revenues or losses which exceed what is considered to be normal daily income statement volatility.



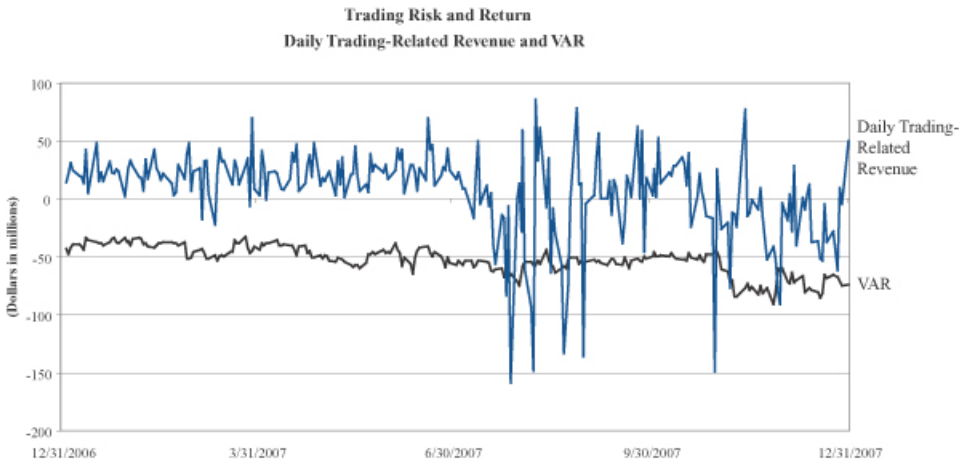

The histogram of daily revenue or loss above is a graphic depiction of trading volatility and illustrates the daily level of trading-related revenue for the twelve months ended December 31, 2007. During the twelve months ended December 31, 2007, positive trading-related revenue was recorded for 71 percent of the trading days. During the second half of 2007, CDO- related markets experienced significant liquidity constraints impacting the availability and reliability of transparent pricing resulting in the valuation of CDOs becoming more complex and time consuming. Accordingly, it was not possible to mark these positions to market on a daily basis. As a result, we recorded valuation adjustments in trading account profits (losses) of approximately $4.0 billion on certain discrete dates relating to our super senior CDO exposure. For further discussion of our super senior CDO exposure and related losses see page 28. Excluding the discrete writedowns on our super senior CDO exposure, 21 percent of the total trading days had losses greater than $10 million, and the largest loss was $159 million. This can be compared to the twelve months ended December 31, 2006, where positive trading-related revenue was recorded for 96 percent of the trading days and there were no losses greater than $10 million, and the largest loss was $10 million. The increase in the total trading days with losses greater than $10 million was due to the period of market disruption during the second half of 2007.

To evaluate risk in our trading activities, we focus on the actual and potential volatility of individual positions as well as portfolios. VAR is a key statistic used to measure market risk. In order to manage day-to-day risks, VAR is subject to trading limits both for our overall trading portfolio and within individual businesses. All limit excesses are communicated to management for review.

A VAR model simulates the value of a portfolio under a range of hypothetical scenarios in order to generate a distribution of potential gains and losses. The VAR represents the worst loss the portfolio is expected to experience based on historical trends with a given level of confidence. VAR depends on the volatility of the positions in the portfolio and on how strongly their risks are correlated. Within any VAR model, there are significant and numerous assumptions that will differ from company to company. In addition, the accuracy of a VAR model depends on the availability and quality of historical data for each of the positions in the portfolio. A VAR model may require additional modeling assumptions for new products which do not have extensive historical price data, or for illiquid positions for which accurate daily prices are not consistently available. Our VAR model uses a historical simulation approach based on three years of historical data and assumes a 99 percent confidence level. Statistically, this means that losses will exceed VAR, on average, one out of 100 trading days, or two to three times each year.

A VAR model is an effective tool in estimating ranges of potential gains and losses on our trading portfolios. There are however many limitations inherent in a VAR model as it utilizes historical results over a defined time period to estimate future performance. Historical results may not always be indicative of future results and changes in market conditions or in the composition of the underlying portfolio could have a material impact on the accuracy of the VAR model. This was of particular relevance in the last part of 2007 when markets experienced a period of extreme illiquidity resulting in losses that were far outside of the normal loss forecasts by VAR models. Due to these limitations, we have historically used the VAR model as only one of the components in managing our trading risk and also use other techniques such as stress testing and desk level limits. Periods of extreme market stress influence the reliability of these techniques to various degrees. See discussion on stress testing on the following page.

On a quarterly basis, the accuracy of the VAR methodology is reviewed by backtesting (i.e., comparing actual results against expectations derived from historical data) the VAR results against the daily profit and loss. Graphic representation of the backtesting results with additional explanation of backtesting excesses are reported to the GRC. Backtesting excesses occur when trading losses exceed the VAR. Senior management reviews and evaluates the results of these tests.




The graph above shows daily trading-related revenue and VAR excluding the discrete writedowns on our super senior CDO exposure for the twelve months ended December 31, 2007. Excluding these writedowns, actual losses exceeded daily trading VAR fourteen times in the twelve months ended December 31, 2007 and losses did not exceed daily trading VAR in the twelve months ended December 31, 2006. The losses that exceeded daily trading VAR for the twelve months ended December 31, 2007, occurred during the market disruption which took place during the second half of 2007. The sudden increase in market volatility during this period produced a large number of price changes that exceeded the 99$^{th}$ percentile of the three year history used for our VAR calculations.

Table 28 presents average, high and low daily trading VAR for the twelve months ended December 31, 2007 and 2006.

The increase in average VAR from 2006 was driven by the increased market volatility during the second half of 2007. In particular, with the dislocation in structured and credit products, many credit spreads used in the calculation of VAR increased by unprecedented amounts. In addition, many trading assets became extremely illiquid which required changes in assumptions to properly incorporate them in the VAR model as was the case with our CDO exposure for which we have updated our model at various times during the second half of 2007. In periods of stress, the GRC members communicate daily to discuss losses, VAR limit excesses and the impact to regulatory capital. As a result of this process, the lines of business may selectively reduce risk. Where economically feasible, positions are sold or macro economic hedges are executed to reduce the exposure.

## Stress Testing

Because the very nature of a VAR model suggests results can exceed our estimates, we also "stress test" our portfolio. Stress testing estimates the value change in our trading portfolio that may result from abnormal market movements. Various types of stress tests are run regularly against the overall trading portfolio and individual businesses. Historical scenarios simulate the impact of price changes which occurred during a set of extended historical market events. The results of these scenarios are reported daily to management. During the twelve months ended December 31, 2007, the largest daily losses among these scenarios ranged from $9 million to $529 million.

### Table 28 Trading Activities Market Risk[1]

| | Twelve Months Ended December 31 | | | | | |
|---|---|---|---|---|---|---|
| | 2007 | | | 2006 | | |
| | VAR | | | VAR | | |
| (Dollars in millions) | Average | High [2] | Low [2] | Average | High [2] | Low [2] |
| Foreign exchange | $ 7.2 | $ 25.3 | $ 3.8 | $ 8.2 | $ 22.9 | $ 3.1 |
| Interest rate | 13.9 | 31.9 | 6.6 | 18.5 | 50.0 | 7.3 |
| Credit | 39.5 | 69.9 | 23.4 | 26.8 | 36.7 | 18.4 |
| Real estate/mortgage | 14.1 | 23.5 | 5.7 | 8.4 | 12.7 | 4.7 |
| Equities | 24.6 | 45.8 | 9.6 | 18.8 | 39.6 | 9.9 |
| Commodities | 7.2 | 10.7 | 3.7 | 6.1 | 9.9 | 3.4 |
| Portfolio diversification | (53.9) | – | – | (45.5) | – | – |
| **Total market-based trading portfolio [3]** | $ 52.6 | $ 91.5 | $ 32.9 | $ 41.3 | $ 59.8 | $ 26.0 |

(1) Excludes our discrete writedowns on super senior CDO exposure. For more information on the CDO writedowns and the impact of the market disruption on the Corporation's results, see the CDO discussion beginning on page 28.
(2) The high and low for the total portfolio may not equal the sum of the individual components as the highs or lows of the individual portfolios may have occurred on different trading days.
(3) For a discussion of the VAR related to the credit derivatives that economically hedge the loan portfolio, see Industry Concentrations beginning on page 54. The table above does not include credit protection purchased to manage our counterparty credit risk. During the three months ended December 31, 2007, the average VAR of this protection was $9 million.

Hypothetical scenarios evaluate the potential impact of extreme but plausible events over periods as long as one month. These scenarios are developed to address perceived vulnerabilities in the market and in our portfolios, and are periodically updated. They are also reviewed and updated to reflect changing market conditions, such as were experienced during the second half of 2007. For example, many trading assets became extremely illiquid which required changes in assumptions to properly incorporate them in the stress models. This was the case with our CDO-related exposure for which we have updated our models at various times during the second half of 2007. Management reviews and evaluates results of these scenarios monthly. During the twelve months ended December 31, 2007, the largest daily losses among these scenarios ranged from $459 million to $1.5 billion. Worst-case losses, which represent the most extreme losses in our daily VAR calculation, are reported daily. Finally, desk-level stress tests are performed daily for individual businesses. These stress tests evaluate the potential adverse impact of large moves in the market risk factors to which those businesses are most sensitive.

## *Interest Rate Risk Management for Nontrading Activities*

Interest rate risk represents the most significant market risk exposure to our nontrading exposures. Our overall goal is to manage interest rate risk so that movements in interest rates do not adversely affect core net interest income – managed basis. Interest rate risk is measured as the potential volatility in our core net interest income – managed basis caused by changes in market interest rates. Client facing activities, primarily lending and deposit-taking, create interest rate sensitive positions on our balance sheet. Interest rate risk from these activities, as well as the impact of changing market conditions, is managed through our ALM activities.

Simulations are used to estimate the impact on core net interest income – managed basis using numerous interest rate scenarios, balance sheet trends and strategies. These simulations evaluate how the above mentioned scenarios impact core net interest income – managed basis on short-term financial instruments, debt securities, loans, deposits, borrowings, and derivative instruments. In addition, these simulations incorporate assumptions about balance sheet dynamics such as loan and deposit growth and pricing, changes in funding mix, and asset and liability repricing and maturity characteristics. These simulations do not include the impact of hedge ineffectiveness.

Management analyzes core net interest income – managed basis forecasts utilizing different rate scenarios, with the base case utilizing the forward interest rates. Management frequently updates the core net interest income – managed basis forecast for changing assumptions and differing outlooks based on economic trends and market conditions. Thus, we continually monitor our balance sheet position in an effort to maintain an acceptable level of exposure to interest rate changes.

We prepare forward-looking forecasts of core net interest income – managed basis. These baseline forecasts take into consideration expected future business growth, ALM positioning, and the direction of interest rate movements as implied by forward interest rates. We then measure and evaluate the impact that alternative interest rate scenarios have to these static baseline forecasts in order to assess interest rate sensitivity under varied conditions. The spot and 12-month forward monthly rates used in our respective baseline forecasts at December 31, 2007 and 2006 are shown in Table 29.

Table 30 reflects the pre-tax dollar impact to forecasted core net interest income – managed basis over the next twelve months from December 31, 2007 and 2006, resulting from a 100 bp gradual parallel increase, a 100 bp gradual parallel decrease, a 100 bp gradual curve flattening (increase in short-term rates or decrease in long-term rates) and a 100 bp gradual curve steepening (decrease in short-term rates or increase in long-term rates) from the forward market curve. For further discussion of core net interest income – managed basis see page 19.

The sensitivity analysis in Table 30 assumes that we take no action in response to these rate shifts over the indicated years. The estimated exposure is reported on a managed basis and reflects impacts that may be realized primarily in net interest income and card income. This sensitivity analysis excludes any impact that could occur in the valuation of retained interests in the Corporation's securitizations due to changes in interest rate levels. For additional information on securitizations, see *Note 8 – Securitizations* to the Consolidated Financial Statements.

**Table 29 Forward Rates**

| | December 31 | | | |
|---|---|---|---|---|
| | **2007** | | 2006 | |
| | **Federal Funds** | **Ten-Year Swap** | Federal Funds | Ten-Year Swap |
| Spot rates | **4.25%** | **4.67%** | 5.25% | 5.18% |
| 12-month forward rates | **3.13** | **4.79** | 4.85 | 5.19 |

**Table 30 Estimated Core Net Interest Income – Managed Basis at Risk**

| (Dollars in millions) | | | December 31 | |
|---|---|---|---|---|
| Curve Change | Short Rate | Long Rate | **2007** | 2006 |
| +100 Parallel shift | +100 | +100 | **$ (952)** | $(557) |
| -100 Parallel shift | -100 | -100 | **865** | 770 |
| Flatteners | | | | |
| Short end | +100 | – | **(1,127)** | (687) |
| Long end | – | -100 | **(386)** | (192) |
| Steepeners | | | | |
| Short end | -100 | – | **1,255** | 971 |
| Long end | – | +100 | **181** | 138 |

Our core net interest income – managed basis, was liability sensitive at both December 31, 2007 and 2006. At December 31, 2007, our core net interest income – managed basis became more liability sensitive as we positioned ourselves for greater downside risk than was reflected in the forward curve. We evaluate our balance sheet position on an ongoing basis. Since December 31, 2007, we have repositioned our balance sheet to a more modest level given changes in forward rates and we will continue to evaluate our balance sheet positioning going forward. Over a 12-month horizon, we would benefit from falling rates or a steepening of the yield curve beyond what is already implied in the forward market curve.

As part of our ALM activities, we use securities, residential mortgages, and interest rate and foreign exchange derivatives in managing interest rate sensitivity.

### Securities

The securities portfolio is an integral part of our ALM position. The securities portfolio is primarily comprised of debt securities and includes mortgage-backed securities and to a lesser extent corporate, municipal and other investment grade debt securities. During 2007 and 2006, we purchased AFS debt securities of $28.0 billion and $40.9 billion, sold $27.9 billion and $55.1 billion, and had maturities and received paydowns of $19.2 billion and $22.4 billion. We realized $180 million in gains and $443 million in losses on sales of debt securities during 2007 and 2006. Additionally, during 2007, we acquired $32.4 billion of AFS debt securities as part of the LaSalle and U.S. Trust Corporation acquisitions and continue to evaluate the appropriate holding levels.

The value of our accumulated OCI loss related to AFS debt securities improved by a pre-tax amount of $2.0 billion during 2007, driven by a decrease in interest rates. For those securities that are in an unrealized loss position we have the intent and ability to hold these securities to recovery.

Accumulated OCI includes $6.5 billion in after-tax gains at December 31, 2007, related to unrealized gains associated with our AFS securities portfolio, including $1.9 billion of unrealized losses related to AFS debt securities and $8.4 billion of unrealized gains related to AFS marketable equity securities. Total market value of the AFS debt securities was $213.3 billion at December 31, 2007 with a weighted average duration of 4.3 years and primarily relates to our mortgage-backed securities portfolio.

Prospective changes to the accumulated OCI amounts for the AFS securities portfolio will be driven by further interest rate, credit or price fluctuations (including market value fluctuations associated with our CCB investment), the collection of cash flows including prepayment and maturity activity, and the passage of time. During the fourth quarter of 2007, shares of the Corporation's strategic investment in CCB are now accounted for as AFS marketable equity securities and are carried at a fair value of $16.2 billion. The unrealized gain on this investment of $8.4 billion net-of-tax is subject to currency and price fluctuation, and is recorded in accumulated OCI.

In connection with adopting SFAS 159, the Corporation reclassified approximately $3.7 billion from AFS debt securities to trading account assets during the first quarter of 2007. There were no net unrealized gains or losses associated with these securities recorded in accumulated OCI as these securities were hedged using SFAS 133 hedge accounting. Accordingly, there was no impact on the Corporation's transition adjustment to beginning retained earnings upon adoption of SFAS 159 on January 1, 2007.

### Residential Mortgage Portfolio

During 2007 and 2006, we purchased $22.5 billion and $42.3 billion of residential mortgages related to ALM activities, and added $66.3 billion and $51.9 billion of originated residential mortgages. We sold $34.0 billion and $11.0 billion of residential mortgages during 2007 and 2006, which included $23.7 billion and $9.2 billion of originated residential mortgages, resulting in gains of $271 million and $98 million. Additionally, we received paydowns of $28.2 billion and $24.7 billion during 2007 and 2006. The ending balance at December 31, 2007 was $274.9 billion compared to $241.2 billion at December 31, 2006.

### Interest Rate and Foreign Exchange Derivative Contracts

Interest rate and foreign exchange derivative contracts are utilized in our ALM activities and serve as an efficient tool to mitigate our interest rate and foreign exchange risk. We use derivatives to hedge the variability in cash flows or changes in fair value on our balance sheet due to interest rate and foreign exchange components. For additional information on our hedging activities, see *Note 4 – Derivatives* to the Consolidated Financial Statements.

Our interest rate contracts are generally non-leveraged generic interest rate and foreign exchange basis swaps, options, futures, and forwards. In addition, we use foreign exchange contracts, including cross-currency interest rate swaps and foreign currency forward contracts, to mitigate the foreign exchange risk associated with foreign currency-denominated assets and liabilities, as well as certain equity investments in foreign subsidiaries. Table 31 reflects the notional amounts, fair value, weighted average receive fixed and pay fixed rates, expected maturity, and estimated duration of our open ALM derivatives at December 31, 2007 and 2006.

Changes to the composition of our derivatives portfolio over the course of 2007 reflect actions taken for interest rate and foreign exchange rate risk management. The decisions to reposition our derivative portfolio are based upon the current assessment of economic and financial conditions including the interest rate environment, balance sheet composition and trends, and the relative mix of our cash and derivative positions. Our interest rate swap positions (including foreign exchange contracts) changed to a net receive fixed position of $101.9 billion on December 31, 2007 compared to a net receive fixed position of $12.3 billion on December 31, 2006. Changes in the notional levels of our interest rate swap position were driven by the net termination of $88.9 billion in pay fixed swaps, the net termination of $9.5 billion in U.S. dollar denominated receive fixed swaps, and the addition of $10.2 billion in foreign denominated receive fixed swaps. The notional amount of our foreign exchange basis swaps increased $22.6 billion to $54.5 billion at December 31, 2007 compared to $31.9 billion at December 31, 2006. The notional amount of our option position decreased $103.2 billion to $140.1 billion at December 31, 2007 compared to $243.3 billion at December 31, 2006. The decrease in the notional amount of options was due to the net terminations and expirations of $85.0 billion in caps and floors and terminations of $18.2 billion of swaptions.

## Table 31 Asset and Liability Management Interest Rate and Foreign Exchange Contracts

**December 31, 2007**

| (Dollars in millions, average estimated duration in years) | Fair Value | Expected Maturity | | | | | | | Average Estimated Duration |
|---|---|---|---|---|---|---|---|---|---|
| | | Total | 2008 | 2009 | 2010 | 2011 | 2012 | Thereafter | |
| Receive fixed interest rate swaps [1, 2] | $ 992 | | | | | | | | 3.70 |
| Notional amount | | $ 81,965 | $ 4,869 | $48,908 | $ 3,252 | $1,630 | $2,508 | $ 20,798 | |
| Weighted average fixed rate | | 4.34% | 4.03% | 3.91% | 4.35% | 4.50% | 4.88% | 5.34% | |
| Pay fixed interest rate swaps [1] | (429) | | | | | | | | 5.37 |
| Notional amount | | $ 11,340 | $ – | $ – | $ – | $ – | $1,000 | $ 10,340 | |
| Weighted average fixed rate | | 5.04% | –% | –% | –% | –% | 5.45% | 5.00% | |
| Foreign exchange basis swaps [2, 3, 4] | 6,164 | | | | | | | | |
| Notional amount | | $ 54,531 | $ 2,537 | $ 4,463 | $ 5,839 | $4,294 | $8,695 | $ 28,703 | |
| Option products [5] | (155) | | | | | | | | |
| Notional amount | | 140,114 | 130,000 | 10,000 | 76 | – | – | 38 | |
| Foreign exchange contracts [2, 4, 6] | (499) | | | | | | | | |
| Notional amount [7] | | 31,054 | 1,438 | 2,047 | 4,171 | 1,235 | 3,150 | 19,013 | |
| Futures and forward rate contracts | (3) | | | | | | | | |
| Notional amount [7] | | 752 | 752 | – | – | – | – | – | |
| **Net ALM contracts** | $ 6,070 | | | | | | | | |

| December 31, 2006 (Dollars in millions, average estimated duration in years) | Fair Value | Expected Maturity | | | | | | Average Estimated Duration |
|---|---|---|---|---|---|---|---|---|
| | | Total | 2007 | 2008 | 2009 | 2010 | 2011 | Thereafter | |
| Receive fixed interest rate swaps [1, 2] | $ (748) | | | | | | | | 4.42 |
| Notional amount | | $ 91,502 | $ 2,795 | $ 7,844 | $48,900 | $3,252 | $1,630 | $ 27,081 | |
| Weighted average fixed rate | | 4.90% | 4.80% | 4.41% | 4.90% | 4.35% | 4.50% | 5.14% | |
| Pay fixed interest rate swaps [1] | 261 | | | | | | | | 2.93 |
| Notional amount | | $100,217 | $ 15,000 | $ 2,500 | $44,000 | $ – | $ 250 | $ 38,467 | |
| Weighted average fixed rate | | 4.98% | 5.12% | 5.11% | 4.86% | –% | 5.43% | 5.06% | |
| Foreign exchange basis swaps [2, 3, 4] | 1,992 | | | | | | | | |
| Notional amount | | $ 31,916 | $ 174 | $ 2,292 | $ 3,012 | $5,351 | $3,962 | $ 17,125 | |
| Option products [5] | 317 | | | | | | | | |
| Notional amount | | 243,280 | 200,000 | 43,176 | – | 70 | – | 34 | |
| Foreign exchange contracts [2, 4, 6] | (319) | | | | | | | | |
| Notional amount [7] | | 20,319 | (753) | 1,588 | 1,901 | 3,850 | 1,104 | 12,629 | |
| Futures and forward rate contracts | (46) | | | | | | | | |
| Notional amount [7] | | 8,480 | 8,480 | – | – | – | – | – | |
| **Net ALM contracts** | $ 1,457 | | | | | | | | |

(1) At December 31, 2007, $45.0 billion of the receive fixed interest rate swap notional represented forward starting swaps that will not be effective until their respective contractual start dates. There were no forward starting pay fixed swap positions at December 31, 2007. At December 31, 2006, $4.2 billion of the receive fixed and $52.5 billion of the pay fixed swap notional represented forward starting swaps that will not be effective until their respective contractual start dates.
(2) Does not include basis adjustments on fixed rate debt issued by the Corporation and hedged under fair value hedge relationships pursuant to SFAS 133 that substantially offset the fair values of these derivatives.
(3) Foreign exchange basis swaps consist of cross-currency variable interest rate swaps used separately or in conjunction with receive fixed interest rate swaps.
(4) Does not include foreign currency translation adjustments on certain foreign debt issued by the Corporation which substantially offset the fair values of these derivatives.
(5) Option products of $140.1 billion at December 31, 2007 are comprised of $120.1 billion in purchased caps and $20.0 billion in sold floors. At December 31, 2006, option products included $225.1 billion in caps and $18.2 billion in swaptions.
(6) Foreign exchange contracts include foreign-denominated and cross-currency receive fixed interest rate swaps as well as foreign currency forward rate contracts. Total notional was comprised of $31.3 billion in foreign-denominated and cross-currency receive fixed swaps and $211 million in foreign currency forward rate contracts at December 31, 2007 and $21.0 billion in foreign-denominated and cross-currency receive fixed swaps and $697 million in foreign currency forward rate contracts at December 31, 2006.
(7) Reflects the net of long and short positions.

The table above includes derivatives utilized in our ALM activities, including those designated as SFAS 133 accounting hedges and economic hedges. The fair value of net ALM contracts increased $4.6 billion from a gain of $1.5 billion at December 31, 2006 to a gain of $6.1 billion at December 31, 2007. The increase was primarily attributable to gains from changes in the value of foreign exchange basis swaps of $4.2 billion, and U.S. dollar denominated receive fixed interest rate swaps of $1.7 billion. These gains were partially offset by losses from changes in the value of pay fixed interest rate swaps of $690 million, option products of $472 million, and foreign exchange contracts of $180 million. The increase in the value of foreign exchange basis swaps was due to the strengthening of most foreign currencies against the U.S. dollar during the twelve months ended December 31, 2007. The increase in the value of U.S. dollar denominated receive fixed interest rate swaps and the decrease in the value of the pay fixed interest rate swaps were due to decreases in interest rates during 2007. The decrease in the value of the option portfolio was primarily attributable to decreases in interest rates during 2007, net terminations and expirations of caps and floors, and terminations of swaptions. The decrease in the value of foreign exchange contracts was largely due to the increase in foreign interest rates during 2007.

The Corporation uses interest rate derivative instruments to hedge the variability in the cash flows of its assets and liabilities, and other forecasted transactions (cash flow hedges). From time to time, the Corporation also utilizes equity-indexed derivatives accounted for as SFAS 133 cash flow hedges to minimize exposure to price fluctuations on the forecasted purchase or sale of certain equity investments. The net losses on both open and terminated derivative instruments recorded in accumulated OCI, net-of-tax, was $4.4 billion at December 31, 2007. These net losses are expected to be reclassified into earnings in the same period when the hedged cash flows affect earnings and will decrease income or increase expense on the respective hedged cash flows. Assuming no change in open cash flow derivative hedge positions and no changes to

prices or interest rates beyond what is already implied in forward yield curves at December 31, 2007, the pre-tax net losses are expected to be reclassified into earnings as follows: $1.3 billion, or 19 percent within the next year, 68 percent within five years, and 89 percent within 10 years, with the remaining 11 percent thereafter. For more information on derivatives designated as cash flow hedges, see *Note 4 – Derivatives* to the Consolidated Financial Statements.

The amounts included in accumulated OCI for terminated derivative contracts were losses of $3.8 billion and $3.2 billion, net-of-tax, at December 31, 2007 and 2006. Losses on these terminated derivative contracts are reclassified into earnings in the same period or periods during which the hedged forecasted transaction affects earnings.

### *Mortgage Banking Risk Management*

IRLCs and the related residential first mortgage loans held-for-sale are subject to interest rate risk between the date of the IRLC and the date the loans are sold to the secondary market. To hedge interest rate risk, we utilize forward loan sale commitments and other derivative instruments including purchased options. These instruments are used as economic hedges of IRLCs and residential first mortgage loans held-for-sale. At December 31, 2007, the notional amount of derivatives economically hedging the IRLCs and residential first mortgage loans held-for-sale was $18.6 billion.

The Corporation adopted SFAS 159 as of January 1, 2007 and elected to account for certain originated mortgage loans held-for-sale at fair value. Subsequent to the adoption, mortgage loan origination costs are recognized in noninterest expense when incurred. Previously, mortgage loan origination costs would have been capitalized as part of the carrying amount of the loans and recognized as a reduction of mortgage banking income upon the sale of such loans. At December 31, 2007, residential mortgage loans held-for-sale in connection with mortgage banking activities for which the fair value option was elected had an aggregate fair value of $9.56 billion and an aggregate outstanding principal balance of $9.82 billion. Net gains resulting from changes in fair value of loans held-for-sale that we originated, including realized gains and losses on sale of $333 million, were recorded in mortgage banking income during 2007. The adoption of SFAS 159 resulted in an increase of $256 million in mortgage banking income during 2007, and in an increase of $212 million in noninterest expense during 2007.

We manage changes in the value of MSRs by entering into derivative financial instruments. MSRs are a nonfinancial asset created when the underlying mortgage loan is sold to investors and we retain the right to service the loan. We use certain derivatives such as options and interest rate swaps as economic hedges of MSRs. At December 31, 2007, the amount of MSRs identified as being hedged by derivatives was approximately $3.1 billion. The notional amount of the derivative contracts designated as economic hedges of MSRs at December 31, 2007 was $69.0 billion. For additional information on MSRs see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

## Operational Risk Management

Operational risk is the risk of loss resulting from inadequate or failed internal processes, people and systems, including system conversions and integration, and external events. Successful operational risk management is particularly important to diversified financial services companies because of the nature, volume and complexity of the financial services business.

We approach operational risk from two perspectives: corporate-wide and line of business-specific. The Compliance and Operational Risk Committee provides oversight of significant corporate-wide operational and compliance issues. Within Global Risk Management, Enterprise Operational Risk Management develops policies, practices, controls and monitoring tools for assessing and managing operational risks across the Corporation. We also mitigate operational risk through a broad-based approach to process management and process improvement. Improvement efforts are focused on reduction of variation in outputs. We have a dedicated Quality and Productivity team to manage and certify the process management and improvement efforts. For selected risks, we use specialized support groups, such as Information Security and Supply Chain Management, to develop corporate-wide risk management practices, such as an information security program and a supplier program to ensure that suppliers adopt appropriate policies and procedures when performing work on behalf of the Corporation. These specialized groups also assist the lines of business in the development and implementation of risk management practices specific to the needs of the individual businesses. These groups also work with line of business executives and risk executives to develop appropriate policies, practices, controls and monitoring tools for each line of business. Through training and communication efforts, compliance and operational risk awareness is driven across the Corporation.

The lines of business are responsible for all the risks within the business line, including operational risks. Operational and Compliance Risk executives, working in conjunction with senior line of business executives, have developed key tools to help identify, measure, mitigate and monitor operational risk in each business line. Examples of these include personnel management practices, data reconciliation processes, fraud management units, transaction processing monitoring and analysis, business recovery planning and new product introduction processes. In addition, the lines of business are responsible for monitoring adherence to corporate practices. Line of business management uses a self-assessment process, which helps to identify and evaluate the status of risk and control issues, including mitigation plans, as appropriate. The goal of the self-assessment process is to periodically assess changing market and business conditions, to evaluate key operational risks impacting each line of business, and assess the controls in place to mitigate the risks. In addition to information gathered from the self-assessment process, key operational risk indicators have been developed and are used to help identify trends and issues on both a corporate and a line of business level.

## Recent Accounting and Reporting Developments

See *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements for a discussion of recently issued accounting pronouncements.

## Complex Accounting Estimates

Our significant accounting principles, as described in *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements, are essential in understanding the MD&A. Many of our significant accounting principles require complex judgments to estimate values of assets and liabilities. We have procedures and processes to facilitate making these judgments.

The more judgmental estimates are summarized below. We have identified and described the development of the variables most important in the estimation process that, with the exception of accrued taxes, involve mathematical models to derive the estimates. In many cases, there are numerous alternative judgments that could be used in the process of determining the inputs to the model. Where alternatives exist, we

have used the factors that we believe represent the most reasonable value in developing the inputs. Actual performance that differs from our estimates of the key variables could impact net income. Separate from the possible future impact to net income from input and model variables, the value of our lending portfolio and market-sensitive assets and liabilities may change subsequent to the balance sheet measurement, often significantly, due to the nature and magnitude of future credit and market conditions. Such credit and market conditions may change quickly and in unforeseen ways and the resulting volatility could have a significant, negative effect on future operating results. These fluctuations would not be indicative of deficiencies in our models or inputs.

## Allowance for Credit Losses

The allowance for credit losses, which includes the allowance for loan and lease losses and the reserve for unfunded lending commitments, represents management's estimate of probable losses inherent in the Corporation's lending activities that are carried at historical cost. Changes to the allowance for credit losses are reported in the Consolidated Statement of Income in the provision for credit losses. Our process for determining the allowance for credit losses is discussed in the Credit Risk Management section beginning on page 44 and *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements. Due to the variability in the drivers of the assumptions made in this process, estimates of the portfolio's inherent risks and overall collectibility change with changes in the economy, individual industries, countries and individual borrowers' or counterparties' ability and willingness to repay their obligations. The degree to which any particular assumption affects the allowance for credit losses depends on the severity of the change and its relationship to the other assumptions.

Key judgments used in determining the allowance for credit losses include: (i) risk ratings for pools of commercial loans and leases, (ii) market and collateral values and discount rates for individually evaluated loans, (iii) product type classifications for consumer and commercial loans and leases, (iv) loss rates used for consumer and commercial loans and leases, (v) adjustments made to assess current events and conditions, (vi) considerations regarding domestic and global economic uncertainty, and (vii) overall credit conditions.

Our allowance for loan and lease losses is sensitive to the risk rating assigned to commercial loans and leases. Assuming a downgrade of one level in the internal risk rating for commercial loans and leases measured at historical cost and rated under the internal risk rating scale, except loans and leases already risk-rated Doubtful as defined by regulatory authorities, the allowance for loans and lease losses would increase by approximately $1.6 billion at December 31, 2007. The allowance for loan and lease losses as a percentage of total loans and leases measured at historical cost at December 31, 2007 was 1.33 percent and this hypothetical increase in the allowance would raise the ratio to approximately 1.50 percent. Our allowance for loans and lease losses is also sensitive to the loss rates used for the consumer and commercial portfolios. A 10 percent increase in the loss rates used on the consumer and commercial loan and lease portfolios measured at historical cost would increase the allowance for loan and lease losses at December 31, 2007 by approximately $820 million, of which $690 million would relate to consumer and $130 million to commercial.

These sensitivity analyses do not represent management's expectations of the deterioration in risk ratings or the increases in loss rates but are provided as hypothetical scenarios to assess the sensitivity of the allowance for loan and lease losses to changes in key inputs. We believe the risk ratings and loss severities currently in use are appropriate and that the probability of a downgrade of one level of the internal risk ratings for commercial loans and leases within a short period of time is remote.

The process of determining the level of the allowance for credit losses requires a high degree of judgment. It is possible that others, given the same information, may at any point in time reach different reasonable conclusions.

## Fair Value of Financial Instruments

Effective January 1, 2007, we determined the fair market values of our financial instruments based on the fair value hierarchy established in SFAS 157 which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The standard describes three levels of inputs that may be used to measure fair value. We carry certain corporate loans and loan commitments, loans held-for-sale, structured reverse repurchase agreements, and long-term deposits at fair value in accordance with SFAS 159. We also carry trading account assets and liabilities, derivative assets and liabilities, AFS debt and marketable equity securities, MSRs, and certain other assets at fair value. For more information, see *Note 1 – Summary of Significant Accounting Principles* and *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

Trading account assets and liabilities are recorded at fair value, which is primarily based on actively traded markets where prices are based on either direct market quotes or observed transactions. Liquidity is a significant factor in the determination of the fair value of trading account assets or liabilities. Market price quotes may not be readily available for some positions, or positions within a market sector where trading activity has slowed significantly or ceased. Situations of illiquidity generally are triggered by the market's perception of credit uncertainty regarding a single company or a specific market sector. In these instances, fair value is determined based on limited available market information and other factors, principally from reviewing the issuer's financial statements and changes in credit ratings made by one or more rating agencies. At December 31, 2007, $4.0 billion, or two percent, of trading account assets were classified as level 3 fair value assets. No trading account liabilities were classified as level 3 liabilities at December 31, 2007.

The fair values of derivative assets and liabilities include adjustments for market liquidity, counterparty credit quality and other deal specific factors, where appropriate. To ensure the prudent application of estimates and management judgment in determining the fair value of derivative assets and liabilities, various processes and controls have been adopted, which include: a model validation policy that requires a review and approval of quantitative models used for deal pricing, financial statement fair value determination and risk quantification; a trading product valuation policy that requires verification of all traded product valuations; and a periodic review and substantiation of daily profit and loss reporting for all traded products. These processes and controls are performed independently of the business.

The fair values of derivative assets and liabilities traded in the over-the-counter market are determined using quantitative models that require the use of multiple market inputs including interest rates, prices and indices to generate continuous yield or pricing curves and volatility factors, which are used to value the position. The predominance of market inputs are actively quoted and can be validated through external sources, including brokers, market transactions and third-party pricing services. Estimation risk is greater for derivative asset and liability positions that are either option-based or have longer maturity dates where observable market inputs are less readily available or are unobservable, in which case

quantitative based extrapolations of rate, price or index scenarios are used in determining fair values. At December 31, 2007, the level 3 fair values of derivative assets and liabilities determined by these quantitative models were $9.0 billion and $10.2 billion. These amounts reflect the full fair value of the derivatives and do not isolate the discrete value associated with the subjective valuation variable. Further, they represent two percent of both derivative assets and liabilities, before the impact of legally enforceable master netting agreements. For 2007, there were no changes to the quantitative models, or uses of such models, that resulted in a material adjustment to the Consolidated Statement of Income.

Trading account profits (losses), which represent the net amount earned from our trading positions, can be volatile and are largely driven by general market conditions and customer demand. Trading account profits (losses) are dependent on the volume and type of transactions, the level of risk assumed, and the volatility of price and rate movements at any given time within the ever-changing market environment. To evaluate risk in our trading activities, we focus on the actual and potential volatility of individual positions as well as portfolios. At a portfolio and corporate level, we use trading limits, stress testing and tools such as VAR modeling, which estimates a potential daily loss which is not expected to be exceeded with a specified confidence level, to measure and manage market risk. At December 31, 2007, the amount of our VAR was $73 million based on a 99 percent confidence level. For more information on VAR, see Trading Risk Management beginning on page 62.

AFS debt and marketable equity securities are recorded at fair value, which is generally based on quoted market prices or market prices for similar assets.

### Principal Investing

Principal Investing is included within *Equity Investments* in *All Other* and is discussed in more detail beginning on page 34. Principal Investing is comprised of a diversified portfolio of investments in privately-held and publicly-traded companies at all stages of their life cycle, from start-up to buyout. These investments are made either directly in a company or held through a fund. Some of these companies may need access to additional cash to support their long-term business models. Market conditions and company performance may impact whether funding is available from private investors or the capital markets. For more information, see *Note 1 – Summary of Significant Accounting Principles* and *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

Investments with active market quotes are carried at estimated fair value; however, the majority of our investments do not have publicly available price quotations and, therefore, the fair value is unobservable. At December 31, 2007, we had nonpublic investments of $3.5 billion, or approximately 86 percent of the total portfolio. Valuation of these investments requires significant management judgment. We value such investments initially at transaction price and adjust valuations when evidence is available to support such adjustments. Such evidence includes transactions in similar instruments, market comparables, completed or pending third-party transactions in the underlying investment or comparable entities, subsequent rounds of financing, recapitalizations and other transactions across the capital structure, and changes in financial ratios or cash flows. Investments are adjusted to estimated fair values at the balance sheet date with changes being recorded in equity investment income in the Consolidated Statement of Income.

### Accrued Income Taxes

As more fully described in *Note 1 – Summary of Significant Accounting Principles* and *Note 18 – Income Taxes* to the Consolidated Financial Statements, we account for income taxes in accordance with SFAS 109 as interpreted by FIN 48. Accrued income taxes, reported as a component of accrued expenses and other liabilities on our Consolidated Balance Sheet, represents the net amount of current income taxes we expect to pay to or receive from various taxing jurisdictions attributable to our operations to date. We currently file income tax returns in more than 100 jurisdictions and consider many factors – including statutory, judicial and regulatory guidance – in estimating the appropriate accrued income taxes for each jurisdiction.

In applying the principles of SFAS 109, we monitor relevant tax authorities and change our estimate of accrued income taxes due to changes in income tax laws and their interpretation by the courts and regulatory authorities. These revisions of our estimate of accrued income taxes, which also may result from our own income tax planning and from the resolution of income tax controversies, may be material to our operating results for any given period.

### Goodwill and Intangible Assets

The nature of and accounting for goodwill and intangible assets is discussed in detail in *Note 1 – Summary of Significant Accounting Principles* and *Note 10 – Goodwill and Intangible Assets* to the Consolidated Financial Statements. Goodwill is reviewed for potential impairment at the reporting unit level on an annual basis, or in interim periods if events or circumstances indicate a potential impairment. The reporting units utilized for this test were those that are one level below the business segments identified on page 19. The impairment test is performed in two steps. The first step of the goodwill impairment test compares the fair value of the reporting unit with its carrying amount, including goodwill. If the fair value of the reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired; however, if the carrying amount of the reporting unit exceeds its fair value, the second step must be performed. The second step compares the implied fair value of the reporting unit's goodwill, as defined in SFAS 142, with the carrying amount of that goodwill. An impairment loss is recorded to the extent that the carrying amount of goodwill exceeds its implied fair value.

For intangible assets subject to amortization, impairment exists when the carrying amount of the intangible asset exceeds its fair value. An impairment loss will be recognized only if the carrying amount of the intangible asset is not recoverable and exceeds its fair value. The carrying amount of the intangible asset is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from it. An intangible asset subject to amortization shall be tested for recoverability whenever events or changes in circumstances, such as a significant or adverse change in the business climate that could affect the value of the intangible asset, indicate that its carrying amount may not be recoverable. An impairment loss is recorded to the extent the carrying amount of the intangible asset exceeds its fair value.

The fair values of the reporting units were determined using a combination of valuation techniques consistent with the income approach and the market approach and the fair values of the intangible assets were determined using the income approach. For purposes of the income approach, discounted cash flows were calculated by taking the net present value of estimated cash flows using a combination of historical results, estimated future cash flows and an appropriate price to earnings multiple. We use our internal forecasts to estimate future cash flows and actual results may differ from forecasted results. Cash flows were discounted using a discount rate based on expected equity return rates, which was 11 percent for 2007. Expected rates of equity returns were estimated based on historical market returns and risk/return rates for similar industries of

the reporting unit. For purposes of the market approach, valuations of reporting units were based on actual comparable market transactions and market earnings multiples for similar industries of the reporting unit.

Our evaluations for 2007 indicated there was no impairment of goodwill or intangible assets.

### Consolidation and Accounting for Variable Interest Entities

Under the provisions of FIN 46R, a VIE is consolidated by the entity that will absorb a majority of the variability created by the assets of the VIE. The calculation of variability is based on an analysis of projected probability-weighted cash flows based on the design of the particular VIE. Scenarios in which expected cash flows are less than or greater than the expected outcomes create expected losses or expected residual returns. The entity that will absorb a majority of expected variability (the sum of the absolute values of the expected losses and expected residual returns) consolidates the VIE and is referred to as the primary beneficiary.

A variety of qualitative and quantitative assumptions are used to estimate projected cash flows and the relative probability of each potential outcome, and to determine which parties will absorb expected losses and expected residual returns. Critical assumptions, which may include projected credit losses and interest rates, are independently verified against market observable data where possible. Where market observable data is not available, the results of the analysis become more subjective.

As certain events occur, we re-evaluate which parties will absorb variability and whether we have become or are no longer the primary beneficiary. Reconsideration events may occur when VIEs acquire additional assets, issue new variable interests or enter into new or modified contractual arrangements. A reconsideration event may also occur when we acquire new or additional interests in a VIE.

In the unlikely event we were required to consolidate our unconsolidated VIEs, their consolidation would increase our assets and liabilities and could have an adverse impact on our Tier 1 Capital, Total Capital and Tier 1 Leverage Capital ratios.

For more information, see *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

## 2006 Compared to 2005

The following discussion and analysis provides a comparison of our results of operations for 2006 and 2005. This discussion should be read in conjunction with the Consolidated Financial Statements and related Notes. Tables 5 and 6 contain financial data to supplement this discussion.

## Overview

### Net Income

Net income totaled $21.1 billion, or $4.59 per diluted common share, in 2006 compared to $16.5 billion, or $4.04 per diluted common share, in 2005. The return on average common shareholders' equity was 16.27 percent in 2006 compared to 16.51 percent in 2005. These earnings provided sufficient cash flow to allow us to return $21.2 billion and $10.6 billion in 2006 and 2005, in capital to shareholders in the form of dividends and share repurchases, net of employee stock options exercised.

### Net Interest Income

Net interest income on a FTE basis increased $4.2 billion to $35.8 billion in 2006 compared to 2005. The primary drivers of the increase were the impact of the MBNA merger (volumes and spreads), consumer and commercial loan growth, and increases in the benefits from ALM activities including higher portfolio balances (primarily residential mortgages) and the impact of changes in spreads across all product categories. These increases were partially offset by a lower contribution from market-based earning assets and the higher cost associated with higher levels of wholesale funding. The net interest yield on a FTE basis decreased two bps to 2.82 percent in 2006 due primarily to an increase in lower yielding market-based earning assets and loan spreads that continued to tighten due to the flat to inverted yield curve. These decreases were partially offset by widening of spreads on core deposits.

### Noninterest Income

Noninterest income increased $11.6 billion to $38.0 billion in 2006, due primarily to increases in card income of $8.5 billion, trading account profits (losses) of $1.4 billion, equity investment income of $977 million, service charges of $520 million and other income of $1.2 billion partially offset by a decrease in gains (losses) on sales of debt securities of $1.5 billion. Card income increased primarily due to the addition of MBNA resulting in higher excess servicing income, cash advance fees, interchange income and late fees. Trading account profits (losses) increased due to a favorable market environment. Equity investment income increased primarily due to favorable market conditions driven by liquidity in the capital markets as well as a gain of $341 million recorded on the liquidation of a strategic European investment. Service charges grew due to increased non-sufficient funds fees and overdraft charges, account service charges, and ATM fees resulting from new account growth and increased account usage. Other income increased due to the $720 million gain on the sale of our Brazilian operations and the $165 million gain on the sale of our Asia commercial banking business. Gains (losses) on sales of debt securities were $(443) million and $1.1 billion in 2006 and 2005. The decrease was primarily due to a loss on the sale of mortgage-backed securities in 2006 compared to gains recorded in 2005.

### Provision for Credit Losses

The provision for credit losses increased $996 million to $5.0 billion in 2006 compared to 2005. Provision expense rose due to increases from the addition of MBNA, reduced benefits from releases of commercial reserves and lower commercial recoveries. These increases were partially offset by lower bankruptcy-related credit costs on the domestic consumer credit card portfolio.

### Noninterest Expense

Noninterest expense increased $6.9 billion in 2006 from 2005, primarily due to the MBNA merger, increased personnel expense related to higher performance-based compensation and higher marketing expense related to consumer banking initiatives. Amortization of intangibles expense was higher due to increases in purchased credit card relationships, affinity relationships, core deposit intangibles and other intangibles, including trademarks.

### Income Tax Expense

Income tax expense was $10.8 billion in 2006 compared to $8.0 billion in 2005, resulting in an effective tax rate of 33.9 percent in 2006 and 32.7 percent in 2005. The increase in the effective tax rate was primarily due to a $175 million charge to income tax expense arising from the change in tax legislation, the one-time benefit recorded during 2005 related to the repatriation of certain foreign earnings and the January 1, 2006 addition of MBNA.

## *Business Segment Operations*

### Global Consumer and Small Business Banking

Net income increased $4.4 billion, or 62 percent, to $11.4 billion in 2006 compared to 2005. Total revenue rose $16.5 billion, or 58 percent, in 2006 compared to 2005, driven by increases in net interest income and noninterest income. The MBNA merger and organic growth in average loans and leases contributed to the $10.6 billion, or 60 percent, increase in net interest income. Increases in card income of $4.9 billion, all other income of $806 million and service charges of $348 million drove the $5.9 billion, or 54 percent, increase in noninterest income. Card income was higher mainly due to increases in interchange income, cash advance fees and late fees due primarily to the impact of the MBNA merger. All other income increased primarily as a result of the MBNA merger. Service charges increased due to new account growth and increased usage. These increases were partially offset by increases in the provision for credit losses and noninterest expense. The provision for credit losses increased $3.8 billion to $8.5 billion in 2006 resulting primarily from an increase in *Card Services* mainly due to the MBNA merger. Noninterest expense increased $5.6 billion, or 44 percent, primarily driven by the addition of MBNA.

### Global Corporate and Investment Banking

Net income increased $78 million, or one percent, to $6.0 billion in 2006 compared to 2005. Total revenue increased $1.3 billion, or seven percent, in 2006 driven by increases in noninterest income partially offset by a decrease in net interest income. Net interest income declined $460 million, or four percent, primarily due to the impact of ALM activities and spread compression in the loan portfolio. Noninterest income increased $1.8 billion, or 18 percent, driven by the increase in trading account profits (losses) of $1.2 billion and investment banking income of $585 million mainly due to the continued strength in debt underwriting, sales and trading, and a favorable market environment. These increases were partially offset by an increase in noninterest expense which increased by $1.1 billion, or 11 percent, mainly due to higher personnel expense, including performance-based incentive compensation primarily in *CMAS* and other general operating costs.

### Global Wealth and Investment Management

Net income increased $211 million, or 10 percent, to $2.2 billion in 2006 compared to 2005. Total revenue increased $483 million, or seven percent, in 2006. Net interest income increased $117 million, or three percent, due to an increase in deposit spreads and higher average loans and leases, largely offset by a decline in ALM activities and loan spread compression. *GWIM* also benefited from the migration of deposits from *GCSBB*. For 2006 and 2005 a total of $10.7 billion and $16.9 billion of net deposits were migrated from *GCSBB* to *GWIM*. Noninterest income increased $366 million, or 11 percent, mainly due to increases in investment and brokerage services driven by higher levels of AUM. These changes were offset by higher noninterest expense which increased $126 million, or three percent, primarily due to increases in personnel-related expense driven by the addition of sales associates and revenue-related expenses.

### All Other

Net income increased $23 million, or two percent, to $1.5 billion in 2006 compared to 2005. Excluding the securitization offset, total revenue rose $441 million to $3.7 billion, primarily driven by increases in net interest income of $1.1 billion, equity investment income of $839 million and all other income of $861 million partially offset by lower gains (losses) on sales of debt securities. The increase in net interest income was mainly due to the negative impact to 2005 results retained in *All Other* relating to funds transfer pricing that was not allocated to the businesses. The increase in equity investment income was due to favorable market conditions driving liquidity in the Principal Investing portfolio combined with a gain recorded on the liquidation of a strategic European investment. The increase in all other income was primarily related to the gain on the sale of our Brazilian operations of $720 million. Gains (losses) on sales of debt securities decreased $1.4 billion to $(475) million resulting from a loss on the sale of mortgage-backed securities compared with gains recorded on the sales of mortgage-backed securities in 2005. Merger and restructuring charges increased $393 million due to the MBNA merger whereas the 2005 charges primarily related to the FleetBoston Financial Corporation merger.

## Statistical Tables

### Table I Year-to-date Average Balances and Interest Rates – FTE Basis

| (Dollars in millions) | 2007 Average Balance | 2007 Interest Income/ Expense | 2007 Yield/ Rate | 2006 [1] Average Balance | 2006 [1] Interest Income/ Expense | 2006 [1] Yield/ Rate | 2005 Average Balance | 2005 Interest Income/ Expense | 2005 Yield/ Rate |
|---|---|---|---|---|---|---|---|---|---|
| **Earning assets** | | | | | | | | | |
| Time deposits placed and other short-term investments | **$ 13,152** | **$ 627** | **4.77%** | $ 15,611 | $ 646 | 4.14% | $ 14,286 | $ 472 | 3.30% |
| Federal funds sold and securities purchased under agreements to resell | **155,828** | **7,722** | **4.96** | 175,334 | 7,823 | 4.46 | 169,132 | 5,012 | 2.96 |
| Trading account assets | **187,287** | **9,747** | **5.20** | 145,321 | 7,552 | 5.20 | 133,502 | 5,883 | 4.41 |
| Debt securities [2] | **186,466** | **10,020** | **5.37** | 225,219 | 11,845 | 5.26 | 219,843 | 11,047 | 5.03 |
| Loans and leases [3]: | | | | | | | | | |
| Residential mortgage | **264,650** | **15,112** | **5.71** | 207,879 | 11,608 | 5.58 | 173,773 | 9,424 | 5.42 |
| Credit card – domestic | **57,883** | **7,225** | **12.48** | 63,838 | 8,638 | 13.53 | 53,997 | 6,253 | 11.58 |
| Credit card – foreign | **12,359** | **1,502** | **12.15** | 9,141 | 1,147 | 12.55 | – | – | – |
| Home equity [4] | **98,765** | **7,385** | **7.48** | 78,318 | 5,773 | 7.37 | 63,852 | 3,931 | 6.16 |
| Direct/Indirect consumer [5] | **70,260** | **6,002** | **8.54** | 53,371 | 4,185 | 7.84 | 37,472 | 2,072 | 5.53 |
| Other consumer [6] | **4,259** | **389** | **9.14** | 7,317 | 788 | 10.78 | 6,854 | 665 | 9.72 |
| Total consumer | **508,176** | **37,615** | **7.40** | 419,864 | 32,139 | 7.65 | 335,948 | 22,345 | 6.65 |
| Commercial – domestic | **180,102** | **12,884** | **7.15** | 151,231 | 10,897 | 7.21 | 128,034 | 8,266 | 6.46 |
| Commercial real estate [7] | **42,950** | **3,145** | **7.32** | 36,939 | 2,740 | 7.42 | 34,304 | 2,046 | 5.97 |
| Commercial lease financing | **20,435** | **1,212** | **5.93** | 20,862 | 995 | 4.77 | 20,441 | 992 | 4.85 |
| Commercial – foreign | **24,491** | **1,452** | **5.93** | 23,521 | 1,674 | 7.12 | 18,491 | 1,292 | 6.99 |
| Total commercial | **267,978** | **18,693** | **6.98** | 232,553 | 16,306 | 7.01 | 201,270 | 12,596 | 6.26 |
| Total loans and leases | **776,154** | **56,308** | **7.25** | 652,417 | 48,445 | 7.43 | 537,218 | 34,941 | 6.50 |
| Other earning assets | **71,305** | **4,629** | **6.49** | 55,242 | 3,498 | 6.33 | 38,013 | 2,103 | 5.53 |
| **Total earning assets [8]** | **1,390,192** | **89,053** | **6.41** | 1,269,144 | 79,809 | 6.29 | 1,111,994 | 59,458 | 5.35 |
| Cash and cash equivalents | **33,091** | | | 34,052 | | | 33,199 | | |
| Other assets, less allowance for loan and lease losses | **178,790** | | | 163,485 | | | 124,699 | | |
| **Total assets** | **$1,602,073** | | | $1,466,681 | | | $1,269,892 | | |
| **Interest-bearing liabilities** | | | | | | | | | |
| Domestic interest-bearing deposits: | | | | | | | | | |
| Savings | **$ 32,316** | **$ 188** | **0.58%** | $ 34,608 | $ 269 | 0.78% | $ 36,602 | $ 211 | 0.58% |
| NOW and money market deposit accounts | **220,207** | **4,361** | **1.98** | 218,077 | 3,923 | 1.80 | 227,722 | 2,839 | 1.25 |
| Consumer CDs and IRAs | **167,801** | **7,817** | **4.66** | 144,738 | 6,022 | 4.16 | 124,385 | 4,091 | 3.29 |
| Negotiable CDs, public funds and other time deposits | **20,557** | **974** | **4.74** | 12,195 | 483 | 3.97 | 6,865 | 250 | 3.65 |
| Total domestic interest-bearing deposits | **440,881** | **13,340** | **3.03** | 409,618 | 10,697 | 2.61 | 395,574 | 7,391 | 1.87 |
| Foreign interest-bearing deposits: | | | | | | | | | |
| Banks located in foreign countries | **42,788** | **2,174** | **5.08** | 34,985 | 1,982 | 5.67 | 22,945 | 1,202 | 5.24 |
| Governments and official institutions | **16,523** | **812** | **4.91** | 12,674 | 586 | 4.63 | 7,418 | 238 | 3.21 |
| Time, savings and other | **43,443** | **1,767** | **4.07** | 38,544 | 1,215 | 3.15 | 31,603 | 661 | 2.09 |
| Total foreign interest-bearing deposits | **102,754** | **4,753** | **4.63** | 86,203 | 3,783 | 4.39 | 61,966 | 2,101 | 3.39 |
| Total interest-bearing deposits | **543,635** | **18,093** | **3.33** | 495,821 | 14,480 | 2.92 | 457,540 | 9,492 | 2.08 |
| Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings | **424,814** | **21,975** | **5.17** | 411,132 | 19,840 | 4.83 | 326,408 | 11,615 | 3.56 |
| Trading account liabilities | **82,721** | **3,444** | **4.16** | 64,689 | 2,640 | 4.08 | 57,689 | 2,364 | 4.10 |
| Long-term debt | **169,855** | **9,359** | **5.51** | 130,124 | 7,034 | 5.41 | 97,709 | 4,418 | 4.52 |
| **Total interest-bearing liabilities [8]** | **1,221,025** | **52,871** | **4.33** | 1,101,766 | 43,994 | 3.99 | 939,346 | 27,889 | 2.97 |
| Noninterest-bearing sources: | | | | | | | | | |
| Noninterest-bearing deposits | **173,547** | | | 177,174 | | | 174,892 | | |
| Other liabilities | **70,839** | | | 57,278 | | | 55,793 | | |
| Shareholders' equity | **136,662** | | | 130,463 | | | 99,861 | | |
| **Total liabilities and shareholders' equity** | **$1,602,073** | | | $1,466,681 | | | $1,269,892 | | |
| Net interest spread | | | **2.08%** | | | 2.30% | | | 2.38% |
| Impact of noninterest-bearing sources | | | **0.52** | | | 0.52 | | | 0.46 |
| **Net interest income/yield on earning assets** | | **$ 36,182** | **2.60%** | | $ 35,815 | 2.82% | | $ 31,569 | 2.84% |

(1) Interest income (FTE basis) in 2006 does not include the cumulative tax charge resulting from a change in tax legislation relating to extraterritorial tax income and foreign sales corporation regimes. The FTE impact to net interest income and net interest yield on earning assets of this retroactive tax adjustment was a reduction of $270 million and 2 bps, respectively, in 2006. Management has excluded this one-time impact to provide a more comparative basis of presentation for net interest income and net interest yield on earning assets on a FTE basis. The impact on any given future period is not expected to be material.
(2) Yields on AFS debt securities are calculated based on fair value rather than historical cost balances. The use of fair value does not have a material impact on net interest yield.
(3) Nonperforming loans are included in the respective average loan balances. Income on these nonperforming loans is recognized on a cash basis.
(4) Includes home equity loans of $16.7 billion, $9.7 billion and $7.6 billion in 2007, 2006 and 2005, respectively.
(5) Includes foreign consumer loans of $3.8 billion, $3.4 billion, and $53 million in 2007, 2006 and 2005, respectively.
(6) Includes consumer finance loans of $3.2 billion, $2.9 billion, $3.1 billion in 2007, 2006 and 2005, respectively; and other foreign consumer loans of $1.1 billion, $4.4 billion and $3.5 billion in 2007, 2006 and 2005, respectively.
(7) Includes domestic commercial real estate loans of $42.1 billion, $36.2 billion and $33.8 billion in 2007, 2006 and 2005, respectively.
(8) Interest income includes the impact of interest rate risk management contracts, which increased (decreased) interest income on the underlying assets $(542) million, $(372) million and $704 million in 2007, 2006 and 2005, respectively. Interest expense includes the impact of interest rate risk management contracts, which increased interest expense on the underlying liabilities $813 million, $106 million and $1.3 billion in 2007, 2006 and 2005, respectively. For further information on interest rate contracts, see Interest Rate Risk Management for Nontrading Activities beginning on page 65.

## Table II Analysis of Changes in Net Interest Income – FTE Basis

| (Dollars in millions) | From 2006 to 2007 Due to Change in [1] Volume | Rate | Net Change | From 2005 to 2006 Due to Change in [1] Volume | Rate | Net Change |
|---|---|---|---|---|---|---|
| **Increase (decrease) in interest income** | | | | | | |
| Time deposits placed and other short-term investments | **$ (102)** | **$ 83** | **$ (19)** | $ 43 | $ 131 | $ 174 |
| Federal funds sold and securities purchased under agreements to resell | **(873)** | **772** | **(101)** | 178 | 2,633 | 2,811 |
| Trading account assets | **2,187** | **8** | **2,195** | 526 | 1,143 | 1,669 |
| Debt securities | **(2,037)** | **212** | **(1,825)** | 282 | 516 | 798 |
| Loans and leases: | | | | | | |
| Residential mortgage | **3,159** | **345** | **3,504** | 1,843 | 341 | 2,184 |
| Credit card – domestic | **(806)** | **(607)** | **(1,413)** | 1,139 | 1,246 | 2,385 |
| Credit card – foreign | **404** | **(49)** | **355** | 1,147 | – | 1,147 |
| Home equity | **1,506** | **106** | **1,612** | 893 | 949 | 1,842 |
| Direct/Indirect consumer | **1,323** | **494** | **1,817** | 879 | 1,234 | 2,113 |
| Other consumer | **(329)** | **(70)** | **(399)** | 46 | 77 | 123 |
| Total consumer | | | **5,476** | | | 9,794 |
| Commercial – domestic | **2,088** | **(101)** | **1,987** | 1,504 | 1,127 | 2,631 |
| Commercial real estate | **447** | **(42)** | **405** | 159 | 535 | 694 |
| Commercial lease financing | **(20)** | **237** | **217** | 20 | (17) | 3 |
| Commercial – foreign | **70** | **(292)** | **(222)** | 352 | 30 | 382 |
| Total commercial | | | **2,387** | | | 3,710 |
| Total loans and leases | | | **7,863** | | | 13,504 |
| Other earning assets | **1,016** | **115** | **1,131** | 952 | 443 | 1,395 |
| Total interest income | | | **$ 9,244** | | | $20,351 |
| **Increase (decrease) in interest expense** | | | | | | |
| Domestic interest-bearing deposits: | | | | | | |
| Savings | **$ (17)** | **$ (64)** | **$ (81)** | $ (10) | $ 68 | $ 58 |
| NOW and money market deposit accounts | **41** | **397** | **438** | (113) | 1,197 | 1,084 |
| Consumer CDs and IRAs | **959** | **836** | **1,795** | 671 | 1,260 | 1,931 |
| Negotiable CDs, public funds and other time deposits | **333** | **158** | **491** | 195 | 38 | 233 |
| Total domestic interest-bearing deposits | | | **2,643** | | | 3,306 |
| Foreign interest-bearing deposits: | | | | | | |
| Banks located in foreign countries | **444** | **(252)** | **192** | 631 | 149 | 780 |
| Governments and official institutions | **179** | **47** | **226** | 169 | 179 | 348 |
| Time, savings and other | **153** | **399** | **552** | 145 | 409 | 554 |
| Total foreign interest-bearing deposits | | | **970** | | | 1,682 |
| Total interest-bearing deposits | | | **3,613** | | | 4,988 |
| Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings | **679** | **1,456** | **2,135** | 3,021 | 5,204 | 8,225 |
| Trading account liabilities | **735** | **69** | **804** | 288 | (12) | 276 |
| Long-term debt | **2,155** | **170** | **2,325** | 1,464 | 1,152 | 2,616 |
| Total interest expense | | | **8,877** | | | 16,105 |
| **Net increase in net interest income [2]** | | | **$ 367** | | | $ 4,246 |

(1) The changes for each category of interest income and expense are divided between the portion of change attributable to the variance in volume and the portion of change attributable to the variance in rate for that category. The unallocated change in rate or volume variance has been allocated between the rate and volume variances.

(2) Interest income (FTE basis) in 2006 does not include the cumulative tax charge resulting from a change in tax legislation relating to extraterritorial tax income and foreign sales corporation regimes. The FTE impact to net interest income of this retroactive tax adjustment is a reduction of $270 million from 2005 to 2006. Management has excluded this one-time impact to provide a more comparative basis of presentation for net interest income and net interest yield on earning assets on a FTE basis. The impact on any given future period is not expected to be material.

## Table III Outstanding Loans and Leases

| (Dollars in millions) | December 31 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| **Consumer** | | | | | |
| Residential mortgage | **$ 274,949** | $ 241,181 | $ 182,596 | $ 178,079 | $ 140,483 |
| Credit card – domestic | **65,774** | 61,195 | 58,548 | 51,726 | 34,814 |
| Credit card – foreign | **14,950** | 10,999 | – | – | – |
| Home equity [1] | **114,834** | 87,893 | 70,229 | 57,439 | 27,507 |
| Direct/Indirect consumer [1, 2] | **76,844** | 59,378 | 37,407 | 33,257 | 29,799 |
| Other consumer [1, 3] | **3,850** | 5,059 | 6,677 | 7,382 | 7,526 |
| Total consumer | **551,201** | 465,705 | 355,457 | 327,883 | 240,129 |
| **Commercial** | | | | | |
| Commercial – domestic [4] | **208,297** | 161,982 | 140,533 | 122,095 | 91,491 |
| Commercial real estate [5] | **61,298** | 36,258 | 35,766 | 32,319 | 19,367 |
| Commercial lease financing | **22,582** | 21,864 | 20,705 | 21,115 | 9,692 |
| Commercial – foreign | **28,376** | 20,681 | 21,330 | 18,401 | 10,754 |
| Total commercial loans measured at historical cost | **320,553** | 240,785 | 218,334 | 193,930 | 131,304 |
| Commercial loans measured at fair value [6] | **4,590** | n/a | n/a | n/a | n/a |
| Total commercial | **325,143** | 240,785 | 218,334 | 193,930 | 131,304 |
| **Total loans and leases** | **$ 876,344** | $ 706,490 | $ 573,791 | $ 521,813 | $ 371,433 |

(1) Home equity loan balances previously included in direct/indirect consumer and other consumer were reclassified to home equity to conform to current year presentation. Additionally, certain foreign consumer balances were reclassified from other consumer to direct/indirect consumer to conform to current year presentation.
(2) Includes foreign consumer loans of $3.4 billion, $3.9 billion, $48 million, $57 million, and $31 million at December 31, 2007, 2006, 2005, 2004, and 2003, respectively.
(3) Includes other foreign consumer loans of $829 million, $2.3 billion, $3.8 billion, $3.5 billion, and $1.9 billion at December 31, 2007, 2006, 2005, 2004, and 2003, respectively; consumer finance loans of $3.0 billion, $2.8 billion, $2.8 billion, $3.4 billion, and $3.9 billion at December 31, 2007, 2006, 2005, 2004, and 2003, respectively; and consumer lease financing of $481 million and $1.7 billion at December 31, 2004 and 2003.
(4) Includes small business commercial—domestic loans, primarily card related, of $17.8 billion, $13.7 billion, $7.2 billion, $5.4 billion, and $2.7 billion at December 31, 2007, 2006, 2005, 2004 and 2003, respectively.
(5) Includes domestic commercial real estate loans of $60.2 billion, $35.7 billion, $35.2 billion, $31.9 billion, and $19.0 billion at December 31, 2007, 2006, 2005, 2004, and 2003, respectively; and foreign commercial real estate loans of $1.1 billion, $578 million, $585 million, $440 million, and $324 million at December 31, 2007, 2006, 2005, 2004, and 2003, respectively.
(6) Certain commercial loans are measured at fair value in accordance with SFAS 159 and include commercial – domestic loans of $3.5 billion, commercial – foreign loans of $790 million and commercial real estate loans of $304 million at December 31, 2007. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional discussion of fair value for certain financial instruments.
n/a = not applicable

## Table IV Nonperforming Assets

| (Dollars in millions) | December 31 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| **Consumer** | | | | | |
| Residential mortgage | **$1,999** | $ 660 | $ 570 | $ 554 | $ 531 |
| Home equity [1] | **1,340** | 291 | 151 | 94 | 67 |
| Direct/Indirect consumer [1] | **8** | 2 | 3 | 5 | 4 |
| Other consumer | **95** | 77 | 61 | 85 | 36 |
| Total consumer [2] | **3,442** | 1,030 | 785 | 738 | 638 |
| **Commercial** | | | | | |
| Commercial – domestic [3] | **869** | 505 | 550 | 847 | 1,383 |
| Commercial real estate | **1,099** | 118 | 49 | 87 | 142 |
| Commercial lease financing | **33** | 42 | 62 | 266 | 127 |
| Commercial – foreign | **19** | 13 | 34 | 267 | 578 |
| | **2,020** | 678 | 695 | 1,467 | 2,230 |
| Small business commercial – domestic | **135** | 79 | 31 | 8 | 5 |
| Total commercial [4] | **2,155** | 757 | 726 | 1,475 | 2,235 |
| Total nonperforming loans and leases | **5,597** | 1,787 | 1,511 | 2,213 | 2,873 |
| Foreclosed properties | **351** | 69 | 92 | 102 | 148 |
| Nonperforming securities [5] | **–** | – | – | 140 | – |
| **Total nonperforming assets [6, 7]** | **$5,948** | $1,856 | $1,603 | $2,455 | $3,021 |

(1) Nonperforming home equity loan balances previously included in direct/indirect consumer were reclassified to home equity to conform to current year presentation.
(2) In 2007, $230 million in interest income was estimated to be contractually due on nonperforming consumer loans and leases classified as nonperforming at December 31, 2007 provided that these loans and leases had been paid according to their terms and conditions. Of this amount, approximately $85 million was received and included in net income for 2007.
(3) Excludes small business commercial – domestic loans.
(4) In 2007, $229 million in interest income was estimated to be contractually due on nonperforming commercial loans and leases classified as nonperforming at December 31, 2007, including troubled debt restructured loans of which $33 million were performing at December 31, 2007 and not included in the table above. Approximately $162 million of the estimated $229 million in contractual interest was received and included in net income for 2007.
(5) In 2005, nonperforming international securities held in the AFS portfolio were exchanged for performing securities.
(6) Balances do not include nonperforming loans held-for-sale included in other assets of $188 million, $80 million, $69 million, $151 million, and $202 million at December 31, 2007, 2006, 2005, 2004, and 2003, respectively.
(7) Balances do not include loans measured at fair value in accordance with SFAS 159. At December 31, 2007, there were no nonperforming loans measured under fair value in accordance with SFAS 159.

## Table V Accruing Loans and Leases Past Due 90 Days or More

| (Dollars in millions) | December 31 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| **Consumer** | | | | | |
| Residential mortgage [1] | **$ 237** | $ 118 | $ – | $ – | $ – |
| Credit card – domestic | **1,855** | 1,991 | 1,197 | 1,075 | 616 |
| Credit card – foreign | **272** | 184 | – | – | – |
| Direct/Indirect consumer | **745** | 378 | 75 | 58 | 47 |
| Other consumer | **4** | 7 | 15 | 23 | 35 |
| **Total consumer** | **3,113** | 2,678 | 1,287 | 1,156 | 698 |
| **Commercial** | | | | | |
| Commercial – domestic [2] | **119** | 66 | 117 | 121 | 110 |
| Commercial real estate | **36** | 78 | 4 | 1 | 23 |
| Commercial lease financing | **25** | 26 | 15 | 14 | n/a |
| Commercial – foreign | **16** | 9 | 32 | 2 | 29 |
| | **196** | 179 | 168 | 138 | 162 |
| Small business commercial – domestic | **427** | 199 | – | – | – |
| **Total commercial** | **623** | 378 | 168 | 138 | 162 |
| **Total accruing loans and leases past due 90 days or more** [3] | **$3,736** | $3,056 | $1,455 | $1,294 | $860 |

(1) Balances at December 31, 2007 and 2006 are related to repurchases pursuant to our servicing agreements with GNMA mortgage pools, where repayments are insured by the Federal Housing Administration or guaranteed by the Department of Veteran Affairs.
(2) Excludes small business commercial-domestic loans.
(3) Balances do not include loans measured at fair value in accordance with SFAS 159. At December 31, 2007, there were no accruing loans or leases past due 90 days or more measured under fair value in accordance with SFAS 159.
n/a = not available

## Table VI Allowance for Credit Losses

| (Dollars in millions) | 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| **Allowance for loan and lease losses, January 1** | **$ 9,016** | $ 8,045 | $ 8,626 | $ 6,163 | $ 6,358 |
| **Adjustment due to the adoption of SFAS 159** | **(32)** | – | – | – | – |
| **LaSalle balance, October 1, 2007** | **725** | – | – | – | – |
| **U.S. Trust Corporation balance, July 1, 2007** | **25** | – | – | – | – |
| **MBNA balance, January 1, 2006** | **–** | 577 | – | – | – |
| **FleetBoston balance, April 1, 2004** | **–** | – | – | 2,763 | – |
| **Loans and leases charged off** | | | | | |
| Residential mortgage | **(79)** | (74) | (58) | (62) | (64) |
| Credit card – domestic | **(3,410)** | (3,546) | (4,018) | (2,536) | (1,657) |
| Credit card – foreign | **(452)** | (292) | – | – | – |
| Home equity | **(286)** | (67) | (46) | (38) | (38) |
| Direct/Indirect consumer | **(1,885)** | (857) | (380) | (344) | (322) |
| Other consumer | **(346)** | (327) | (376) | (295) | (343) |
| Total consumer charge-offs | **(6,458)** | (5,163) | (4,878) | (3,275) | (2,424) |
| Commercial – domestic [1] | **(1,135)** | (597) | (535) | (504) | (857) |
| Commercial real estate | **(54)** | (7) | (5) | (12) | (46) |
| Commercial lease financing | **(55)** | (28) | (315) | (39) | (132) |
| Commercial – foreign | **(28)** | (86) | (61) | (262) | (408) |
| Total commercial charge-offs | **(1,272)** | (718) | (916) | (817) | (1,443) |
| Total loans and leases charged off | **(7,730)** | (5,881) | (5,794) | (4,092) | (3,867) |
| **Recoveries of loans and leases previously charged off** | | | | | |
| Residential mortgage | **22** | 35 | 31 | 26 | 24 |
| Credit card – domestic | **347** | 452 | 366 | 231 | 143 |
| Credit card – foreign | **74** | 67 | – | – | – |
| Home equity | **12** | 16 | 15 | 23 | 26 |
| Direct/Indirect consumer | **512** | 247 | 132 | 136 | 141 |
| Other consumer | **68** | 110 | 101 | 102 | 88 |
| Total consumer recoveries | **1,035** | 927 | 645 | 518 | 422 |
| Commercial – domestic [2] | **128** | 261 | 365 | 327 | 224 |
| Commercial real estate | **7** | 4 | 5 | 15 | 5 |
| Commercial lease financing | **53** | 56 | 84 | 30 | 8 |
| Commercial – foreign | **27** | 94 | 133 | 89 | 102 |
| Total commercial recoveries | **215** | 415 | 587 | 461 | 339 |
| Total recoveries of loans and leases previously charged off | **1,250** | 1,342 | 1,232 | 979 | 761 |
| Net charge-offs | **(6,480)** | (4,539) | (4,562) | (3,113) | (3,106) |
| Provision for loan and lease losses | **8,357** | 5,001 | 4,021 | 2,868 | 2,916 |
| Other | **(23)** | (68) | (40) | (55) | (5) |
| Allowance for loan and lease losses, December 31 | **11,588** | 9,016 | 8,045 | 8,626 | 6,163 |
| **Reserve for unfunded lending commitments, January 1** | **397** | 395 | 402 | 416 | 493 |
| Adjustment due to the adoption of SFAS 159 | **(28)** | – | – | – | – |
| LaSalle balance, October 1, 2007 | **124** | – | – | – | – |
| FleetBoston balance, April 1, 2004 | **–** | – | – | 85 | – |
| Provision for unfunded lending commitments | **28** | 9 | (7) | (99) | (77) |
| Other | **(3)** | (7) | – | – | – |
| Reserve for unfunded lending commitments, December 31 | **518** | 397 | 395 | 402 | 416 |
| **Allowance for credit losses, December 31** | **$ 12,106** | $ 9,413 | $ 8,440 | $ 9,028 | $ 6,579 |
| Loans and leases outstanding measured at historical cost at December 31 | **$871,754** | $706,490 | $573,791 | $521,813 | $371,433 |
| Allowance for loan and lease losses as a percentage of total loans and leases outstanding measured at historical cost at December 31 [3] | **1.33 %** | 1.28 % | 1.40 % | 1.65 % | 1.66 % |
| Consumer allowance for loan and lease losses as a percentage of total consumer loans and leases outstanding at December 31 | **1.23** | 1.19 | 1.27 | 1.34 | 1.25 |
| Commercial allowance for loan and lease losses as a percentage of total commercial loans and leases outstanding measured at historical cost at December 31 [3] | **1.51** | 1.44 | 1.62 | 2.19 | 2.40 |
| Average loans and leases outstanding measured at historical cost during the year | **$773,142** | $652,417 | $537,218 | $472,617 | $356,220 |
| Net charge-offs as a percentage of average loans and leases outstanding measured at historical cost during the year [3, 4, 5] | **0.84 %** | 0.70 % | 0.85 % | 0.66 % | 0.87 % |
| Allowance for loan and lease losses as a percentage of total nonperforming loans and leases measured at historical cost at December 31 | **207** | 505 | 532 | 390 | 215 |
| Ratio of the allowance for loan and lease losses at December 31 to net charge-offs [4, 5] | **1.79** | 1.99 | 1.76 | 2.77 | 1.98 |

(1) Includes small business commercial – domestic charge offs of $911 million and $409 million in 2007 and 2006. Small business commercial – domestic charge offs were not material in 2005, 2004 and 2003.
(2) Includes small business commercial – domestic recoveries of $42 million and $48 million in 2007 and 2006. Small business commercial – domestic recoveries were not material in 2005, 2004 and 2003.
(3) Ratios do not include loans measured at fair value in accordance with SFAS 159 at and for the year ended December 31, 2007. Loans measured at fair value were $4.59 billion at December 31, 2007.
(4) In 2007, the impact of SOP 03-3 decreased net charge-offs by $75 million. Excluding the impact of SOP 03-3, net charge-offs as a percentage of average loans and leases outstanding measured at historical cost in 2007 would have been 0.85 percent and the ratio of the allowance for loan and lease losses to net charge-offs would have been 1.77 percent at December 31, 2007.
(5) In 2006, the impact of SOP 03-3 decreased net charge-offs by $288 million. Excluding the impact of SOP 03-3, net charge-offs as a percentage of average loans and leases outstanding measured at historical cost in 2006 would have been 0.74 percent, and the ratio of the allowance for loan and lease losses to net charge-offs would have been 1.87 percent at December 31, 2006.

## Table VII Allocation of the Allowance for Credit Losses by Product Type

| | December 31 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 2007 | | 2006 | | 2005 | | 2004 | | 2003 | |
| (Dollars in millions) | Amount | Percent of total | Amount | Percent of total | Amount | Percent of total | Amount | Percent of total | Amount | Percent of total |
| **Allowance for loan and lease losses** | | | | | | | | | | |
| Residential mortgage | $ 207 | 1.8% | $ 248 | 2.8% | $ 277 | 3.4% | $ 240 | 2.8% | $ 185 | 3.0% |
| Credit card – domestic | 2,919 | 25.2 | 3,176 | 35.2 | 3,301 | 41.0 | 3,148 | 36.5 | 1,947 | 31.6 |
| Credit card – foreign | 441 | 3.8 | 336 | 3.7 | – | – | – | – | – | – |
| Home equity | 963 | 8.3 | 133 | 1.5 | 136 | 1.7 | 115 | 1.3 | 72 | 1.2 |
| Direct/Indirect consumer | 2,077 | 17.9 | 1,378 | 15.3 | 421 | 5.2 | 375 | 4.3 | 347 | 5.6 |
| Other consumer | 151 | 1.3 | 289 | 3.2 | 380 | 4.8 | 500 | 5.9 | 456 | 7.4 |
| Total consumer | 6,758 | 58.3 | 5,560 | 61.7 | 4,515 | 56.1 | 4,378 | 50.8 | 3,007 | 48.8 |
| Commercial – domestic [1] | 3,194 | 27.6 | 2,162 | 24.0 | 2,100 | 26.1 | 2,101 | 24.3 | 1,756 | 28.5 |
| Commercial real estate | 1,083 | 9.3 | 588 | 6.5 | 609 | 7.6 | 644 | 7.5 | 484 | 7.9 |
| Commercial lease financing | 218 | 1.9 | 217 | 2.4 | 232 | 2.9 | 442 | 5.1 | 235 | 3.8 |
| Commercial – foreign | 335 | 2.9 | 489 | 5.4 | 589 | 7.3 | 1,061 | 12.3 | 681 | 11.0 |
| Total commercial [2] | 4,830 | 41.7 | 3,456 | 38.3 | 3,530 | 43.9 | 4,248 | 49.2 | 3,156 | 51.2 |
| **Allowance for loan and lease losses** | 11,588 | 100.0% | 9,016 | 100.0% | 8,045 | 100.0% | 8,626 | 100.0% | 6,163 | 100.0% |
| **Reserve for unfunded lending commitments** | 518 | | 397 | | 395 | | 402 | | 416 | |
| **Allowance for credit losses** | $12,106 | | $ 9,413 | | $ 8,440 | | $ 9,028 | | $ 6,579 | |

(1) Includes allowance for small business commercial – domestic loans of $1.4 billion and $578 million at December 31, 2007 and 2006. The allowance for small business commercial – domestic loans was not material in 2005, 2004 and 2003.
(2) Includes allowance for loan and lease losses for impaired commercial loans of $123 million, $43 million, $55 million, $202 million, and $391 million at December 31, 2007, 2006, 2005, 2004, and 2003, respectively.

## Table VIII Selected Loan Maturity Data [1, 2]

| | December 31, 2007 | | | |
|---|---|---|---|---|
| (Dollars in millions) | Due in One Year or Less | Due After One Year Through Five Years | Due After Five Years | Total |
| Commercial – domestic | $ 80,087 | $ 91,835 | $ 39,870 | $211,792 |
| Commercial real estate – domestic | 24,048 | 31,185 | 5,305 | 60,538 |
| Foreign and other [3] | 27,615 | 5,773 | 1,085 | 34,473 |
| **Total selected loans** | $131,750 | $ 128,793 | $ 46,260 | $306,803 |
| **Percent of total** | 42.9% | 42.0% | 15.1% | 100.0% |
| Sensitivity of selected loans to changes in interest rates for loans due after one year: | | | | |
| Fixed interest rates | | $ 11,689 | $ 22,085 | |
| Floating or adjustable interest rates | | 117,104 | 24,175 | |
| **Total** | | $ 128,793 | $ 46,260 | |

(1) Loan maturities are based on the remaining maturities under contractual terms.
(2) Includes loans measured at fair value in accordance with SFAS 159.
(3) Loan maturities include direct/indirect consumer, other consumer, commercial real estate and commercial–foreign loans.

## Table IX Short-term Borrowings

| (Dollars in millions) | 2007 Amount | 2007 Rate | 2006 Amount | 2006 Rate | 2005 Amount | 2005 Rate |
|---|---|---|---|---|---|---|
| **Federal funds purchased** | | | | | | |
| At December 31 | **$ 14,187** | **4.15%** | $ 12,232 | 5.35% | $ 2,715 | 4.06% |
| Average during year | **7,595** | **4.84** | 5,292 | 5.11 | 3,670 | 3.09 |
| Maximum month-end balance during year | **14,187** | **–** | 12,232 | – | 5,964 | – |
| **Securities sold under agreements to repurchase** | | | | | | |
| At December 31 | **207,248** | **4.63** | 205,295 | 4.94 | 237,940 | 4.26 |
| Average during year | **245,886** | **5.21** | 281,611 | 4.66 | 227,081 | 3.62 |
| Maximum month-end balance during year | **277,196** | **–** | 312,955 | – | 273,544 | – |
| **Commercial paper** | | | | | | |
| At December 31 | **55,596** | **4.85** | 41,223 | 5.34 | 24,968 | 4.21 |
| Average during year | **57,712** | **5.03** | 33,942 | 5.15 | 26,335 | 3.22 |
| Maximum month-end balance during year | **69,367** | **–** | 42,511 | – | 31,380 | – |
| **Other short-term borrowings** | | | | | | |
| At December 31 | **135,493** | **4.95** | 100,077 | 5.43 | 91,301 | 4.58 |
| Average during year | **113,621** | **5.18** | 90,287 | 5.21 | 69,322 | 3.51 |
| Maximum month-end balance during year | **142,047** | – | 104,555 | – | 91,301 | – |

## Table X Non-exchange Traded Commodity Contracts

| (Dollars in millions) | Asset Positions | Liability Positions |
|---|---|---|
| Net fair value of contracts outstanding, January 1, 2007 | $ 1,272 | $ 1,130 |
| Effects of legally enforceable master netting agreements | 2,339 | 2,339 |
| Gross fair value of contracts outstanding, January 1, 2007 | 3,611 | 3,469 |
| Contracts realized or otherwise settled | (3,477) | (3,372) |
| Fair value of new contracts | 4,646 | 4,736 |
| Other changes in fair value | (59) | (34) |
| Gross fair value of contracts outstanding, December 31, 2007 | 4,721 | 4,799 |
| Effects of legally enforceable master netting agreements | (3,573) | (3,573) |
| **Net fair value of contracts outstanding, December 31, 2007** | **$ 1,148** | **$ 1,226** |

## Table XI Non-exchange Traded Commodity Contract Maturities

| | December 31, 2007 | |
|---|---|---|
| (Dollars in millions) | Asset Positions | Liability Positions |
| Maturity of less than 1 year | $ 2,948 | $ 2,964 |
| Maturity of 1-3 years | 1,491 | 1,590 |
| Maturity of 4-5 years | 274 | 224 |
| Maturity in excess of 5 years | 8 | 21 |
| Gross fair value of contracts outstanding | 4,721 | 4,799 |
| Effects of legally enforceable master netting agreements | (3,573) | (3,573) |
| **Net fair value of contracts outstanding** | **$ 1,148** | **$ 1,226** |

## Table XII Selected Quarterly Financial Data

| (Dollars in millions, except per share information) | 2007 Quarters | | | | 2006 Quarters | | | |
|---|---|---|---|---|---|---|---|---|
| | **Fourth** | Third | Second | First | Fourth | Third | Second | First |
| **Income statement** | | | | | | | | |
| Net interest income | **$ 9,164** | $ 8,615 | $ 8,386 | $ 8,268 | $ 8,599 | $ 8,586 | $ 8,630 | $ 8,776 |
| Noninterest income | **3,508** | 7,314 | 11,177 | 9,887 | 9,887 | 9,598 | 9,589 | 8,915 |
| Total revenue, net of interest expense | **12,672** | 15,929 | 19,563 | 18,155 | 18,486 | 18,184 | 18,219 | 17,691 |
| Provision for credit losses | **3,310** | 2,030 | 1,810 | 1,235 | 1,570 | 1,165 | 1,005 | 1,270 |
| Noninterest expense, before merger and restructuring charges | **10,137** | 8,459 | 9,018 | 8,986 | 8,849 | 8,594 | 8,523 | 8,826 |
| Merger and restructuring charges | **140** | 84 | 75 | 111 | 244 | 269 | 194 | 98 |
| Income (loss) before income taxes | **(915)** | 5,356 | 8,660 | 7,823 | 7,823 | 8,156 | 8,497 | 7,497 |
| Income tax expense (benefit) | **(1,183)** | 1,658 | 2,899 | 2,568 | 2,567 | 2,740 | 3,022 | 2,511 |
| Net income | **268** | 3,698 | 5,761 | 5,255 | 5,256 | 5,416 | 5,475 | 4,986 |
| Average common shares issued and outstanding (in thousands) | **4,421,554** | 4,420,616 | 4,419,246 | 4,432,664 | 4,464,110 | 4,499,704 | 4,534,627 | 4,609,481 |
| Average diluted common shares issued and outstanding (in thousands) | **4,470,108** | 4,475,917 | 4,476,799 | 4,497,028 | 4,536,696 | 4,570,558 | 4,601,169 | 4,666,405 |
| **Performance ratios** | | | | | | | | |
| Return on average assets | **0.06 %** | 0.93 % | 1.48 % | 1.40 % | 1.39 % | 1.43 % | 1.51 % | 1.43 % |
| Return on average common shareholders' equity | **0.60** | 11.02 | 17.55 | 16.16 | 15.76 | 16.64 | 17.26 | 15.44 |
| Total ending equity to total ending assets | **8.56** | 8.77 | 8.85 | 8.98 | 9.27 | 9.22 | 8.85 | 9.41 |
| Total average equity to total average assets | **8.32** | 8.51 | 8.55 | 8.78 | 8.97 | 8.63 | 8.75 | 9.26 |
| Dividend payout | **n/m** | 77.97 | 43.60 | 48.02 | 47.49 | 46.82 | 41.76 | 46.75 |
| **Per common share data** | | | | | | | | |
| Earnings | **$ 0.05** | $ 0.83 | $ 1.29 | $ 1.18 | $ 1.17 | $ 1.20 | $ 1.21 | $ 1.08 |
| Diluted earnings | **0.05** | 0.82 | 1.28 | 1.16 | 1.16 | 1.18 | 1.19 | 1.07 |
| Dividends paid | **0.64** | 0.64 | 0.56 | 0.56 | 0.56 | 0.56 | 0.50 | 0.50 |
| Book value | **32.09** | 30.45 | 29.95 | 29.74 | 29.70 | 29.52 | 28.17 | 28.19 |
| **Market price per share of common stock** | | | | | | | | |
| Closing | **$ 41.26** | $ 50.27 | $ 48.89 | $ 51.02 | $ 53.39 | $ 53.57 | $ 48.10 | $ 45.54 |
| High closing | **52.71** | 51.87 | 51.82 | 54.05 | 54.90 | 53.57 | 50.47 | 47.08 |
| Low closing | **41.10** | 47.00 | 48.80 | 49.46 | 51.66 | 47.98 | 45.48 | 43.09 |
| **Market capitalization** | **$ 183,107** | $ 223,041 | $ 216,922 | $ 226,481 | $ 238,021 | $ 240,966 | $ 217,794 | $ 208,633 |
| **Average balance sheet** | | | | | | | | |
| Total loans and leases | **$ 868,119** | $ 780,516 | $ 740,199 | $ 714,042 | $ 683,598 | $ 673,477 | $ 635,649 | $ 615,968 |
| Total assets | **1,742,467** | 1,580,565 | 1,561,649 | 1,521,418 | 1,495,150 | 1,497,987 | 1,456,004 | 1,416,373 |
| Total deposits | **781,625** | 702,481 | 697,035 | 686,704 | 680,245 | 676,851 | 674,796 | 659,821 |
| Long-term debt | **196,444** | 175,265 | 158,500 | 148,627 | 140,756 | 136,769 | 125,620 | 117,018 |
| Common shareholders' equity | **141,085** | 131,606 | 130,700 | 130,737 | 132,004 | 129,098 | 127,102 | 130,881 |
| Total shareholders' equity | **144,924** | 134,487 | 133,551 | 133,588 | 134,047 | 129,262 | 127,373 | 131,153 |
| **Asset Quality** | | | | | | | | |
| Allowance for credit losses [1] | **$ 12,106** | $ 9,927 | $ 9,436 | $ 9,106 | $ 9,413 | $ 9,260 | $ 9,475 | $ 9,462 |
| Nonperforming assets measured at historical cost | **5,948** | 3,372 | 2,392 | 2,059 | 1,856 | 1,656 | 1,641 | 1,680 |
| Allowance for loan and lease losses as a percentage of total loans and leases outstanding measured at historical cost [2] | **1.33 %** | 1.21 % | 1.20 % | 1.21 % | 1.28 % | 1.33 % | 1.36 % | 1.46 % |
| Allowance for loan and lease losses as a percentage of total nonperforming loans and leases measured at historical cost | **207** | 300 | 397 | 443 | 505 | 562 | 579 | 572 |
| Net charge-offs | **$ 1,985** | $ 1,573 | $ 1,495 | $ 1,427 | $ 1,417 | $ 1,277 | $ 1,023 | $ 822 |
| Annualized net charge-offs as a percentage of average loans and leases outstanding measured at historical cost [2] | **0.91 %** | 0.80 % | 0.81 % | 0.81 % | 0.82 % | 0.75 % | 0.65 % | 0.54 % |
| Nonperforming loans and leases as a percentage of total loans and leases outstanding measured at historical cost [2] | **0.64** | 0.40 | 0.30 | 0.27 | 0.25 | 0.24 | 0.23 | 0.26 |
| Nonperforming assets as a percentage of total loans, leases and foreclosed properties [2] | **0.68** | 0.43 | 0.32 | 0.29 | 0.26 | 0.25 | 0.25 | 0.27 |
| Ratio of the allowance for loan and lease losses at period end to annualized net charge-offs | **1.47** | 1.53 | 1.51 | 1.51 | 1.60 | 1.75 | 2.21 | 2.72 |
| **Capital ratios (period end)** | | | | | | | | |
| Risk-based capital: | | | | | | | | |
| Tier 1 | **6.87 %** | 8.22 % | 8.52 % | 8.57 % | 8.64 % | 8.48 % | 8.33 % | 8.45 % |
| Total | **11.02** | 11.86 | 12.11 | 11.94 | 11.88 | 11.46 | 11.25 | 11.32 |
| Tier 1 Leverage | **5.04** | 6.20 | 6.33 | 6.25 | 6.36 | 6.16 | 6.13 | 6.18 |

(1) Includes the allowance for loan and lease losses, and the reserve for unfunded lending commitments.
(2) Ratios do not include loans measured at fair value in accordance with SFAS 159 at and for the year ended December 31, 2007. Loans measured at fair value were $4.59 billion at December 31, 2007.
n/m = not meaningful

## Table XIII Quarterly Average Balances and Interest Rates – FTE Basis

| (Dollars in millions) | Fourth Quarter 2007 Average Balance | Fourth Quarter 2007 Interest Income/ Expense | Fourth Quarter 2007 Yield/ Rate | Third Quarter 2007 Average Balance | Third Quarter 2007 Interest Income/ Expense | Third Quarter 2007 Yield/ Rate |
|---|---|---|---|---|---|---|
| **Earning assets** | | | | | | |
| Time deposits placed and other short-term investments | **$ 10,459** | **$ 122** | **4.63%** | $ 11,879 | $ 148 | 4.92% |
| Federal funds sold and securities purchased under agreements to resell | **151,938** | **1,748** | **4.59** | 139,259 | 1,839 | 5.27 |
| Trading account assets | **190,700** | **2,422** | **5.06** | 194,661 | 2,604 | 5.33 |
| Debt securities (1) | **206,873** | **2,795** | **5.40** | 174,568 | 2,380 | 5.45 |
| Loans and leases (2): | | | | | | |
| Residential mortgage | **277,058** | **3,972** | **5.73** | 274,385 | 3,928 | 5.72 |
| Credit card – domestic | **60,063** | **1,781** | **11.76** | 57,491 | 1,780 | 12.29 |
| Credit card – foreign | **14,329** | **464** | **12.86** | 11,995 | 371 | 12.25 |
| Home equity (3) | **112,372** | **2,043** | **7.21** | 98,611 | 1,884 | 7.58 |
| Direct/Indirect consumer (4) | **75,423** | **1,658** | **8.72** | 73,245 | 1,600 | 8.67 |
| Other consumer (5) | **3,918** | **71** | **7.24** | 4,055 | 96 | 9.47 |
| Total consumer | **543,163** | **9,989** | **7.32** | 519,782 | 9,659 | 7.39 |
| Commercial – domestic | **213,200** | **3,704** | **6.89** | 176,554 | 3,207 | 7.21 |
| Commercial real estate (6) | **59,702** | **1,053** | **6.99** | 38,977 | 733 | 7.47 |
| Commercial lease financing | **22,239** | **574** | **10.33** | 20,044 | 246 | 4.91 |
| Commercial – foreign | **29,815** | **426** | **5.67** | 25,159 | 377 | 5.95 |
| Total commercial | **324,956** | **5,757** | **7.03** | 260,734 | 4,563 | 6.95 |
| Total loans and leases | **868,119** | **15,746** | **7.21** | 780,516 | 14,222 | 7.25 |
| Other earning assets | **74,909** | **1,296** | **6.89** | 74,912 | 1,215 | 6.46 |
| **Total earning assets (7)** | **1,502,998** | **24,129** | **6.39** | 1,375,795 | 22,408 | 6.48 |
| Cash and cash equivalents | **33,714** | | | 31,356 | | |
| Other assets, less allowance for loan and lease losses | **205,755** | | | 173,414 | | |
| **Total assets** | **$1,742,467** | | | $1,580,565 | | |
| **Interest-bearing liabilities** | | | | | | |
| Domestic interest-bearing deposits: | | | | | | |
| Savings | **$ 31,961** | **$ 50** | **0.63%** | $ 31,510 | $ 50 | 0.62% |
| NOW and money market deposit accounts | **240,914** | **1,334** | **2.20** | 215,078 | 1,104 | 2.04 |
| Consumer CDs and IRAs | **183,910** | **2,179** | **4.70** | 165,840 | 1,949 | 4.66 |
| Negotiable CDs, public funds and other time deposits | **34,997** | **420** | **4.76** | 17,392 | 227 | 5.20 |
| Total domestic interest-bearing deposits | **491,782** | **3,983** | **3.21** | 429,820 | 3,330 | 3.07 |
| Foreign interest-bearing deposits: | | | | | | |
| Banks located in foreign countries | **45,050** | **557** | **4.91** | 43,727 | 564 | 5.12 |
| Governments and official institutions | **16,506** | **192** | **4.62** | 17,206 | 218 | 5.03 |
| Time, savings and other | **51,919** | **521** | **3.98** | 41,868 | 433 | 4.09 |
| Total foreign interest-bearing deposits | **113,475** | **1,270** | **4.44** | 102,801 | 1,215 | 4.69 |
| Total interest-bearing deposits | **605,257** | **5,253** | **3.44** | 532,621 | 4,545 | 3.39 |
| Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings | **456,530** | **5,599** | **4.87** | 409,070 | 5,521 | 5.36 |
| Trading account liabilities | **81,500** | **825** | **4.02** | 86,118 | 906 | 4.17 |
| Long-term debt | **196,444** | **2,638** | **5.37** | 175,265 | 2,446 | 5.58 |
| Total interest-bearing liabilities (7) | **1,339,731** | **14,315** | **4.25** | 1,203,074 | 13,418 | 4.43 |
| Noninterest-bearing sources: | | | | | | |
| Noninterest-bearing deposits | **176,368** | | | 169,860 | | |
| Other liabilities | **81,444** | | | 73,144 | | |
| Shareholders' equity | **144,924** | | | 134,487 | | |
| **Total liabilities and shareholders' equity** | **$1,742,467** | | | $1,580,565 | | |
| Net interest spread | | | **2.14%** | | | 2.05% |
| Impact of noninterest-bearing sources | | | **0.47** | | | 0.56 |
| **Net interest income/yield on earning assets** | | **$ 9,814** | **2.61%** | | $ 8,990 | 2.61% |

(1) Yields on AFS debt securities are calculated based on fair value rather than historical cost balances. The use of fair value does not have a material impact on net interest yield.
(2) Nonperforming loans are included in the respective average loan balances. Income on these nonperforming loans is recognized on a cash basis.
(3) Includes home equity loans of $20.9 billion, $16.7 billion, $15.6 billion and $13.5 billion in the fourth, third, second and first quarters of 2007, and $11.7 billion in the fourth quarter of 2006, respectively.
(4) Includes foreign consumer loans of $3.6 billion, $3.8 billion, $3.9 billion and $3.9 billion in the fourth, third, second and first quarters of 2007, and $3.8 billion in the fourth quarter of 2006, respectively.
(5) Includes consumer finance loans of $3.1 billion, $3.2 billion, $3.4 billion and $3.0 billion in the fourth, third, second and first quarters of 2007, and $2.8 billion in the fourth quarter of 2006, respectively; and other foreign consumer loans of $845 million, $843 million, $775 million and $1.9 billion in the fourth, third, second and first quarters of 2007, and $4.0 billion in the fourth quarter of 2006, respectively.
(6) Includes domestic commercial real estate loans of $58.5 billion, $38.0 billion, $36.2 billion and $35.5 billion in the fourth, third, second and first quarters of 2007, and $36.1 billion in the fourth quarter of 2006, respectively.
(7) Interest income includes the impact of interest rate risk management contracts, which decreased interest income on assets $134 million, $170 million, $117 million and $121 million in the fourth, third, second and first quarters of 2007, and $198 million in the fourth quarter of 2006, respectively. Interest expense includes the impact of interest rate risk management contracts, which increased (decreased) interest expense on liabilities $201 million, $226 million, $207 million and $179 million in the fourth, third, second and first quarters of 2007, and $(69) million in the fourth quarter of 2006, respectively. For further information on interest rate contracts, see Interest Rate Risk Management for Nontrading Activities beginning on page 65.

**Quarterly Average Balances and Interest Rates – FTE Basis (continued)**

| (Dollars in millions) | Second Quarter 2007 Average Balance | Second Quarter 2007 Interest Income/ Expense | Second Quarter 2007 Yield/ Rate | First Quarter 2007 Average Balance | First Quarter 2007 Interest Income/ Expense | First Quarter 2007 Yield/ Rate | Fourth Quarter 2006 Average Balance | Fourth Quarter 2006 Interest Income/ Expense | Fourth Quarter 2006 Yield/ Rate |
|---|---|---|---|---|---|---|---|---|---|
| **Earning assets** | | | | | | | | | |
| Time deposits placed and other short-term investments | $ 15,310 | $ 188 | 4.92% | $ 15,023 | $ 169 | 4.57% | $ 15,760 | $ 166 | 4.19% |
| Federal funds sold and securities purchased under agreements to resell | 166,258 | 2,156 | 5.19 | 166,195 | 1,979 | 4.79 | 174,167 | 2,068 | 4.73 |
| Trading account assets | 188,287 | 2,364 | 5.03 | 175,249 | 2,357 | 5.41 | 167,163 | 2,289 | 5.46 |
| Debt securities [1] | 177,834 | 2,394 | 5.39 | 186,498 | 2,451 | 5.27 | 193,601 | 2,504 | 5.17 |
| Loans and leases [2]: | | | | | | | | | |
| Residential mortgage | 260,099 | 3,708 | 5.70 | 246,618 | 3,504 | 5.69 | 225,985 | 3,202 | 5.66 |
| Credit card – domestic | 56,235 | 1,777 | 12.67 | 57,720 | 1,887 | 13.26 | 59,802 | 2,101 | 13.94 |
| Credit card – foreign | 11,946 | 350 | 11.76 | 11,133 | 317 | 11.55 | 10,375 | 305 | 11.66 |
| Home equity [3] | 94,267 | 1,779 | 7.57 | 89,559 | 1,679 | 7.60 | 84,905 | 1,626 | 7.60 |
| Direct/Indirect consumer [4] | 68,175 | 1,441 | 8.48 | 64,038 | 1,303 | 8.25 | 57,273 | 1,185 | 8.21 |
| Other consumer [5] | 4,153 | 100 | 9.71 | 4,928 | 122 | 9.93 | 6,804 | 141 | 8.32 |
| Total consumer | 494,875 | 9,155 | 7.41 | 473,996 | 8,812 | 7.50 | 445,144 | 8,560 | 7.65 |
| Commercial – domestic | 166,529 | 3,039 | 7.32 | 163,620 | 2,934 | 7.27 | 158,604 | 2,907 | 7.27 |
| Commercial real estate [6] | 36,788 | 687 | 7.49 | 36,117 | 672 | 7.55 | 36,851 | 704 | 7.58 |
| Commercial lease financing | 19,784 | 217 | 4.40 | 19,651 | 175 | 3.55 | 21,159 | 254 | 4.80 |
| Commercial – foreign | 22,223 | 319 | 5.75 | 20,658 | 330 | 6.48 | 21,840 | 337 | 6.12 |
| Total commercial | 245,324 | 4,262 | 6.97 | 240,046 | 4,111 | 6.94 | 238,454 | 4,202 | 7.00 |
| Total loans and leases | 740,199 | 13,417 | 7.26 | 714,042 | 12,923 | 7.31 | 683,598 | 12,762 | 7.42 |
| Other earning assets | 70,311 | 1,108 | 6.31 | 64,939 | 1,010 | 6.28 | 65,172 | 1,058 | 6.46 |
| Total earning assets [7] | 1,358,199 | 21,627 | 6.38 | 1,321,946 | 20,889 | 6.37 | 1,299,461 | 20,847 | 6.39 |
| Cash and cash equivalents | 33,689 | | | 33,623 | | | 32,816 | | |
| Other assets, less allowance for loan and lease losses | 169,761 | | | 165,849 | | | 162,873 | | |
| **Total assets** | $1,561,649 | | | $1,521,418 | | | $1,495,150 | | |
| **Interest-bearing liabilities** | | | | | | | | | |
| Domestic interest-bearing deposits: | | | | | | | | | |
| Savings | $ 33,039 | $ 47 | 0.58% | $ 32,773 | $ 41 | 0.50% | $ 32,965 | $ 48 | 0.58% |
| NOW and money market deposit accounts | 212,330 | 987 | 1.86 | 212,249 | 936 | 1.79 | 211,055 | 966 | 1.81 |
| Consumer CDs and IRAs | 161,703 | 1,857 | 4.61 | 159,505 | 1,832 | 4.66 | 154,621 | 1,794 | 4.60 |
| Negotiable CDs, public funds and other time deposits | 16,256 | 191 | 4.70 | 13,376 | 136 | 4.12 | 13,052 | 140 | 4.30 |
| Total domestic interest-bearing deposits | 423,328 | 3,082 | 2.92 | 417,903 | 2,945 | 2.86 | 411,693 | 2,948 | 2.84 |
| Foreign interest-bearing deposits: | | | | | | | | | |
| Banks located in foreign countries | 41,940 | 522 | 4.99 | 40,372 | 531 | 5.34 | 38,648 | 507 | 5.21 |
| Governments and official institutions | 17,868 | 224 | 5.02 | 14,482 | 178 | 4.98 | 14,220 | 168 | 4.70 |
| Time, savings and other | 40,335 | 433 | 4.31 | 39,534 | 380 | 3.90 | 41,328 | 366 | 3.50 |
| Total foreign interest-bearing deposits | 100,143 | 1,179 | 4.72 | 94,388 | 1,089 | 4.68 | 94,196 | 1,041 | 4.38 |
| Total interest-bearing deposits | 523,471 | 4,261 | 3.27 | 512,291 | 4,034 | 3.19 | 505,889 | 3,989 | 3.13 |
| Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings | 419,260 | 5,537 | 5.30 | 414,104 | 5,318 | 5.20 | 405,748 | 5,222 | 5.11 |
| Trading account liabilities | 85,550 | 821 | 3.85 | 77,635 | 892 | 4.66 | 75,261 | 800 | 4.21 |
| Long-term debt | 158,500 | 2,227 | 5.62 | 148,627 | 2,048 | 5.51 | 140,756 | 1,881 | 5.34 |
| **Total interest-bearing liabilities [7]** | 1,186,781 | 12,846 | 4.34 | 1,152,657 | 12,292 | 4.31 | 1,127,654 | 11,892 | 4.19 |
| Noninterest-bearing sources: | | | | | | | | | |
| Noninterest-bearing deposits | 173,564 | | | 174,413 | | | 174,356 | | |
| Other liabilities | 67,753 | | | 60,760 | | | 59,093 | | |
| Shareholders' equity | 133,551 | | | 133,588 | | | 134,047 | | |
| **Total liabilities and shareholders' equity** | $1,561,649 | | | $1,521,418 | | | $1,495,150 | | |
| Net interest spread | | | 2.04% | | | 2.06% | | | 2.20% |
| Impact of noninterest-bearing sources | | | 0.55 | | | 0.55 | | | 0.55 |
| **Net interest income/yield on earning assets** | | $ 8,781 | 2.59% | | $ 8,597 | 2.61% | | $ 8,955 | 2.75% |

For Footnotes, see page 83.

## Glossary

Assets in Custody – Consist largely of custodial and non-discretionary trust assets administered for customers excluding brokerage assets. Trust assets encompass a broad range of asset types including real estate, private company ownership interest, personal property and investments.

Assets Under Management (AUM) – The total market value of assets under the investment advisory and discretion of *Global Wealth and Investment Management* which generate asset management fees based on a percentage of the assets' market value. AUM reflects assets that are generally managed for institutional, high net-worth and retail clients and are distributed through various investment products including mutual funds, other commingled vehicles and separate accounts.

Bridge Loan – A loan or security which is expected to be replaced by permanent financing (debt or equity securities, loan syndication or asset sales) prior to the maturity date of the loan. Bridge loans may include an unfunded commitment, as well as funded amounts, and are generally expected to be retired in one year or less.

CDOs-Squared – A type of CDO where the underlying collateralizing securities include tranches of other CDOs.

Client Brokerage Assets – Include client assets which are held in brokerage accounts. This includes non-discretionary brokerage and fee-based assets which generate brokerage income and asset management fee revenue.

Committed Credit Exposure – Committed credit exposure includes any funded portion of a facility plus the unfunded portion of a facility on which the Corporation is legally bound to advance funds during a specified period under prescribed conditions.

Core Net Interest Income – Managed Basis – Net interest income on a fully taxable-equivalent basis excluding the impact of market-based activities and certain securitizations.

Credit Default Swaps (CDS) – A derivative contract that provides protection against the deterioration of credit quality and would allow one party to receive payment in the event of default by a third party under a borrowing arrangement.

Derivative – A contract or agreement whose value is derived from changes in an underlying index such as interest rates, foreign exchange rates or prices of securities. Derivatives utilized by the Corporation include swaps, financial futures and forward settlement contracts, and option contracts.

Excess Servicing Income – For certain assets that have been securitized, interest income, fee revenue and recoveries in excess of interest paid to the investors, gross credit losses and other trust expenses related to the securitized receivables are all reclassified into excess servicing income, which is a component of card income. Excess servicing income also includes the changes in fair value of the Corporation's card related retained interests.

Interest-only (IO) Strip – A residual interest in a securitization trust representing the right to receive future net cash flows from securitized assets after payments to third party investors and net credit losses. These arise when assets are transferred to a special purpose entity as part of an asset securitization transaction qualifying for sale treatment under GAAP.

Letter of Credit – A document issued by the Corporation on behalf of a customer to a third party promising to pay that third party upon presentation of specified documents. A letter of credit effectively substitutes the Corporation's credit for that of the Corporation's customer.

Managed Basis – Managed basis assumes that securitized loans were not sold and presents earnings on these loans in a manner similar to the way loans that have not been sold (i.e., held loans) are presented. Noninterest income, both on a held and managed basis, also includes the impact of adjustments to the interest-only strip that are recorded in card income.

Managed Net Losses – Represents net charge-offs on held loans combined with realized credit losses associated with the securitized loan portfolio.

Mortgage Servicing Right (MSR) – The right to service a mortgage loan when the underlying loan is sold or securitized. Servicing includes collections for principal, interest and escrow payments from borrowers and accounting for and remitting principal and interest payments to investors.

Net Interest Yield – Net interest income divided by average total interest-earning assets.

Operating Basis – A basis of presentation not defined by GAAP that excludes merger and restructuring charges.

Qualified Special Purpose Entity (QSPE) – A special purpose entity whose activities are strictly limited to holding and servicing financial assets and meet the requirements set forth in SFAS 140. A qualified special purpose entity is generally not required to be consolidated by any party.

Return on Average Common Shareholders' Equity (ROE) – Measures the earnings contribution of a unit as a percentage of the shareholders' equity allocated to that unit.

Return on Average Tangible Shareholders' Equity (ROTE) – Measures the earnings contribution of a unit as a percentage of the shareholders' equity allocated to that unit reduced by allocated goodwill.

Securitize / Securitization – A process by which financial assets are sold to a special purpose entity, which then issues securities collateralized by those underlying assets, and the return on the securities issued is based on the principal and interest cash flow of the underlying assets.

Structured Investment Vehicle (SIV) – An entity that issues short duration debt and uses the proceeds from the issuance to purchase longer-term fixed income securities.

Unrecognized Tax Benefit (UTB) – The difference between the benefit recognized for a tax position in accordance with FIN 48, which is measured as the largest dollar amount of that position that is more-likely-than-not to be sustained upon settlement, and the tax benefit claimed on a tax return.

Value-at-Risk (VAR) – A VAR model estimates a range of hypothetical scenarios to calculate a potential loss which is not expected to be exceeded with a specified confidence level. VAR is a key statistic used to measure and manage market risk.

Variable Interest Entities (VIE) – A term defined by FIN 46R for an entity whose equity investors do not have a controlling financial interest. The entity may not have sufficient equity at risk to finance its activities without additional subordinated financial support from third parties. The equity investors may lack the ability to make significant decisions about the entity's activities, or they may not absorb the losses or receive the residual returns generated by the assets and other contractual arrangements of the VIE. The entity that will absorb a majority of expected variability (the sum of the absolute values of the expected losses and expected residual returns) consolidates the VIE and is referred to as the primary beneficiary.

**Accounting Pronouncements**

| | |
|---|---|
| **SFAS 52** | Foreign Currency Translation |
| **SFAS 109** | Accounting for Income Taxes |
| **SFAS 133** | Accounting for Derivative Instruments and Hedging Activities, as amended |
| **SFAS 140** | Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities – a replacement of FASB Statement No. 125 |
| **SFAS 142** | Goodwill and Other Intangible Assets |
| **SFAS 157** | Fair Value Measurements |
| **SFAS 159** | The Fair Value Option for Financial Assets and Financial Liabilities |
| **FIN 46R** | Consolidation of Variable Interest Entities (revised December 2003) – an interpretation of ARB No. 51 |
| **FIN 48** | Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109 |
| **FSP 13-2** | Accounting for a Change or Projected Change in the Timing of Cash Flows Relating to Income Taxes Generated by a Leveraged Lease Transaction |
| **SOP 03-3** | Accounting for Certain Loans or Debt Securities Acquired in a Transfer |

**Acronyms**

| | |
|---|---|
| **ABS** | Asset-backed securities |
| **AFS** | Available-for-sale |
| **AICPA** | American Institute of Certified Public Accountants |
| **ALCO** | Asset and Liability Committee |
| **ALM** | Asset and liability management |
| **CDO** | Collateralized debt obligation |
| **CLO** | Collateralized loan obligation |
| **CMBS** | Commercial mortgage-backed securities |
| **EPS** | Earnings per common share |
| **FASB** | Financial Accounting Standards Board |
| **FDIC** | Federal Deposit and Insurance Corporation |
| **FFIEC** | Federal Financial Institutions Examination Council |
| **FIN** | Financial Accounting Standards Board Interpretation |
| **FRB** | Board of Governors of the Federal Reserve System |
| **FSP** | Financial Accounting Standards Board Staff Position |
| **FTE** | Fully taxable-equivalent |
| **GAAP** | Generally accepted accounting principles in the United States |
| **IPO** | Initial public offering |
| **IRLC** | Interest rate lock commitment |
| **LIBOR** | London InterBank Offered Rate |
| **MD&A** | Management's Discussion and Analysis of Financial Condition and Results of Operations |
| **OCC** | Office of the Comptroller of the Currency |
| **OCI** | Other comprehensive income |
| **SBLCs** | Standby letters of credit |
| **SEC** | Securities and Exchange Commission |
| **SFAS** | Financial Accounting Standards Board Statement of Financial Accounting Standards |
| **SOP** | American Institute of Certified Public Accountants Statement of Position |
| **SPE** | Special purpose entity |

## Item 7A. Quantitative and Qualitative Disclosures About Market Risk

See Market Risk Management in the MD&A beginning on page 61 which is incorporated herein by reference.

## Item 8. Financial Statements and Supplementary Data

### Report of Management on Internal Control Over Financial Reporting

The management of Bank of America Corporation is responsible for establishing and maintaining adequate internal control over financial reporting.

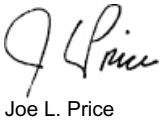
The Corporation's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America. The Corporation's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of the Corporation's internal control over financial reporting as of December 31, 2007, based on the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control – Integrated Framework.* Based on that assessment, management concluded that, as of December 31, 2007, the Corporation's *internal control* over financial reporting is effective based on the criteria established in *Internal Control – Integrated Framework.*

The effectiveness of the Corporation's internal control over financial reporting as of December 31, 2007, has been audited by PricewaterhouseCoopers, LLP, an independent registered public accounting firm.

Kenneth D. Lewis
Chairman, Chief Executive Officer and President



Joe L. Price
Chief Financial Officer

## Report of Independent Registered Public Accounting Firm

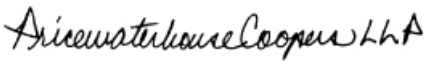
To the Board of Directors and Shareholders
of Bank of America Corporation:

In our opinion, the accompanying Consolidated Balance Sheet and the related Consolidated Statement of Income, Consolidated Statement of Changes in Shareholders' Equity and Consolidated Statement of Cash Flows present fairly, in all material respects, the financial position of Bank of America Corporation and its subsidiaries at December 31, 2007 and 2006, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2007 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Corporation maintained, in all material respects, effective internal control over financial reporting as of December 31, 2007, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Corporation's management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the Report of Management on Internal Control Over Financial Reporting appearing on page 87 of the 2007 Annual Report to Shareholders. Our responsibility is to express opinions on these financial statements and on the Corporation's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

As discussed in *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements, the Corporation has adopted SFAS No. 157, "Fair Value Measurements" and SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities."

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.



Charlotte, North Carolina
February 20, 2008

**Bank of America Corporation and Subsidiaries**

## Consolidated Statement of Income

| (Dollars in millions, except per share information) | Year Ended December 31 2007 | 2006 | 2005 |
|---|---|---|---|
| **Interest income** | | | |
| Interest and fees on loans and leases | **$ 55,681** | $ 48,274 | $ 34,843 |
| Interest on debt securities | **9,784** | 11,655 | 10,937 |
| Federal funds sold and securities purchased under agreements to resell | **7,722** | 7,823 | 5,012 |
| Trading account assets | **9,417** | 7,232 | 5,743 |
| Other interest income | **4,700** | 3,601 | 2,091 |
| Total interest income | **87,304** | 78,585 | 58,626 |
| **Interest expense** | | | |
| Deposits | **18,093** | 14,480 | 9,492 |
| Short-term borrowings | **21,975** | 19,840 | 11,615 |
| Trading account liabilities | **3,444** | 2,640 | 2,364 |
| Long-term debt | **9,359** | 7,034 | 4,418 |
| Total interest expense | **52,871** | 43,994 | 27,889 |
| **Net interest income** | **34,433** | 34,591 | 30,737 |
| **Noninterest income** | | | |
| Card income | **14,077** | 14,290 | 5,753 |
| Service charges | **8,908** | 8,224 | 7,704 |
| Investment and brokerage services | **5,147** | 4,456 | 4,184 |
| Investment banking income | **2,345** | 2,317 | 1,856 |
| Equity investment income | **4,064** | 3,189 | 2,212 |
| Trading account profits (losses) | **(5,131)** | 3,166 | 1,763 |
| Mortgage banking income | **902** | 541 | 805 |
| Gains (losses) on sales of debt securities | **180** | (443) | 1,084 |
| Other income | **1,394** | 2,249 | 1,077 |
| Total noninterest income | **31,886** | 37,989 | 26,438 |
| **Total revenue, net of interest expense** | **66,319** | 72,580 | 57,175 |
| **Provision for credit losses** | **8,385** | 5,010 | 4,014 |
| **Noninterest expense** | | | |
| Personnel | **18,753** | 18,211 | 15,054 |
| Occupancy | **3,038** | 2,826 | 2,588 |
| Equipment | **1,391** | 1,329 | 1,199 |
| Marketing | **2,356** | 2,336 | 1,255 |
| Professional fees | **1,174** | 1,078 | 930 |
| Amortization of intangibles | **1,676** | 1,755 | 809 |
| Data processing | **1,962** | 1,732 | 1,487 |
| Telecommunications | **1,013** | 945 | 827 |
| Other general operating | **5,237** | 4,580 | 4,120 |
| Merger and restructuring charges | **410** | 805 | 412 |
| Total noninterest expense | **37,010** | 35,597 | 28,681 |
| **Income before income taxes** | **20,924** | 31,973 | 24,480 |
| **Income tax expense** | **5,942** | 10,840 | 8,015 |
| **Net income** | **$ 14,982** | $ 21,133 | $ 16,465 |
| **Preferred stock dividends** | **182** | 22 | 18 |
| **Net income available to common shareholders** | **$ 14,800** | $ 21,111 | $ 16,447 |
| **Per common share information** | | | |
| Earnings | **$ 3.35** | $ 4.66 | $ 4.10 |
| Diluted earnings | **3.30** | 4.59 | 4.04 |
| Dividends paid | **2.40** | 2.12 | 1.90 |
| **Average common shares issued and outstanding (in thousands)** | **4,423,579** | 4,526,637 | 4,008,688 |
| **Average diluted common shares issued and outstanding (in thousands)** | **4,480,254** | 4,595,896 | 4,068,140 |

See accompanying Notes to Consolidated Financial Statements.

**Bank of America Corporation and Subsidiaries**

## Consolidated Balance Sheet

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| **Assets** | | |
| Cash and cash equivalents | **$ 42,531** | $ 36,429 |
| Time deposits placed and other short-term investments | **11,773** | 13,952 |
| Federal funds sold and securities purchased under agreements to resell (includes $2,578 measured at fair value at December 31, 2007 and $128,887 and $135,409 pledged as collateral) | **129,552** | 135,478 |
| Trading account assets (includes $88,745 and $92,274 pledged as collateral) | **162,064** | 153,052 |
| Derivative assets | **34,662** | 23,439 |
| Debt securities: | | |
| Available-for-sale (includes $107,440 and $83,785 pledged as collateral) | **213,330** | 192,806 |
| Held-to-maturity, at cost (fair value – $726 and $40) | **726** | 40 |
| Total debt securities | **214,056** | 192,846 |
| Loans and leases (includes $4,590 measured at fair value at December 31, 2007 and $115,285 and $24,632 pledged as collateral) | **876,344** | 706,490 |
| Allowance for loan and lease losses | **(11,588)** | (9,016) |
| Loans and leases, net of allowance | **864,756** | 697,474 |
| Premises and equipment, net | **11,240** | 9,255 |
| Mortgage servicing rights (includes $3,053 and $2,869 measured at fair value) | **3,347** | 3,045 |
| Goodwill | **77,530** | 65,662 |
| Intangible assets | **10,296** | 9,422 |
| Other assets (includes $41,088 measured at fair value at December 31, 2007) | **153,939** | 119,683 |
| **Total assets** | **$ 1,715,746** | $ 1,459,737 |
| **Liabilities** | | |
| Deposits in domestic offices: | | |
| Noninterest-bearing | **$ 188,466** | $ 180,231 |
| Interest-bearing (includes $2,000 measured at fair value at December 31, 2007) | **501,882** | 418,100 |
| Deposits in foreign offices: | | |
| Noninterest-bearing | **3,761** | 4,577 |
| Interest-bearing | **111,068** | 90,589 |
| Total deposits | **805,177** | 693,497 |
| Federal funds purchased and securities sold under agreements to repurchase | **221,435** | 217,527 |
| Trading account liabilities | **77,342** | 67,670 |
| Derivative liabilities | **22,423** | 16,339 |
| Commercial paper and other short-term borrowings | **191,089** | 141,300 |
| Accrued expenses and other liabilities (includes $660 measured at fair value at December 31, 2007 and $518 and $397 of reserve for unfunded lending commitments) | **53,969** | 42,132 |
| Long-term debt | **197,508** | 146,000 |
| **Total liabilities** | **1,568,943** | 1,324,465 |
| Commitments and contingencies *(Note 9 – Variable Interest Entities* and *Note 13 – Commitments and Contingencies)* | | |
| **Shareholders' equity** | | |
| Preferred stock, $0.01 par value; authorized – 100,000,000 shares; issued and outstanding – 185,067 and 121,739 shares | **4,409** | 2,851 |
| Common stock and additional paid-in capital, $0.01 par value; authorized – 7,500,000,000 shares; issued and outstanding – 4,437,885,419 and 4,458,151,391 shares | **60,328** | 61,574 |
| Retained earnings | **81,393** | 79,024 |
| Accumulated other comprehensive income (loss) | **1,129** | (7,711) |
| Other | **(456)** | (466) |
| **Total shareholders' equity** | **146,803** | 135,272 |
| **Total liabilities and shareholders' equity** | **$ 1,715,746** | $ 1,459,737 |

See accompanying Notes to Consolidated Financial Statements.

**Bank of America Corporation and Subsidiaries**

## Consolidated Statement of Changes in Shareholders' Equity

| (Dollars in millions, shares in thousands) | Preferred Stock | Common Stock and Additional Paid-in Capital: Shares | Common Stock and Additional Paid-in Capital: Amount | Retained Earnings | Accumulated Other Comprehensive Income (Loss) [1] | Other | Total Shareholders' Equity | Comprehensive Income |
|---|---|---|---|---|---|---|---|---|
| **Balance, December 31, 2004** | $ 271 | 4,046,546 | $ 44,236 | $ 58,773 | $ (2,764) | $ (281) | $ 100,235 | |
| Net income | | | | 16,465 | | | 16,465 | $ 16,465 |
| Net changes in available-for-sale debt and marketable equity securities | | | | | (2,781) | | (2,781) | (2,781) |
| Net changes in foreign currency translation adjustments | | | | | 32 | | 32 | 32 |
| Net changes in derivatives | | | | | (2,059) | | (2,059) | (2,059) |
| Cash dividends paid: | | | | | | | | |
| Common | | | | (7,665) | | | (7,665) | |
| Preferred | | | | (18) | | | (18) | |
| Common stock issued under employee plans and related tax benefits | | 79,579 | 3,222 | | | (145) | 3,077 | |
| Common stock repurchased | | (126,437) | (5,765) | | | | (5,765) | |
| Other | | | | (3) | 16 | (1) | 12 | 16 |
| **Balance, December 31, 2005** | 271 | 3,999,688 | 41,693 | 67,552 | (7,556) | (427) | 101,533 | 11,673 |
| Adjustment to initially apply FASB Statement No. 158 [2] | | | | | (1,308) | | (1,308) | |
| Net income | | | | 21,133 | | | 21,133 | 21,133 |
| Net changes in available-for-sale debt and marketable equity securities | | | | | 245 | | 245 | 245 |
| Net changes in foreign currency translation adjustments | | | | | 269 | | 269 | 269 |
| Net changes in derivatives | | | | | 641 | | 641 | 641 |
| Cash dividends paid: | | | | | | | | |
| Common | | | | (9,639) | | | (9,639) | |
| Preferred | | | | (22) | | | (22) | |
| Issuance of preferred stock | 2,850 | | | | | | 2,850 | |
| Redemption of preferred stock | (270) | | | | | | (270) | |
| Common stock issued under employee plans and related tax benefits | | 118,418 | 4,863 | | | (39) | 4,824 | |
| Stock issued in acquisition [3] | | 631,145 | 29,377 | | | | 29,377 | |
| Common stock repurchased | | (291,100) | (14,359) | | | | (14,359) | |
| Other | | | | | (2) | | (2) | (2) |
| **Balance, December 31, 2006** | 2,851 | 4,458,151 | 61,574 | 79,024 | (7,711) | (466) | 135,272 | 22,286 |
| Cumulative adjustment for accounting changes [4] : | | | | | | | | |
| Leveraged leases | | | | **(1,381)** | | | **(1,381)** | |
| Fair value option and measurement | | | | **(208)** | | | **(208)** | |
| Income tax uncertainties | | | | **(146)** | | | **(146)** | |
| Net income | | | | **14,982** | | | **14,982** | **14,982** |
| Net changes in available-for-sale debt and marketable equity securities | | | | | **9,269** | | **9,269** | **9,269** |
| Net changes in foreign currency translation adjustments | | | | | **149** | | **149** | **149** |
| Net changes in derivatives | | | | | **(705)** | | **(705)** | **(705)** |
| Employee benefit plan adjustments | | | | | **127** | | **127** | **127** |
| Cash dividends paid: | | | | | | | | |
| Common | | | | **(10,696)** | | | **(10,696)** | |
| Preferred | | | | **(182)** | | | **(182)** | |
| Issuance of preferred stock | **1,558** | | | | | | **1,558** | |
| Common stock issued under employee plans and related tax benefits | | **53,464** | **2,544** | | | **10** | **2,554** | |
| Common stock repurchased | | **(73,730)** | **(3,790)** | | | | **(3,790)** | |
| **Balance, December 31, 2007** | **$ 4,409** | **4,437,885** | **$ 60,328** | **$ 81,393** | **$ 1,129** | **$ (456)** | **$ 146,803** | **$ 23,822** |

(1) Amounts shown are net-of-tax. For additional information on accumulated OCI, *see Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.
(2) Includes accumulated adjustment to apply SFAS 158 of $(1,428) million, net-of-tax, and the reversal of the additional minimum liability adjustment of $120 million, net-of-tax.
(3) Includes adjustment for the fair value of outstanding MBNA Corporation (MBNA) stock options of $435 million.
(4) Effective January 1, 2007, the Corporation adopted FSP 13-2, SFAS 157, SFAS 159 and FIN 48. For additional information on the adoption of these accounting pronouncements, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

See accompanying Notes to Consolidated Financial Statements.

**Bank of America Corporation and Subsidiaries**

## Consolidated Statement of Cash Flows

| (Dollars in millions) | Year Ended December 31 2007 | 2006 | 2005 |
|---|---|---|---|
| **Operating activities** | | | |
| Net income | **$ 14,982** | $ 21,133 | $ 16,465 |
| Reconciliation of net income to net cash provided by (used in) operating activities: | | | |
| Provision for credit losses | **8,385** | 5,010 | 4,014 |
| (Gains) losses on sales of debt securities | **(180)** | 443 | (1,084) |
| Depreciation and premises improvements amortization | **1,168** | 1,114 | 959 |
| Amortization of intangibles | **1,676** | 1,755 | 809 |
| Deferred income tax (benefit) expense | **(753)** | 1,850 | 1,695 |
| Net increase in trading and derivative instruments | **(8,108)** | (3,870) | (18,911) |
| Net increase in other assets | **(15,855)** | (17,070) | (104) |
| Net increase (decrease) in accrued expenses and other liabilities | **4,190** | 4,517 | (8,205) |
| Other operating activities, net | **5,531** | (373) | (7,861) |
| Net cash provided by (used in) operating activities | **11,036** | 14,509 | (12,223) |
| **Investing activities** | | | |
| Net (increase) decrease in time deposits placed and other short-term investments | **2,191** | (3,053) | (439) |
| Net (increase) decrease in federal funds sold and securities purchased under agreements to resell | **6,294** | 13,020 | (58,425) |
| Proceeds from sales of available-for-sale debt securities | **28,107** | 53,446 | 134,490 |
| Proceeds from paydowns and maturities of available-for-sale debt securities | **19,233** | 22,417 | 39,519 |
| Purchases of available-for-sale debt securities | **(28,016)** | (40,905) | (204,476) |
| Proceeds from maturities of held-to-maturity debt securities | **630** | 7 | 283 |
| Purchases of held-to-maturity debt securities | **(314)** | – | – |
| Proceeds from sales of loans and leases | **57,875** | 37,812 | 14,458 |
| Other changes in loans and leases, net | **(177,665)** | (145,779) | (71,078) |
| Net purchases of premises and equipment | **(2,143)** | (748) | (1,228) |
| Proceeds from sales of foreclosed properties | **104** | 93 | 132 |
| (Acquisition) divestiture of business activities, net | **(19,816)** | (2,388) | (49) |
| Other investing activities, net | **5,040** | (2,226) | (3,632) |
| Net cash used in investing activities | **(108,480)** | (68,304) | (150,445) |
| **Financing activities** | | | |
| Net increase in deposits | **45,368** | 38,340 | 16,100 |
| Net increase (decrease) in federal funds purchased and securities sold under agreements to repurchase | **(1,448)** | (22,454) | 120,914 |
| Net increase in commercial paper and other short-term borrowings | **32,840** | 23,709 | 37,671 |
| Proceeds from issuance of long-term debt | **67,370** | 49,464 | 21,958 |
| Retirement of long-term debt | **(28,942)** | (17,768) | (15,107) |
| Proceeds from issuance of preferred stock | **1,558** | 2,850 | – |
| Redemption of preferred stock | **–** | (270) | – |
| Proceeds from issuance of common stock | **1,118** | 3,117 | 2,846 |
| Common stock repurchased | **(3,790)** | (14,359) | (5,765) |
| Cash dividends paid | **(10,878)** | (9,661) | (7,683) |
| Excess tax benefits of share-based payments | **254** | 477 | – |
| Other financing activities, net | **(38)** | (312) | (117) |
| Net cash provided by financing activities | **103,412** | 53,133 | 170,817 |
| Effect of exchange rate changes on cash and cash equivalents | **134** | 92 | (86) |
| Net increase (decrease) in cash and cash equivalents | **6,102** | (570) | 8,063 |
| Cash and cash equivalents at January 1 | **36,429** | 36,999 | 28,936 |
| **Cash and cash equivalents at December 31** | **$ 42,531** | $ 36,429 | $ 36,999 |
| **Supplemental cash flow disclosures** | | | |
| Cash paid for interest | **$ 51,829** | $ 42,355 | $ 26,239 |
| Cash paid for income taxes | **9,196** | 7,210 | 7,049 |

The fair values of noncash assets acquired and liabilities assumed in the LaSalle Bank Corporation merger were $115.8 billion and $97.1 billion at October 1, 2007.

The fair values of noncash assets acquired and liabilities assumed in the U.S. Trust Corporation merger were $12.9 billion and $9.8 billion at July 1, 2007.

During 2007, the Corporation sold its operations in Chile and Uruguay for approximately $750 million in equity in Banco Itaú Holding Financeira S.A., and its assets in BankBoston Argentina for the assumption of its liabilities. The total assets and liabilities in these divestitures were $6.1 billion and $5.6 billion.

During 2007, the Corporation transferred $1.7 billion of trading account assets to AFS debt securities.

On January 1, 2007, the Corporation transferred $3.7 billion of AFS debt securities to trading account assets following the adoption of SFAS 159.

The fair values of noncash assets acquired and liabilities assumed in the MBNA merger were $83.3 billion and $50.4 billion at January 1, 2006.

Approximately 631 million shares of common stock, valued at approximately $28.9 billion were issued in connection with the MBNA merger.

See accompanying Notes to Consolidated Financial Statements.

# Bank of America Corporation and Subsidiaries

## Notes to Consolidated Financial Statements

On October 1, 2007, Bank of America Corporation and its subsidiaries (the Corporation) acquired all the outstanding shares of ABN AMRO North America Holding Company, parent of LaSalle Bank Corporation (LaSalle), for $21.0 billion in cash. On July 1, 2007, the Corporation acquired all the outstanding shares of U.S. Trust Corporation for $3.3 billion in cash. On January 1, 2006, the Corporation acquired 100 percent of the outstanding stock of MBNA Corporation (MBNA). These mergers were accounted for under the purchase method of accounting. Consequently, LaSalle, U.S. Trust Corporation and MBNA's results of operations were included in the Corporation's results from their dates of acquisition.

The Corporation, through its banking and nonbanking subsidiaries, provides a diverse range of financial services and products throughout the U.S. and in selected international markets. At December 31, 2007, the Corporation operated its banking activities primarily under three charters: Bank of America, National Association (Bank of America, N.A.), FIA Card Services, N.A. and LaSalle Bank, N.A. Bank of America, N.A. was the surviving entity after the merger with Fleet National Bank on June 13, 2005. Effective June 10, 2006, MBNA America Bank N.A. was renamed FIA Card Services, N.A., and on October 20, 2006, Bank of America, N.A. (USA) merged into FIA Card Services, N.A. These mergers had no impact on the Consolidated Financial Statements of the Corporation. LaSalle Bank, N.A. was acquired in connection with the LaSalle acquisition.

## Note 1 – Summary of Significant Accounting Principles

### Principles of Consolidation and Basis of Presentation

The Consolidated Financial Statements include the accounts of the Corporation and its majority-owned subsidiaries, and those variable interest entities (VIEs) where the Corporation is the primary beneficiary. All significant intercompany accounts and transactions have been eliminated. Results of operations of companies purchased are included from the dates of acquisition and for VIEs, from the dates that the Corporation became the primary beneficiary. Assets held in an agency or fiduciary capacity are not included in the Consolidated Financial Statements. The Corporation accounts for investments in companies for which it owns a voting interest of 20 percent to 50 percent and for which it has the ability to exercise significant influence over operating and financing decisions using the equity method of accounting. These investments are included in other assets and the Corporation's proportionate share of income or loss is included in equity investment income.

The preparation of the Consolidated Financial Statements in conformity with accounting principles generally accepted in the United States (GAAP) requires management to make estimates and assumptions that affect reported amounts and disclosures. Actual results could differ from those estimates and assumptions.

In 2007, the Corporation changed its basis of presentation for its business segments. For additional information on the Corporation's business segments see *Note 22 – Business Segment Information* to the Consolidated Financial Statements. Also in 2007, the Corporation changed the current and historical presentation of its Consolidated Statement of Income to present gains (losses) on sales of debt securities as a component of noninterest income.

Certain prior period amounts have been reclassified to conform to current period presentation.

### Recently Issued Accounting Pronouncements

On December 4, 2007, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 141 (revised 2007), "Business Combinations" (SFAS 141R). SFAS 141R modifies the accounting for business combinations and requires, with limited exceptions, the acquirer in a business combination to recognize 100 percent of the assets acquired, liabilities assumed, and any noncontrolling interest in the acquiree at the acquisition-date fair value. In addition, SFAS 141R requires the expensing of acquisition-related transaction and restructuring costs, and certain contingent assets and liabilities acquired, as well as contingent consideration, to be recognized at fair value. SFAS 141R also modifies the accounting for certain acquired income tax assets and liabilities. SFAS 141R is effective for new acquisitions consummated on or after January 1, 2009 and early adoption is not permitted.

On December 4, 2007, the FASB also issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements" (SFAS 160). SFAS 160 requires all entities to report noncontrolling (i.e., minority) interests in subsidiaries as equity in the Consolidated Financial Statements and to account for transactions between an entity and noncontrolling owners as equity transactions if the parent retains its controlling financial interest in the subsidiary. SFAS 160 also requires expanded disclosure that distinguishes between the interests of the controlling owners and the interests of the noncontrolling owners of a subsidiary. SFAS 160 is effective for the Corporation's financial statements for the year beginning on January 1, 2009 and earlier adoption is not permitted. The adoption of SFAS 160 is not expected to have a material impact on the Corporation's financial condition and results of operations.

On November 5, 2007, the Securities and Exchange Commission (SEC) issued Staff Accounting Bulletin (SAB) No. 109, "Written Loan Commitments Recorded at Fair Value Through Earnings" (SAB 109). SAB 109 requires that the expected net future cash flows related to servicing of a loan be included in the measurement of all written loan commitments that are accounted for at fair value through earnings. The adoption of SAB 109 is on a prospective basis and effective for the Corporation's loan commitments measured at fair value through earnings which are issued or modified after January 1, 2008. The adoption of SAB 109 will not have a material impact on the Corporation's financial condition and results of operations.

On June 27, 2007, the FASB ratified the Emerging Issues Task Force (EITF) consensus on Issue No. 06-11, "Accounting for Income Tax Benefits of Dividends on Share-Based Payment Awards" (EITF 06-11). Effective January 1, 2008, EITF 06-11 requires on a prospective basis that the tax benefit related to dividend equivalents paid on restricted stock and restricted stock units which are expected to vest be recorded as an increase to additional paid-in capital. Prior to January 1, 2008, the Corpo-

ration accounted for this tax benefit as a reduction to income tax expense. The adoption of EITF 06-11 will not have a material impact on the Corporation's financial condition and results of operations.

Effective January 1, 2007, the Corporation adopted SFAS No. 157, "Fair Value Measurements" (SFAS 157) and SFAS No. 159 "The Fair Value Option for Financial Assets and Financial Liabilities" (SFAS 159). SFAS 157 defines fair value, establishes a framework for measuring fair value under GAAP and enhances disclosures about fair value measurements. Fair value is defined under SFAS 157 as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. SFAS 159 allows an entity the irrevocable option to elect fair value for the initial and subsequent measurement for certain financial assets and liabilities on a contract-by-contract basis. The impact of adopting both SFAS 157 and SFAS 159 reduced the beginning balance of retained earnings as of January 1, 2007 by $208 million, net-of-tax. Subsequent changes in fair value of these financial assets and liabilities are recognized in earnings when they occur. For additional information on the fair value of certain financial assets and liabilities, see the Fair Value section of this note and *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

Effective January 1, 2007, the Corporation adopted FASB Staff Position (FSP) No. FAS 13-2, "Accounting for a Change or Projected Change in the Timing of Cash Flows Relating to Income Taxes Generated by a Leveraged Lease Transaction" (FSP 13-2). The principal provision of FSP 13-2 is the requirement that a lessor recalculate the recognition of lease income when there is a change in the estimated timing of the cash flows relating to income taxes generated by such leveraged lease. The adoption of FSP 13-2 reduced the beginning balance of retained earnings as of January 1, 2007 by $1.4 billion, net-of-tax, with a corresponding offset decreasing the net investment in leveraged leases recorded as part of loans and leases. Following the adoption, if during the remainder of the lease term the timing of the income tax cash flows generated by the leveraged leases are revised as a result of final determination by the Internal Revenue Service (IRS) on certain leveraged leases or management changes its assumption about the timing of the tax cash flows, the rate of return shall be recalculated from the inception of the lease using the revised assumption and the change in the net investment shall be recognized as a gain or loss in the year in which the assumption is changed.

Effective January 1, 2007, the Corporation adopted FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109" (FIN 48). FIN 48 clarifies the accounting and reporting for income taxes where interpretation of the tax law may be uncertain. FIN 48 prescribes a comprehensive model for the financial statement recognition, measurement, presentation and disclosure of income tax uncertainties with respect to positions taken or expected to be taken in income tax returns. The adoption of FIN 48 reduced the beginning balance of retained earnings as of January 1, 2007 by $146 million and increased goodwill by $52 million. For additional information on income taxes, see *Note 18 – Income Taxes* to the Consolidated Financial Statements.

### Cash and Cash Equivalents

Cash on hand, cash items in the process of collection, and amounts due from correspondent banks and the Federal Reserve Bank are included in cash and cash equivalents.

### Securities Purchased Under Agreements to Resell and Securities Sold under Agreements to Repurchase

Securities purchased under agreements to resell and securities sold under agreements to repurchase are treated as collateralized financing transactions. These agreements are recorded at the amounts at which the securities were acquired or sold plus accrued interest, except for certain structured reverse repurchase agreements for which the Corporation has elected the fair value option. For more information on structured reverse repurchase agreements for which the Corporation has elected the fair value option, see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements. The Corporation's policy is to obtain the use of securities purchased under agreements to resell. The market value of the underlying securities, including accrued interest, which collateralize the related receivable on agreements to resell, is monitored. The Corporation may require counterparties to deposit additional collateral or return collateral pledged, when appropriate.

### Collateral

The Corporation accepts collateral that it is permitted by contract or custom to sell or repledge. At December 31, 2007, the fair value of this collateral was approximately $210.7 billion of which $156.3 billion was sold or repledged. At December 31, 2006, the fair value of this collateral was approximately $186.6 billion of which $113.0 billion was sold or repledged. The primary source of this collateral is reverse repurchase agreements. The Corporation also pledges securities and loans as collateral in transactions that include repurchase agreements, public and trust deposits, Treasury tax and loan notes, and other short-term borrowings. This collateral can be sold or repledged by the counterparties to the transactions.

In addition, the Corporation obtains collateral in connection with its derivative activities. Required collateral levels vary depending on the credit risk rating and the type of counterparty. Generally, the Corporation accepts collateral in the form of cash, U.S. Treasury securities and other marketable securities. Based on provisions contained in legal netting agreements, the Corporation has netted cash collateral against the applicable derivative mark-to-market exposures. Accordingly, the Corporation offsets its obligation to return or its right to reclaim cash collateral against the fair value of the derivatives being collateralized. The Corporation also pledges collateral on its own derivative positions which can be applied against derivative liabilities.

### Trading Instruments

Financial instruments utilized in trading activities are stated at fair value. Fair value is generally based on quoted market prices or quoted market prices for similar assets and liabilities. If these market prices are not available, fair values are estimated based on dealer quotes, pricing models, discounted cash flow methodologies, or similar techniques for which the determination of fair value may require significant management judgment or estimation. Realized and unrealized gains and losses are recognized in trading account profits (losses).

### Derivatives and Hedging Activities

The Corporation designates a derivative as held for trading, an economic hedge not designated as a SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities, as amended" (SFAS 133) hedge, or a qualifying SFAS 133 hedge when it enters into the derivative contract. The designation may change based upon management's reassessment or changing circumstances. Derivatives utilized by the Corporation include swaps, financial futures and forward settlement contracts, and option contracts. A swap agreement is a contract between two parties to

exchange cash flows based on specified underlying notional amounts, assets and/or indices. Financial futures and forward settlement contracts are agreements to buy or sell a quantity of a financial instrument, index, currency or commodity at a predetermined future date, and rate or price. An option contract is an agreement that conveys to the purchaser the right, but not the obligation, to buy or sell a quantity of a financial instrument (including another derivative financial instrument), index, currency or commodity at a predetermined rate or price during a period or at a time in the future. Option agreements can be transacted on organized exchanges or directly between parties. The Corporation also provides credit derivatives to customers who wish to increase or decrease credit exposures. In addition, the Corporation utilizes credit derivatives to manage the credit risk associated with the loan portfolio.

All derivatives are recognized on the Consolidated Balance Sheet at fair value, taking into consideration the effects of legally enforceable master netting agreements that allow the Corporation to settle positive and negative positions and offset cash collateral held with the same counterparty on a net basis. For exchange-traded contracts, fair value is based on quoted market prices. For non-exchange traded contracts, fair value is based on dealer quotes, pricing models, discounted cash flow methodologies, or similar techniques for which the determination of fair value may require significant management judgment or estimation.

Valuations of derivative assets and liabilities reflect the value of the instrument including the values associated with counterparty risk. With the issuance of SFAS 157, these values must also take into account the Corporation's own credit standing, thus including in the valuation of the derivative instrument the value of the net credit differential between the counterparties to the derivative contract. Effective January 1, 2007, the Corporation updated its methodology to include the impact of both the counterparty and its own credit standing.

Prior to January 1, 2007, the Corporation recognized gains and losses at inception of a derivative contract only if the fair value of the contract was evidenced by a quoted market price in an active market, an observable price or other market transaction, or other observable data supporting a valuation model in accordance with EITF Issue No. 02-3, "Issues Involved in Accounting for Derivative Contracts Held for Trading Purposes and Contracts Involved in Energy Trading and Risk Management Activities" (EITF 02-3). For those gains and losses not evidenced by the above mentioned market data, the transaction price was used as the fair value of the derivative contract. Any difference between the transaction price and the model fair value was considered an unrecognized gain or loss at inception of the contract. These unrecognized gains and losses were recorded in income using the straight line method of amortization over the contractual life of the derivative contract. The adoption of SFAS 157 on January 1, 2007, eliminated the deferral of these gains and losses resulting in the recognition of previously deferred gains and losses as an increase to the beginning balance of retained earnings by a pre-tax amount of $22 million.

**Trading Derivatives and Economic Hedges**

The Corporation designates at inception whether the derivative contract is considered hedging or non-hedging for SFAS 133 accounting purposes. Derivatives held for trading purposes are included in derivative assets or derivative liabilities with changes in fair value reflected in trading account profits (losses).

Derivatives used as economic hedges but not designated in a hedging relationship for accounting purposes are also included in derivative assets or derivative liabilities. Changes in the fair value of derivatives that serve as economic hedges of mortgage servicing rights (MSRs), interest rate lock commitments (IRLCs) and first mortgage loans held-for-sale that are originated by the Corporation are recorded in mortgage banking income. Changes in the fair value of derivatives that serve as asset and liability management (ALM) economic hedges, which do not qualify or were not designated as accounting hedges, are recorded in other income. Credit derivatives used by the Corporation do not qualify for hedge accounting under SFAS 133 despite being effective economic hedges with changes in the fair value of these derivatives included in other income.

**Derivatives Used For SFAS 133 Hedge Accounting Purposes**

For SFAS 133 hedges, the Corporation formally documents at inception all relationships between hedging instruments and hedged items, as well as its risk management objectives and strategies for undertaking various accounting hedges. Additionally, the Corporation uses dollar offset or regression analysis at the hedge's inception and for each reporting period thereafter to assess whether the derivative used in its hedging transaction is expected to be and has been highly effective in offsetting changes in the fair value or cash flows of the hedged item. The Corporation discontinues hedge accounting when it is determined that a derivative is not expected to be or has ceased to be highly effective as a hedge, and then reflects changes in fair value of the derivative in earnings after termination of the hedge relationship.

The Corporation uses its derivatives designated as hedging for accounting purposes as either fair value hedges, cash flow hedges or hedges of net investments in foreign operations. The Corporation manages interest rate and foreign currency exchange rate sensitivity predominantly through the use of derivatives. Fair value hedges are used to protect against changes in the fair value of the Corporation's assets and liabilities that are due to interest rate or foreign exchange volatility. Cash flow hedges are used to minimize the variability in cash flows of assets or liabilities, or forecasted transactions caused by interest rate or foreign exchange fluctuation. For terminated cash flow hedges, the maximum length of time over which forecasted transactions are hedged is 28 years, with a substantial portion of the hedged transactions being less than 10 years. For open cash flow hedges, the maximum length of time over which forecasted transactions are hedged is less than seven years. Changes in the fair value of derivatives designated as fair value hedges are recorded in earnings, together and in the same income statement line item with changes in the fair value of the related hedged item. Changes in the fair value of derivatives designated as cash flow hedges are recorded in accumulated other comprehensive income (OCI) and are reclassified into the line item in the Consolidated Statement of Income in which the hedged item is recorded in the same period the hedged item affects earnings. Hedge ineffectiveness and gains and losses on the excluded component of a derivative in assessing hedge effectiveness are recorded in earnings in the same income statement line item that is used to record hedge effectiveness. SFAS 133 retains certain concepts of SFAS No. 52, "Foreign Currency Translation," (SFAS 52) for foreign currency exchange hedging. Consistent with SFAS 52, the Corporation records changes in the fair value of derivatives used as hedges of the net investment in foreign operations, to the extent effective, as a component of accumulated OCI.

If a derivative instrument in a fair value hedge is terminated or the hedge designation removed, the previous adjustments to the carrying amount of the hedged asset or liability are subsequently accounted for in the same manner as other components of the carrying amount of that asset or liability. For interest-earning assets and interest-bearing liabilities, such adjustments are amortized to earnings over the remaining life of the respective asset or liability. If a derivative instrument in a cash flow hedge is terminated or the hedge designation is removed, related amounts in

accumulated OCI are reclassified into earnings in the same period or periods during which the hedged forecasted transaction affects earnings. If it is probable that a forecasted transaction will not occur, any related amounts in accumulated OCI are reclassified into earnings in that period.

### Interest Rate Lock Commitments

The Corporation enters into IRLCs in connection with its mortgage banking activities to fund residential mortgage loans at specified times in the future. IRLCs that relate to the origination of mortgage loans that will be held for sale are considered derivative instruments under SFAS No. 149, "Amendment of Statement 133 on Derivative Instruments and Hedging Activities." As such, these IRLCs are recorded at fair value with changes in fair value recorded in mortgage banking income.

Consistent with SEC SAB No. 105, "Application of Accounting Principles to Loan Commitments," (SAB 105) the Corporation did not record any unrealized gain or loss at the inception of the loan commitment, which is the time the commitment is issued to the borrower. The Corporation recorded unrealized gains or losses based upon subsequent changes in the value from the inception of the loan commitment. In estimating the fair value of an IRLC, the Corporation assigns a probability to the loan commitment based on an expectation that it will be exercised and the loan will be funded. The fair value of the commitments is derived from the fair value of related mortgage loans which is based on observable market data. Changes to the fair value of IRLCs are recognized based on interest rate changes, changes in the probability that the commitment will be exercised and the passage of time. Changes from the expected future cash flows related to the customer relationship or loan servicing are excluded from the valuation of the IRLCs. Effective January 1, 2008, the Corporation will adopt SAB 109 for its derivative loan commitments issued or modified after the adoption date which will supersede SAB 105. For additional information on the adoption of SAB 109, see the Recently Issued Accounting Pronouncements section of this note.

Outstanding IRLCs expose the Corporation to the risk that the price of the loans underlying the commitments might decline from inception of the rate lock to funding of the loan. To protect against this risk, the Corporation utilizes forward loan sales commitments and other derivative instruments, including interest rate swaps and options, to economically hedge the risk of potential changes in the value of the loans that would result from the commitments. The changes in the fair value of these derivatives are recorded in mortgage banking income.

### Securities

Debt securities are classified based on management's intention on the date of purchase and recorded on the Consolidated Balance Sheet as debt securities as of the trade date. Debt securities which management has the intent and ability to hold to maturity are classified as held-to-maturity and reported at amortized cost. Debt securities that are bought and held principally for the purpose of resale in the near term are classified as trading account assets and are stated at fair value with unrealized gains and losses included in trading account profits (losses). All other debt securities that management has the intent and ability to hold for the foreseeable future are classified as available-for-sale (AFS) and carried at fair value with net unrealized gains and losses included in accumulated OCI on an after-tax basis. If there is an other-than-temporary deterioration in the fair value of any individual security classified as AFS, the Corporation will reclassify the associated net unrealized loss out of accumulated OCI with a corresponding adjustment to other income. If there is an other-than-temporary deterioration in the fair value of any individual security classified as held-to-maturity, the Corporation will write down the security to fair value with a corresponding adjustment to other income. Interest on debt securities, including amortization of premiums and accretion of discounts, is included in interest income. Realized gains and losses from the sales of debt securities, which are included in gains (losses) on sales of debt securities, are determined using the specific identification method.

Marketable equity securities are classified based on management's intention on the date of purchase and recorded on the Consolidated Balance Sheet as of the trade date. Marketable equity securities that are bought and held principally for the purpose of resale in the near term are classified as trading account assets and are stated at fair value with unrealized gains and losses included in trading account profits (losses). Other marketable equity securities that management has the intent and ability to hold for the foreseeable future are accounted for as AFS and classified in other assets. All AFS marketable equity securities are carried at fair value with net unrealized gains and losses included in accumulated OCI on a net-of-tax basis. If there is an other-than-temporary deterioration in the fair value of any individual AFS marketable equity security, the Corporation will reclassify the associated net unrealized loss out of accumulated OCI with a corresponding adjustment to equity investment income. Dividend income on all AFS marketable equity securities is included in equity investment income. Realized gains and losses on the sale of all AFS marketable equity securities, which are recorded in equity investment income, are determined using the specific identification method.

Equity investments without readily determinable market values are recorded in other assets, are accounted for using the cost method and are subject to impairment testing if applicable.

Equity investments held by Principal Investing, a diversified equity investor in companies at all stages of their life cycle from startup to buyout, are reported at fair value pursuant to the American Institute of Certified Public Accountants (AICPA) Investment Company Audit Guide and recorded in other assets. These investments are made either directly in a company or held through a fund. Equity investments for which there are active market quotes are carried at estimated fair value based on market prices. Nonpublic and other equity investments for which representative market quotes are not readily available are initially valued at the transaction price. Subsequently, the Corporation adjusts valuations when evidence is available to support such adjustments. Such evidence includes changes in value as a result of initial public offerings (IPO), market comparables, market liquidity, the investees' financial results, sales restrictions, or other-than-temporary declines in value. Gains and losses on these equity investments, both unrealized and realized, are recorded in equity investment income.

### Loans and Leases

Loans measured at historical cost are reported at their outstanding principal balances net of any unearned income, charge-offs, unamortized deferred fees and costs on originated loans, and premiums or discounts on purchased loans. Loan origination fees and certain direct origination costs are deferred and recognized as adjustments to income over the lives of the related loans. Unearned income, discounts and premiums are amortized to interest income using methods that approximate the interest method. Subsequent to the adoption of SFAS 159, on January 1, 2007 the Corporation elected the fair value option for certain loans. Fair values for these loans are based on market prices, where available, or discounted cash flows using market-based credit spreads of comparable debt instruments or credit derivatives of the specific borrower or comparable borrowers. Results of discounted cash flow calculations may be adjusted, as appropriate, to reflect other market conditions or the perceived credit risk of the borrower.

The Corporation purchases loans with and without evidence of credit quality deterioration since origination. Those loans with evidence of credit quality deterioration for which it is probable at purchase that the Corporation will be unable to collect all contractually required payments are accounted for under AICPA Statement of Position 03-3, "Accounting for Certain Loans or Debt Securities Acquired in a Transfer" (SOP 03-3). SOP 03-3 addresses accounting for differences between contractual cash flows and cash flows expected to be collected from an investor's initial investment in loans acquired in a transfer if those differences are attributable, at least in part, to credit quality. SOP 03-3 requires impaired loans be recorded at fair value and prohibits "carrying over" or the creation of valuation allowances in the initial accounting of loans acquired in a transfer that are within the scope of this SOP. The prohibition of the valuation allowance carryover applies to the purchase of an individual loan, a pool of loans, a group of loans, and loans acquired in a purchase business combination. Under SOP 03-3, the excess of cash flows expected at purchase over the purchase price is recorded as interest income over the life of the loan. For those loans not within the scope of SOP 03-3, any difference between the purchase price and the par value of the loan is reflected in interest income over the life of the loan.

The Corporation provides equipment financing to its customers through a variety of lease arrangements. Direct financing leases are carried at the aggregate of lease payments receivable plus estimated residual value of the leased property less unearned income. Leveraged leases, which are a form of financing leases, are carried net of nonrecourse debt. Unearned income on leveraged and direct financing leases is accreted to interest income over the lease terms by methods that approximate the interest method.

## Allowance for Credit Losses

The allowance for credit losses, which includes the allowance for loan and lease losses and the reserve for unfunded lending commitments, represents management's estimate of probable losses inherent in the Corporation's lending activities that are carried at historical cost. The allowance for loan and lease losses represents the estimated probable credit losses in funded consumer and commercial loans and leases measured at historical cost while the reserve for unfunded lending commitments, including standby letters of credit (SBLCs) and binding unfunded loan commitments, represents estimated probable credit losses on these unfunded credit instruments based on utilization assumptions. The allowance for loan and lease losses and the reserve for unfunded lending commitments excludes loans and unfunded lending commitments measured at fair value in accordance with SFAS 159 as mark-to-market adjustments related to these instruments already reflect a credit component. Credit exposures, excluding derivative assets, trading account assets and loans measured at fair value, deemed to be uncollectible are charged against these accounts. Cash recovered on previously charged off amounts are recorded as recoveries to these accounts.

The Corporation performs periodic and systematic detailed reviews of its lending portfolios to identify credit risks and to assess the overall collectibility of those portfolios. The allowance on certain homogeneous loan portfolios measured at historical cost, which generally consist of consumer loans (e.g., consumer real estate loans, credit card) and certain commercial loans (e.g., business card and small business portfolio) is based on aggregated portfolio segment evaluations generally by product type. Loss forecast models are utilized for these segments which consider a variety of factors including, but not limited to, historical loss experience, estimated defaults or foreclosures based on portfolio trends, delinquencies, economic conditions and credit scores. These models are updated on a quarterly basis in order to incorporate information reflective of the current economic environment. The remaining commercial portfolios measured at historical cost are reviewed on an individual loan basis. Loans subject to individual reviews are analyzed and segregated by risk according to the Corporation's internal risk rating scale. These risk classifications, in conjunction with an analysis of historical loss experience, current economic conditions, industry performance trends, geographic or obligor concentrations within each portfolio segment, and any other pertinent information (including individual valuations on nonperforming loans in accordance with SFAS No. 114, "Accounting by Creditors for Impairment of a Loan," (SFAS 114)) result in the estimation of the allowance for credit losses. The historical loss experience is updated quarterly to incorporate the most recent data reflective of the current economic environment.

If necessary, a specific allowance for loan and lease losses is established for individual impaired commercial loans measured at historical cost. A loan is considered impaired when, based on current information and events, it is probable that the Corporation will be unable to collect all amounts due, including principal and interest, according to the contractual terms of the agreement. Once a loan has been identified as individually impaired, management measures impairment in accordance with SFAS 114. Individually impaired loans are measured based on the present value of payments expected to be received, observable market prices, or for loans that are solely dependent on the collateral for repayment, the estimated fair value of the collateral. If the recorded investment in impaired loans exceeds the present value of payments expected to be received, a specific allowance is established as a component of the allowance for loan and lease losses.

The allowance for loan and lease losses includes two components which are allocated to cover the estimated probable losses in each loan and lease category based on the results of the Corporation's detailed review process described above. The first component covers those commercial loans measured at historical cost that are either nonperforming or impaired. The second component covers consumer loans and leases, and performing commercial loans and leases measured at historical cost. Included within this second component of the allowance for loan and lease losses and determined separately from the procedures outlined above are reserves which are maintained to cover uncertainties that affect the Corporation's estimate of probable losses including domestic and global economic uncertainty and large single name defaults. Management evaluates the adequacy of the allowance for loan and lease losses based on the combined total of these two components.

In addition to the allowance for loan and lease losses, the Corporation also estimates probable losses related to unfunded lending commitments, such as letters of credit and financial guarantees, and binding unfunded loan commitments. The reserve for unfunded lending commitments excludes commitments measured at fair value in accordance with SFAS 159. Unfunded lending commitments are subject to individual reviews and are analyzed and segregated by risk according to the Corporation's internal risk rating scale. These risk classifications, in conjunction with an analysis of historical loss experience, utilization assumptions, current economic conditions, performance trends within specific portfolio segments and any other pertinent information, result in the estimation of the reserve for unfunded lending commitments.

The allowance for credit losses related to the loan and lease portfolio is reported separately on the Consolidated Balance Sheet whereas the allowance for credit losses related to the reserve for unfunded lending commitments is reported on the Consolidated Balance Sheet in accrued expenses and other liabilities. Provision for credit losses related to the loan and lease portfolio and unfunded lending commitments is reported in the Consolidated Statement of Income in provision for credit losses.

### Nonperforming Loans and Leases, Charge-offs, and Delinquencies

In accordance with the Corporation's policies, non-bankrupt credit card loans, and open-end unsecured consumer loans are charged off no later than the end of the month in which the account becomes 180 days past due. The outstanding balance of real estate secured loans that is in excess of the property value, less cost to sell, are charged off no later than the end of the month in which the account becomes 180 days past due. Personal property secured loans are charged off no later than the end of the month in which the account becomes 120 days past due. Accounts in bankruptcy are written down to collateral value either 60 days after bankruptcy notification (credit card and certain open-end unsecured accounts) or no later than the end of the month in which the account becomes 60 days past due. Only real estate secured accounts are generally placed into nonaccrual status and classified as nonperforming at 90 days past due. These loans may be restored to performing status when all principal and interest is current and full repayment of the remaining contractual principal and interest is expected, or when the loan otherwise becomes well-secured and is in the process of collection.

Commercial loans and leases, excluding business card loans, that are past due 90 days or more as to principal or interest, or where reasonable doubt exists as to timely collection, including loans that are individually identified as being impaired, are generally classified as nonperforming unless well-secured and in the process of collection. Loans whose contractual terms have been restructured in a manner which grants a concession to a borrower experiencing financial difficulties, without compensation on restructured loans, are classified as nonperforming until the loan is performing for an adequate period of time under the restructured agreement. In situations where the Corporation does not receive adequate compensation, the restructuring is considered a troubled debt restructuring. Interest accrued but not collected is reversed when a commercial loan is classified as nonperforming. Interest collections on commercial nonperforming loans and leases for which the ultimate collectibility of principal is uncertain are applied as principal reductions; otherwise, such collections are credited to income when received. Commercial loans and leases may be restored to performing status when all principal and interest is current and full repayment of the remaining contractual principal and interest is expected, or when the loan otherwise becomes well-secured and is in the process of collection. Business card loans are charged off no later than the end of the month in which the account becomes 180 days past due or in which 60 days has elapsed since receipt of notification of bankruptcy filing, whichever comes first, and are not classified as nonperforming.

The entire balance of a consumer and commercial loan account is contractually delinquent if the minimum payment is not received by the specified due date on the customer's billing statement. Interest and fees continue to accrue on past due loans until the date the loan goes into nonaccrual status, if applicable. Delinquency is reported on accruing loans that are 30 days or more past due.

### Loans Held-for-Sale

Loans held-for-sale include residential mortgages, loan syndications, and to a lesser degree, commercial real estate, consumer finance and other loans, and are carried at the lower of aggregate cost or market or fair value. The Corporation elected on January 1, 2007 to account for certain loans held-for-sale, including first mortgage loans held-for-sale, at fair value in accordance with SFAS 159. Fair values for loans held-for-sale are based on quoted market prices, where available, or are determined by discounting estimated cash flows using interest rates approximating the Corporation's current origination rates for similar loans and adjusted to reflect the inherent credit risk. Mortgage loan origination costs related to loans held-for-sale for which the Corporation elected the fair value option are recognized in noninterest expense when incurred. Mortgage loan origination costs for loans held-for-sale carried at the lower of cost or market are capitalized as part of the carrying amount of the loans and recognized as a reduction of mortgage banking income upon the sale of such loans. Loans held-for-sale are included in other assets.

### Premises and Equipment

Premises and equipment are stated at cost less accumulated depreciation and amortization. Depreciation and amortization are recognized using the straight-line method over the estimated useful lives of the assets. Estimated lives range up to 40 years for buildings, up to 12 years for furniture and equipment, and the shorter of lease term or estimated useful life for leasehold improvements.

### Mortgage Servicing Rights

Effective January 1, 2006, the Corporation adopted SFAS No. 156 "Accounting for Servicing of Financial Assets" (SFAS 156) and began accounting for consumer-related MSRs at fair value with changes in fair value recorded in mortgage banking income, while commercial-related and residential reverse mortgage MSRs continue to be accounted for using the amortization method (i.e., lower of cost or market) with impairment recognized as a reduction to mortgage banking income. Certain derivatives are used as economic hedges of the MSRs, but are not designated as hedges under SFAS 133. These derivatives are marked to market and recognized through mortgage banking income.

Prior to January 1, 2006, the Corporation applied SFAS 133 hedge accounting for derivative financial instruments that had been designated to hedge MSRs. The loans underlying the MSRs being hedged were stratified into pools that possessed similar interest rate and prepayment risk exposures. The Corporation had designated the hedged risk as the change in the overall fair value of these stratified pools within a daily hedge period. The Corporation performed both prospective and retrospective hedge effectiveness evaluations, using regression analyses. A prospective test was performed to determine whether the hedge was expected to be highly effective at the inception of the hedge. A retrospective test was performed at the end of the daily hedge period to determine whether the hedge was actually effective. Debt securities were also used as economic hedges of MSRs and were accounted for as AFS securities with realized gains or losses recorded in gains (losses) on sales of debt securities and unrealized gains or losses recorded in accumulated OCI in shareholders' equity. For additional information on MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

### Goodwill and Intangible Assets

Assets and liabilities of companies acquired in purchase transactions are recorded at fair value at the dates of acquisition. Goodwill is not amortized but is reviewed for potential impairment on an annual basis, or when events or circumstances indicate a potential impairment, at the reporting unit level. The impairment test is performed in two phases. The first step of the goodwill impairment test compares the fair value of the reporting unit with its carrying amount, including goodwill. If the fair value of the reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired; however, if the carrying amount of the reporting unit exceeds its fair value, an additional step has to be performed. This additional step compares the implied fair value of the reporting unit's goodwill (as defined in SFAS No. 142, "Goodwill and Other Intangible

Assets") with the carrying amount of that goodwill. An impairment loss is recorded to the extent that the carrying amount of goodwill exceeds its implied fair value. In 2007, 2006 and 2005, goodwill was tested for impairment and it was determined that goodwill was not impaired at any of these dates.

Intangible assets subject to amortization are evaluated for impairment in accordance with SFAS No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets." An impairment loss will be recognized if the carrying amount of the intangible asset is not recoverable and exceeds fair value. The carrying amount of the intangible is considered not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use of the asset. At December 31, 2007, intangible assets included on the Consolidated Balance Sheet consist of purchased credit card relationship intangibles, core deposit intangibles, affinity relationships, and other intangibles that are amortized on an accelerated or straight-line basis over anticipated periods of benefit of up to 15 years. There were no events or changes in circumstances in 2007, 2006, and 2005 that indicated the carrying amounts of the Corporation's intangibles may not be recoverable.

## Special Purpose Financing Entities

In the ordinary course of business, the Corporation supports its customers' financing needs by facilitating the customers' access to different funding sources, assets and risks. In addition, the Corporation utilizes certain financing arrangements to meet its balance sheet management, funding, liquidity, and market or credit risk management needs. These financing entities may be in the form of corporations, partnerships, limited liability companies or trusts, and are generally not consolidated on the Corporation's Consolidated Balance Sheet. The majority of these activities are basic term or revolving securitization vehicles for mortgages, credit cards or other types of loans which are generally funded through term-amortizing debt structures. Other special purpose entities finance their activities by issuing short-term commercial paper. The securities issued from both types of vehicles are designed to be paid off from the underlying cash flows of the vehicles' assets or the reissuance of commercial paper.

### Securitizations

The Corporation securitizes, sells and services interests in residential mortgage loans and credit card loans, and from time to time, automobile, other consumer and commercial loans. The accounting for these activities is governed by SFAS No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities – a replacement of FASB Statement No. 125" (SFAS 140). The securitization vehicles are qualified special purpose entities (QSPEs) which, in accordance with SFAS 140, are legally isolated, bankruptcy remote and beyond the control of the seller. QSPEs are not included in the Corporation's Consolidated Financial Statements. When the Corporation securitizes assets, it may retain interest-only strips, one or more subordinated tranches, subordinated interests in accrued interest and fees on the securitized receivables and, in some cases, cash reserve accounts which are generally considered residual interests in the securitized assets. The Corporation may also retain senior tranches in these securitizations. Gains and losses upon sale of the assets are based on an allocation of the previous carrying amount of the assets to the retained interests. Carrying amounts of assets transferred are allocated in proportion to the relative fair values of the assets sold and interests retained.

Quoted market prices are used to obtain fair values of senior retained interests. Generally, quoted market prices for retained residual interests are not available; therefore, the Corporation estimates fair values based upon the present value of the associated expected future cash flows. This may require management to estimate credit losses, prepayment speeds, forward interest yield curves, discount rates and other factors that impact the value of retained interests. See *Note 8 – Securitizations* to the Consolidated Financial Statements for further discussion.

Interest-only strips retained in connection with credit card securitizations are classified in other assets and carried at fair value, with changes in fair value recorded in card income. Other retained interests are recorded in other assets and/or AFS debt securities and are carried at fair value or amounts that approximate fair value with changes recorded in income or accumulated OCI. If the fair value of such retained interests has declined below its carrying amount and there has been an adverse change in estimated contractual cash flows of the underlying assets, then such decline is determined to be other-than-temporary and the retained interest is written down to fair value with a corresponding adjustment to other income.

### Other Special Purpose Financing Entities

Other special purpose financing entities (SPEs) (e.g., Corporation-sponsored multi-seller conduits, collateralized debt obligations, asset acquisition conduits) are generally funded with short-term commercial paper. These financing entities are usually contractually limited to a narrow range of activities that facilitate the transfer of or access to various types of assets or financial instruments and provide the investors in the transaction protection from creditors of the Corporation in the event of bankruptcy or receivership of the Corporation. In certain situations, the Corporation provides liquidity commitments and/or loss protection agreements.

The Corporation determines whether these entities should be consolidated by evaluating the degree to which it maintains control over the financing entity and will receive the risks and rewards of the assets in the financing entity. In making this determination, the Corporation considers whether the entity is a QSPE, which is generally not required to be consolidated by the seller or investors in the entity. For non-QSPE structures or VIEs, the Corporation assesses whether it is the primary beneficiary of the entity. In accordance with FASB Interpretation No. 46 (Revised December 2003), "Consolidation of Variable Interest Entities, an interpretation of ARB No. 51" (FIN 46R), the entity that will absorb a majority of expected variability (the sum of the absolute values of the expected losses and expected residual returns) consolidates the VIE and is referred to as the primary beneficiary. For additional information on other SPEs, see *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

## Fair Value

Effective January 1, 2007, the Corporation determines the fair market values of its financial instruments based on the fair value hierarchy established in SFAS 157 which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The standard describes three levels of inputs that may be used to measure fair value which are provided on the following page. The Corporation carries certain corporate loans and loan commitments, loans held-for-sale, structured reverse repurchase agreements, and long-term deposits at fair value in accordance with SFAS 159. The Corporation also carries trading account assets and liabilities, derivative assets and liabilities, AFS debt and marketable equity securities, MSRs, and certain other assets at fair value.

| | |
|---|---|
| **Level 1** | Quoted prices in active markets for identical assets or liabilities. Level 1 assets and liabilities include debt and equity securities and derivative contracts that are traded in an active exchange market, as well as certain U.S. Treasury securities that are highly liquid and are actively traded in over-the-counter markets. |
| **Level 2** | Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. Level 2 assets and liabilities include debt securities with quoted prices that are traded less frequently than exchange-traded instruments and derivative contracts whose value is determined using a pricing model with inputs that are observable in the market or can be derived principally from or corroborated by observable market data. This category generally includes U.S. Government and agency mortgage-backed debt securities, corporate debt securities, derivative contracts, residential mortgage and loans held-for-sale. |
| **Level 3** | Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. This category generally includes certain private equity investments, retained residual interests in securitizations, residential MSRs, asset-backed securities (ABS), highly structured or long-term derivative contracts and certain collateralized debt obligations (CDO) where independent pricing information was not able to be obtained for a significant portion of the underlying assets. |

For more information on the fair value of the Corporation's financial instruments see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

## Income Taxes

The Corporation accounts for income taxes in accordance with SFAS No. 109, "Accounting for Income Taxes" (SFAS 109) as interpreted by FIN 48, resulting in two components of income tax expense: current and deferred. Current income tax expense approximates taxes to be paid or refunded for the current period. Deferred income tax expense results from changes in deferred tax assets and liabilities between periods. These gross deferred tax assets and liabilities represent decreases or increases in taxes expected to be paid in the future because of future reversals of temporary differences in the bases of assets and liabilities as measured by tax laws and their bases as reported in the financial statements. Deferred tax assets are also recognized for tax attributes such as net operating loss carryforwards and tax credit carryforwards. Valuation allowances are then recorded to reduce deferred tax assets to the amounts management concludes are more-likely-than-not to be realized.

Under FIN 48, income tax benefits are recognized and measured based upon a two-step model: 1) a tax position must be more-likely-than-not to be sustained based solely on its technical merits in order to be recognized, and 2) the benefit is measured as the largest dollar amount of that position that is more-likely-than-not to be sustained upon settlement. The difference between the benefit recognized for a position in accordance with this FIN 48 model and the tax benefit claimed on a tax return is referred to as an unrecognized tax benefit (UTB). The Corporation accrues income-tax-related interest and penalties (if applicable) within income tax expense.

For additional information on income taxes, see *Note 18 – Income Taxes* to the Consolidated Financial Statements.

## Retirement Benefits

The Corporation has established qualified retirement plans covering substantially all full-time and certain part-time employees. Pension expense under these plans is charged to current operations and consists of several components of net pension cost based on various actuarial assumptions regarding future experience under the plans.

In addition, the Corporation has established unfunded supplemental benefit plans and supplemental executive retirement plans for selected officers of the Corporation and its subsidiaries (SERPS) that provide benefits that cannot be paid from a qualified retirement plan due to Internal Revenue Code restrictions. The SERPS were frozen and the executive officers do not accrue any additional benefits. These plans are nonqualified under the Internal Revenue Code and assets used to fund benefit payments are not segregated from other assets of the Corporation; therefore, in general, a participant's or beneficiary's claim to benefits under these plans is as a general creditor. In addition, the Corporation has established several postretirement healthcare and life insurance benefit plans.

The Corporation accounts for its retirement benefit plans in accordance with SFAS No. 87, "Employers' Accounting for Pensions" (SFAS 87), SFAS No. 88, "Employers' Accounting for Settlements and Curtailment of Defined Benefit Pension Plans and for Termination Benefits," and SFAS No. 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions," as applicable.

On December 31, 2006, the Corporation adopted SFAS No. 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106, and 132(R)" (SFAS 158) which requires the recognition of a plan's over-funded or under-funded status as an asset or liability with an offsetting adjustment to accumulated OCI. SFAS 158 requires the determination of the fair values of a plan's assets at a company's year end and recognition of actuarial gains and losses, prior service costs or credits, and transition assets or obligations as a component of accumulated OCI. These amounts were previously netted against the plans' funded status in the Corporation's Consolidated Balance Sheet. These amounts will be subsequently recognized as components of net periodic benefit costs. Further, actuarial gains and losses that arise in subsequent periods that are not initially recognized as a component of net periodic benefit cost will be recognized as a component of accumulated OCI. Those amounts will subsequently be recorded as a component of net periodic benefit cost as they are amortized during future periods.

## Accumulated Other Comprehensive Income

The Corporation records gains and losses on cash flow hedges, unrealized gains and losses on AFS debt and marketable equity securities, unrecognized actuarial gains and losses, transition obligation and prior service costs on pension and postretirement plans, foreign currency translation adjustments, and related hedges of net investments in foreign operations in accumulated OCI, net-of-tax. Accumulated OCI also includes fair value adjustments on certain retained interests in the Corporation's securitization transactions. Gains or losses on derivatives accounted for as cash

flow hedges are reclassified to income when the hedged transaction affects earnings. Gains and losses on AFS debt and marketable equity securities are reclassified to income as the gains or losses are realized upon sale of the securities. Other-than-temporary impairment charges are reclassified to income at the time of the charge. Translation gains or losses on foreign currency translation adjustments are reclassified to income upon the substantial sale or liquidation of investments in foreign operations.

### Earnings Per Common Share

Earnings per common share is computed by dividing net income available to common shareholders by the weighted average common shares issued and outstanding. For diluted earnings per common share, net income available to common shareholders is divided by the weighted average number of common shares issued and outstanding for each period plus amounts representing the dilutive effect of stock options outstanding, restricted stock and restricted stock units, if applicable. The effects of restricted stock, restricted stock units and stock options are excluded from the computation of diluted earnings per common share in periods in which the effect would be antidilutive. Dilutive potential common shares are calculated using the treasury stock method.

### Foreign Currency Translation

Assets, liabilities and operations of foreign branches and subsidiaries are recorded based on the functional currency of each entity. For certain of the foreign operations, the functional currency is the local currency, in which case the assets, liabilities and operations are translated, for consolidation purposes, at period-end rates from the local currency to the reporting currency, the U.S. dollar. The resulting unrealized gains or losses are reported as a component of accumulated OCI on a net-of-tax basis. When the foreign entity's functional currency is determined to be the U.S. dollar, the resulting remeasurement currency gains or losses on foreign-denominated assets or liabilities are included in net income.

### Credit Card Arrangements

#### Endorsing Organization Agreements

The Corporation contracts with other organizations to obtain their endorsement of the Corporation's loan products. This endorsement may provide the Corporation exclusive rights to market to the organization's members or to customers on behalf of the Corporation. These organizations endorse the Corporation's loan products and provide the Corporation with their mailing lists and marketing activities. These agreements generally have terms that range from five to seven years. The Corporation typically pays royalties in exchange for their endorsement. These compensation costs to the Corporation are recorded as contra-revenue against card income.

#### Cardholder Reward Agreements

The Corporation offers reward programs that allow its cardholders to earn points that can be redeemed for a broad range of rewards including cash, travel and discounted products. The Corporation establishes a rewards liability based upon the points earned which are expected to be redeemed and the average cost per point redemption. The points to be redeemed are estimated based on past redemption behavior, card product type, account transaction activity and other historical card performance. The liability is reduced as the points are redeemed. The estimated cost of the rewards programs is recorded as contra-revenue against card income.

### Stock-based Compensation

On January 1, 2006, the Corporation adopted SFAS No. 123 (Revised 2004), "Share-Based Payment" (SFAS 123R) under the modified-prospective application. The Corporation had previously adopted the fair value-based method of accounting for stock-based employee compensation under SFAS No. 148, "Accounting for Stock-Based Compensation – Transition and Disclosure – an amendment of FASB Statement No. 123," (SFAS 148) prospectively, on January 1, 2003. Had the Corporation adopted SFAS 148 retrospectively, the impact in 2005 would not have been material. For additional information on stock-based employee compensation, see *Note 17 – Stock-Based Compensation Plans* to the Consolidated Financial Statements.

## Note 2 – Merger and Restructuring Activity

### LaSalle Bank Corporation Merger

On October 1, 2007, the Corporation acquired all the outstanding shares of LaSalle, for $21.0 billion in cash. As part of the acquisition, ABN AMRO Bank N.V. (the seller) capitalized approximately $6.3 billion as equity of intercompany debt prior to the date of the acquisition. With this acquisition, the Corporation significantly expanded its presence in metropolitan Chicago, Illinois and Michigan by adding LaSalle's commercial banking clients, retail customers, and banking centers. LaSalle's results of operations were included in the Corporation's results beginning October 1, 2007.

The LaSalle acquisition was accounted for under the purchase method of accounting in accordance with SFAS No. 141, "Business Combinations" (SFAS 141). The preliminary purchase price has been allocated to the assets acquired and the liabilities assumed based on their fair values at the LaSalle acquisition date as summarized in the following table.

**LaSalle Preliminary Purchase Price Allocation**

| (Dollars in millions) | |
|---|---|
| **Purchase price** | **$21,015** |
| **Preliminary allocation of the purchase price** | |
| LaSalle stockholders' equity | 12,495 |
| LaSalle goodwill and intangible assets | (2,728) |
| Adjustments to reflect assets acquired and liabilities assumed at fair value: | |
| Loans and leases | (88) |
| Premises and equipment | (139) |
| Identified intangibles [1] | 1,029 |
| Other assets | (248) |
| Exit and termination liabilities | (339) |
| Other liabilities and deferred income taxes | (72) |
| Fair value of net assets acquired | 9,910 |
| **Preliminary goodwill resulting from the LaSalle merger [2]** | **$11,105** |

[1] Includes core deposit intangibles of $700 million and other intangibles of $329 million. The amortization life for core deposit intangibles and other intangibles is 10 years. These intangibles are amortized on an accelerated basis.

[2] No goodwill is expected to be deductible for tax purposes. The goodwill has been allocated across all of the Corporation's business segments.

The Corporation acquired certain loans for which there was, at the time of the merger, evidence of deterioration of credit quality since origination and for which it was probable that all contractually required payments would not be collected. The outstanding contractual balance of such loans was approximately $850 million and the recorded fair value was approximately $650 million as of the merger date. At December 31, 2007, the outstanding contractual balance of such loans was approximately $710 million and the recorded fair value was approximately $590 million.

## U.S. Trust Corporation Merger

On July 1, 2007, the Corporation acquired all the outstanding shares of U.S. Trust Corporation for $3.3 billion in cash. The Corporation allocated $1.6 billion to goodwill and $1.3 billion to intangible assets as part of the preliminary purchase price allocation. U.S. Trust Corporation's results of operations were included in the Corporation's results beginning July 1, 2007. The acquisition significantly increased the size and capabilities of the Corporation's wealth management business and positions it as one of the largest financial services companies managing private wealth in the U.S.

## MBNA Merger

On January 1, 2006, the Corporation acquired 100 percent of the out- standing stock of MBNA for $34.6 billion. In connection therewith, 1,260 million shares of MBNA common stock were exchanged for 631 million shares of the Corporation's common stock. Prior to the MBNA merger, this represented approximately 16 percent of the Corporation's outstanding common stock. MBNA shareholders also received cash of $5.2 billion. The MBNA merger was a tax-free merger for the Corporation. The acquisition expanded the Corporation's customer base and its opportunity to deepen customer relationships across the full breadth of the Corporation by delivering innovative deposit, lending and investment products and services to MBNA's customer base. Additionally, the acquisition allowed the Corporation to significantly increase its affinity relationships through MBNA's credit card operations and sell these credit cards through the Corporation's delivery channels (including the retail branch network). MBNA's results of operations were included in the Corporation's results beginning January 1, 2006.

The MBNA merger was accounted for under the purchase method of accounting in accordance with SFAS 141. The purchase price has been allocated to the assets acquired and the liabilities assumed based on their fair values at the MBNA merger date as summarized in the table below.

**MBNA Purchase Price Allocation**

| (Dollars in millions, except per share amounts) | | |
|---|---|---|
| **Purchase price** | | |
| Purchase price per share of the Corporation's common stock [1] | $45.856 | |
| Exchange ratio | 0.5009 | |
| Purchase price per share of the Corporation's common stock exchanged | $22.969 | |
| Cash portion of the MBNA merger consideration | 4.125 | |
| Implied value of one share of MBNA common stock | 27.094 | |
| MBNA common stock exchanged | 1,260 | |
| Total value of the Corporation's common stock and cash exchanged | $34,139 | |
| Fair value of outstanding stock options and direct acquisition costs | 467 | |
| **Total purchase price** | **$34,606** | |
| **Allocation of the purchase price** | | |
| MBNA stockholders' equity | | $13,410 |
| MBNA goodwill and intangible assets | | (3,564) |
| Adjustments to reflect assets acquired and liabilities assumed at fair value: | | |
| Loans and leases | | (292) |
| Premises and equipment | | (563) |
| Identified intangibles [2] | | 7,881 |
| Other assets | | (683) |
| Deposits | | (97) |
| Exit and termination liabilities | | (269) |
| Other personnel-related liabilities | | (634) |
| Other liabilities and deferred income taxes | | (564) |
| Long-term debt | | (409) |
| Fair value of net assets acquired | | 14,216 |
| **Goodwill resulting from the MBNA merger [3]** | | **$20,390** |

(1) The value of the shares of common stock exchanged with MBNA shareholders was based upon the average of the closing prices of the Corporation's common stock for the period commencing two trading days before, and ending two trading days after, June 30, 2005, the date of the MBNA merger announcement.

(2) Includes purchased credit card relationships of $5,698 million, affinity relationships of $1,641 million, core deposit intangibles of $214 million, and other intangibles, including trademarks, of $328 million. The amortization life for core deposit intangibles is 10 years, purchased credit card relationships and affinity relationships are 15 years, and other intangibles over periods not exceeding 10 years. These intangibles are primarily amortized on an accelerated basis.

(3) No goodwill is deductible for tax purposes. Substantially all goodwill was allocated to *Global Consumer and Small Business Banking*.

The Corporation acquired certain loans for which there was, at the time of the merger, evidence of deterioration of credit quality since origination and for which it was probable that all contractually required payments would not be collected. The outstanding contractual balance of such loans was approximately $1.3 billion and the fair value was approximately $940 million as of the merger date. At December 31, 2007 and 2006, there was no outstanding contractual balance of such loans.

**Unaudited Pro Forma Condensed Combined Financial Information for MBNA**

The following unaudited pro forma condensed combined financial information presents the results of operations of the Corporation had the MBNA merger taken place at January 1, 2005.

| | Pro Forma |
|---|---|
| (Dollars in millions) | 2005 |
| Net interest income | $ 34,029 |
| Noninterest income | 33,731 |
| Total revenue, net of interest expense | 67,760 |
| Provision for credit losses | 5,082 |
| Merger and restructuring charges | 1,179 |
| Other noninterest expense | 34,411 |
| Income before income taxes | 27,088 |
| Net income | 18,157 |

Merger and restructuring charges in the preceding table include a nonrecurring restructuring charge related to legacy MBNA of $767 million for 2005. Pro forma earnings per common share and diluted earnings per common share would have been $3.90 and $3.86 for 2005.

## Merger and Restructuring Charges

Merger and restructuring charges are recorded in the Consolidated Statement of Income and include incremental costs to integrate the operations of the Corporation, LaSalle, U.S. Trust Corporation, MBNA and FleetBoston Financial Corporation (FleetBoston). These charges represent costs associated with these one-time activities and do not represent ongoing costs of the fully integrated combined organization. The following table presents severance and employee-related charges, systems integrations and related charges, and other merger-related charges.

| (Dollars in millions) | **2007** [1] | 2006 | 2005 [2] |
|---|---|---|---|
| Severance and employee-related charges | **$ 106** | $ 85 | $ 39 |
| Systems integrations and related charges | **240** | 552 | 218 |
| Other | **64** | 168 | 155 |
| **Total merger and restructuring charges** | **$ 410** | $805 | $ 412 |

(1) Included for 2007 are merger-related charges of $233 million, $109 million and $68 million related to the MBNA, U.S. Trust Corporation and LaSalle mergers, respectively.
(2) Charges for 2005 relate to the FleetBoston merger.

## Merger-related Exit Cost and Restructuring Reserves

The following table presents the changes in exit cost and restructuring reserves for 2007 and 2006.

| | **Exit Cost Reserves** [1] | | **Restructuring Reserves** [2] | |
|---|---|---|---|---|
| (Dollars in millions) | **2007** | 2006 | **2007** | 2006 |
| **Balance, January 1** | **$ 125** | $ – | **$ 67** | $ – |
| Exit cost and restructuring charges: | | | | |
| MBNA | **–** | 269 | **17** | 160 |
| U.S. Trust Corporation | **52** | – | **38** | – |
| LaSalle | **339** | – | **47** | – |
| Cash payments | **(139)** | (144) | **(61)** | (93) |
| **Balance, December 31** | **$ 377** | $ 125 | **$ 108** | $ 67 |

(1) Exit cost reserves were established in purchase accounting resulting in an increase in goodwill.
(2) Restructuring reserves were established by a charge to merger and restructuring charges.

As of December 31, 2006, there were $125 million of exit cost reserves related to the MBNA merger, including $121 million for severance, relocation and other employee-related expenses and $4 million for contract terminations. During 2007, $391 million was added to the exit cost reserves of which $52 million and $339 million related to the U.S. Trust Corporation and LaSalle mergers. Included in the $391 million exit cost charges during 2007 were approximately $193 million in severance, relocation and other employee-related costs and $198 million in contract terminations. Cash payments of $139 million during 2007 consisted of $127 million in severance, relocation and other employee-related costs and $12 million for contract terminations.

As of December 31, 2006, there were $67 million of restructuring reserves related to the MBNA acquisition, including $58 million related to severance and other employee-related expenses and $9 million related to contract terminations. During 2007, $102 million was added to the restructuring reserves of which $17 million, $38 million and $47 million related to severance and other employee-related expenses associated with the MBNA, U.S. Trust Corporation and LaSalle mergers, respectively. Cash payments of $61 million during 2007 consisted of $56 million in severance and other employee-related costs and $5 million in contract terminations.

Payments under exit cost and restructuring reserves associated with the MBNA merger were substantially completed in 2007 while payments associated with the U.S. Trust Corporation and LaSalle mergers will continue into 2009.

## Note 3 – Trading Account Assets and Liabilities

The following table presents the fair values of the components of trading account assets and liabilities at December 31, 2007 and 2006.

| | December 31 | |
|---|---|---|
| (Dollars in millions) | **2007** | 2006 |
| **Trading account assets** | | |
| Corporate securities, trading loans and other | **$ 55,360** | $ 53,923 |
| U.S. Government and agency securities [1] | **48,240** | 36,656 |
| Equity securities | **22,910** | 27,103 |
| Mortgage trading loans and asset-backed securities | **18,393** | 15,449 |
| Foreign sovereign debt | **17,161** | 19,921 |
| **Total trading account assets** | **$ 162,064** | $ 153,052 |
| **Trading account liabilities** | | |
| U.S. Government and agency securities | **$ 35,375** | $ 26,760 |
| Equity securities | **25,926** | 23,908 |
| Foreign sovereign debt | **9,292** | 9,261 |
| Corporate securities and other | **6,749** | 7,741 |
| **Total trading account liabilities** | **$ 77,342** | $ 67,670 |

(1)Includes $21.5 billion and $22.7 billion at December 31, 2007 and 2006 of government-sponsored enterprise obligations that are not backed by the full faith and credit of the U.S. Government.

## Note 4 – Derivatives

The Corporation designates derivatives as trading derivatives, economic hedges, or as derivatives used for SFAS 133 accounting purposes. For additional information on the Corporation's derivatives and hedging activities, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

### Credit Risk Associated with Derivative Activities

Credit risk associated with derivatives is measured as the net replacement cost in the event the counterparties with contracts in a gain position to the Corporation completely fail to perform under the terms of those contracts. In managing derivative credit risk, both the current exposure, which is the replacement cost of contracts on the measurement date, as well as an estimate of the potential change in value of contracts over their remaining lives are considered. The Corporation's derivative activities are primarily with financial institutions and corporations. To minimize credit risk, the Corporation enters into legally enforceable master netting agreements which reduce risk by permitting the closeout and netting of transactions with the same counterparty upon occurrence of certain events. In addition, the Corporation reduces credit risk by obtaining collateral from counterparties. The determination of the need for and the levels of collateral will vary based on an assessment of the credit risk of the counterparty. Generally, the Corporation accepts collateral in the form of cash, U.S. Treasury securities and other marketable securities. The Corporation held $34.2 billion of collateral on derivative positions, of which $21.3 billion could be applied against credit risk at December 31, 2007.

A portion of the derivative activity involves exchange-traded instruments. Exchange-traded instruments conform to standard terms and are subject to policies set by the exchange involved, including margin and security deposit requirements. Management believes the credit risk associated with these types of instruments is minimal. The average fair value of derivative assets, less cash collateral, for 2007 and 2006 was $29.7 billion and $24.2 billion. The average fair value of derivative liabilities, less cash collateral, for 2007 and 2006 was $20.6 billion and $16.6 billion.

| (Dollars in millions) | December 31, 2007 Contract/ Notional (1) | December 31, 2007 Credit Risk | December 31, 2006 Contract/ Notional (1) | December 31, 2006 Credit Risk |
|---|---|---|---|---|
| **Interest rate contracts** | | | | |
| Swaps | **$ 22,472,949** | **$ 15,368** | $ 18,185,655 | $ 9,601 |
| Futures and forwards | **2,596,146** | **10** | 2,283,579 | 103 |
| Written options | **1,402,626** | **–** | 1,043,933 | – |
| Purchased options | **1,479,985** | **2,508** | 1,308,888 | 2,212 |
| **Foreign exchange contracts** | | | | |
| Swaps | **505,878** | **7,350** | 451,462 | 4,241 |
| Spot, futures and forwards | **1,600,683** | **4,124** | 1,234,009 | 2,995 |
| Written options | **341,148** | **–** | 464,420 | – |
| Purchased options | **339,101** | **1,033** | 414,004 | 1,391 |
| **Equity contracts** | | | | |
| Swaps | **56,300** | **2,026** | 32,247 | 577 |
| Futures and forwards | **12,174** | **10** | 19,947 | 24 |
| Written options | **166,736** | **–** | 102,902 | – |
| Purchased options | **195,240** | **6,337** | 104,958 | 7,513 |
| **Commodity contracts** | | | | |
| Swaps | **13,627** | **770** | 4,868 | 1,129 |
| Futures and forwards | **14,391** | **12** | 13,513 | 2 |
| Written options | **14,206** | **–** | 9,947 | – |
| Purchased options | **13,093** | **372** | 6,796 | 184 |
| **Credit derivatives** | **3,046,381** | **7,493** | 1,497,869 | 756 |
| Credit risk before cash collateral | | **47,413** | | 30,728 |
| Less: Cash collateral applied | | **12,751** | | 7,289 |
| **Total derivative assets** | | **$ 34,662** | | $ 23,439 |

(1)Represents the total contract/notional amount of the derivatives outstanding and includes both short and long positions.

The table above presents the contract/notional amounts and credit risk amounts at December 31, 2007 and 2006 of all the Corporation's derivative positions. These derivative positions are primarily executed in the over-the-counter market.

The credit risk amounts take into consideration the effects of legally enforceable master netting agreements, and on an aggregate basis have been reduced by the cash collateral applied against derivative assets. At December 31, 2007 and 2006, the cash collateral applied against derivative assets on the Consolidated Balance Sheet was $12.8 billion and $7.3 billion. In addition, at December 31, 2007 and 2006, the cash collateral placed against derivative liabilities was $10.0 billion and $6.5 billion.

## ALM Activities

Interest rate contracts and foreign exchange contracts are utilized in the Corporation's ALM activities. The Corporation maintains an overall interest rate risk management strategy that incorporates the use of interest rate contracts to minimize significant fluctuations in earnings that are caused by interest rate volatility. The Corporation's goal is to manage interest rate sensitivity so that movements in interest rates do not significantly adversely affect net interest income. As a result of interest rate fluctuations, hedged fixed-rate assets and liabilities appreciate or depreciate in market value. Gains or losses on the derivative instruments that are linked to the hedged fixed-rate assets and liabilities are expected to substantially offset this unrealized appreciation or depreciation. Interest income and interest expense on hedged variable-rate assets and liabilities increase or decrease as a result of interest rate fluctuations. Gains and losses on the derivative instruments that are linked to these hedged assets and liabilities are expected to substantially offset this variability in earnings.

Interest rate contracts, which are generally non-leveraged generic interest rate and basis swaps, options and futures, allow the Corporation to manage its interest rate risk position. Non-leveraged generic interest rate swaps involve the exchange of fixed-rate and variable-rate interest payments based on the contractual underlying notional amount. Basis swaps involve the exchange of interest payments based on the contractual underlying notional amounts, where both the pay rate and the receive rate are floating rates based on different indices. Option products primarily consist of caps, floors and swaptions. Futures contracts used for the Corporation's ALM activities are primarily index futures providing for cash payments based upon the movements of an underlying rate index.

The Corporation uses foreign currency contracts to manage the foreign exchange risk associated with certain foreign currency-denominated assets and liabilities, as well as the Corporation's investments in foreign subsidiaries. Foreign exchange contracts, which include spot and forward contracts, represent agreements to exchange the currency of one country for the currency of another country at an agreed-upon price on an agreed-upon settlement date. Exposure to loss on these contracts will increase or decrease over their respective lives as currency exchange and interest rates fluctuate.

## Fair Value, Cash Flow and Net Investment Hedges

The Corporation uses various types of interest rate and foreign exchange derivative contracts to protect against changes in the fair value of its assets and liabilities due to fluctuations in interest rates and exchange rates (fair value hedges). The Corporation also uses these types of contracts to protect against changes in the cash flows of its assets and liabilities, and other forecasted transactions (cash flow hedges). During the next 12 months, net losses on derivative instruments included in accumulated OCI of approximately $1.3 billion ($820 million net-of-tax) are expected to be reclassified into earnings. These net losses reclassified into earnings are expected to impact net interest income related to the respective hedged items.

The following table summarizes certain information related to the Corporation's derivative hedges accounted for under SFAS 133 for 2007, 2006 and 2005.

| (Dollars in millions) | 2007 | 2006 | 2005 |
|---|---|---|---|
| **Fair value hedges** | | | |
| Hedge ineffectiveness recognized in net interest income and mortgage banking income [1] | **$ 55** | $ 23 | $166 |
| Net loss excluded from assessment of effectiveness [2] | – | – | (13) |
| **Cash flow hedges** | | | |
| Hedge ineffectiveness recognized in net interest income | **4** | 18 | (31) |
| Net gains on transactions which are probable of not occurring recognized in other income | **18** | – | – |

(1)Hedge ineffectiveness was recognized in net interest income in 2007 and 2006 and net interest income and mortgage banking income in 2005.
(2)Net loss excluded from assessment of effectiveness was recorded primarily within mortgage banking income in 2005.

The Corporation hedges its net investment in consolidated foreign operations determined to have functional currencies other than the U.S. dollar using forward foreign exchange contracts that typically settle in 90 days. The Corporation recorded net derivative losses in accumulated OCI associated with net investment hedges of $516 million for 2007 as compared to losses of $475 million in 2006 and gains of $66 million in 2005.

## Note 5 – Securities

The amortized cost, gross unrealized gains and losses, and fair value of AFS debt and marketable equity securities at December 31, 2007 and 2006 were:

| (Dollars in millions) | Amortized Cost | Gross Unrealized Gains | Gross Unrealized Losses | Fair Value |
|---|---|---|---|---|
| **Available-for-sale debt securities, December 31, 2007** | | | | |
| U.S. Treasury securities and agency debentures | **$ 749** | **$ 10** | **$ –** | **$ 759** |
| Mortgage-backed securities [1] | **166,768** | **92** | **(3,144)** | **163,716** |
| Foreign securities | **6,568** | **290** | **(101)** | **6,757** |
| Corporate/Agency bonds | **3,107** | **2** | **(76)** | **3,033** |
| Other taxable securities [2] | **24,608** | **69** | **(84)** | **24,593** |
| Total taxable securities | **201,800** | **463** | **(3,405)** | **198,858** |
| Tax-exempt securities | **14,468** | **73** | **(69)** | **14,472** |
| **Total available-for-sale debt securities** | **$ 216,268** | **$ 536** | **$ (3,474)** | **$213,330** |
| **Available-for-sale marketable equity securities [3]** | **$ 6,562** | **$ 13,530** | **$ (352)** | **$ 19,740** |
| **Available-for-sale debt securities, December 31, 2006** | | | | |
| U.S. Treasury securities and agency debentures | $ 697 | $ – | $ (9) | $ 688 |
| Mortgage-backed securities [1] | 161,693 | 4 | (4,804) | 156,893 |
| Foreign securities | 12,126 | 2 | (78) | 12,050 |
| Corporate/Agency bonds | 4,699 | – | (96) | 4,603 |
| Other taxable securities [2] | 12,077 | 10 | (38) | 12,049 |
| Total taxable securities | 191,292 | 16 | (5,025) | 186,283 |
| Tax-exempt securities | 6,493 | 64 | (34) | 6,523 |
| **Total available-for-sale debt securities** | $ 197,785 | $ 80 | $ (5,059) | $192,806 |
| **Available-for-sale marketable equity securities [3]** | $ 2,799 | $ 408 | $ (10) | $ 3,197 |

(1)Substantially all securities were issued by U.S. government-backed or government-sponsored enterprises.
(2)Includes ABS.
(3)Represents those AFS marketable equity securities that are recorded in other assets on the Consolidated Balance Sheet. At December 31, 2007, approximately $16.2 billion of the fair value balance, including $13.4 billion of unrealized gain, represents China Construction Bank (CCB) shares. At December 31, 2006 these CCB shares were accounted for at cost and therefore excluded from this table.

At December 31, 2007, the amortized cost and fair value of both taxable and tax-exempt held-to-maturity debt securities was $726 million. At December 31, 2006, the amortized cost and fair value of both taxable and tax-exempt held-to-maturity debt securities was $40 million. Effective January 1, 2007, the Corporation redesignated $909 million of debt securities at amortized cost from AFS to held-to-maturity.

At December 31, 2007 and 2006, accumulated net unrealized gains (losses) on AFS debt and marketable equity securities included in accumulated OCI were $6.6 billion and $(2.9) billion, net of the related income tax (expense) benefit of $(3.7) billion and $1.7 billion.

The following table presents the current fair value and the associated gross unrealized losses only on investments in securities with gross unrealized losses at December 31, 2007 and 2006. The table also discloses whether these securities have had gross unrealized losses for less than twelve months, or for twelve months or longer.

| | Less than twelve months | | Twelve months or longer | | Total | |
|---|---|---|---|---|---|---|
| (Dollars in millions) | Fair Value | Gross Unrealized Losses | Fair Value | Gross Unrealized Losses | Fair Value | Gross Unrealized Losses |
| **Available-for-sale debt securities as of December 31, 2007** | | | | | | |
| Mortgage-backed securities | **$ 10,103** | **$ (438)** | **$140,600** | **$ (2,706)** | **$150,703** | **$ (3,144)** |
| Foreign securities | **357** | **(88)** | **2,129** | **(13)** | **2,486** | **(101)** |
| Corporate/Agency bonds | **127** | **(2)** | **2,181** | **(74)** | **2,308** | **(76)** |
| Other taxable securities | **622** | **(25)** | **712** | **(59)** | **1,334** | **(84)** |
| Total taxable securities | **11,209** | **(553)** | **145,622** | **(2,852)** | **156,831** | **(3,405)** |
| Tax-exempt securities | **2,563** | **(66)** | **505** | **(3)** | **3,068** | **(69)** |
| **Total temporarily-impaired available-for-sale debt securities** | **13,772** | **(619)** | **146,127** | **(2,855)** | **159,899** | **(3,474)** |
| **Temporarily-impaired available-for-sale marketable equity securities** | **2,353** | **(322)** | **57** | **(30)** | **2,410** | **(352)** |
| **Total temporarily-impaired available-for-sale securities** | **$ 16,125** | **$ (941)** | **$146,184** | **$ (2,885)** | **$162,309** | **$ (3,826)** |
| **Available-for-sale debt securities as of December 31, 2006** | | | | | | |
| U.S. Treasury securities and agency debentures | $ 387 | $ (9) | $ – | $ – | $ 387 | $ (9) |
| Mortgage-backed securities | 4,684 | (128) | 151,092 | (4,676) | 155,776 | (4,804) |
| Foreign securities | 45 | (1) | 6,908 | (77) | 6,953 | (78) |
| Corporate/Agency bonds | 4,199 | (96) | – | – | 4,199 | (96) |
| Other taxable securities | 1,253 | (29) | 287 | (9) | 1,540 | (38) |
| Total taxable securities | 10,568 | (263) | 158,287 | (4,762) | 168,855 | (5,025) |
| Tax-exempt securities | 811 | (4) | 1,271 | (30) | 2,082 | (34) |
| **Total temporarily-impaired available-for-sale debt securities** | 11,379 | (267) | 159,558 | (4,792) | 170,937 | (5,059) |
| **Temporarily-impaired available-for-sale marketable equity securities** | 244 | (10) | – | – | 244 | (10) |
| **Total temporarily-impaired available-for-sale securities** | $ 11,623 | $ (277) | $159,558 | $ (4,792) | $171,181 | $ (5,069) |

Management evaluates securities for other-than-temporary impairment on a quarterly basis, and more frequently when conditions warrant such evaluation. Factors considered in determining whether an impairment is other-than-temporary include (1) the length of time and the extent to which the fair value has been less than cost, (2) the financial condition and near-term prospects of the issuer, and (3) the intent and ability of the Corporation to hold the investment for a period of time sufficient to allow for any anticipated recovery in fair value.

At December 31, 2007, the amortized cost of approximately 7,000 securities in AFS securities exceeded their fair value by $3.8 billion. Included in the $3.8 billion of gross unrealized losses on AFS securities at December 31, 2007, was $941 million of gross unrealized losses that have existed for less than twelve months and $2.9 billion of gross unrealized losses that have existed for a period of twelve months or longer. Of the gross unrealized losses existing for twelve months or longer, $2.7 billion, or 94 percent, of the gross unrealized loss is related to approximately 800 mortgage-backed securities. These securities are predominantly guaranteed by either the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac) or Government National Mortgage Association (GNMA). The gross unrealized losses on these mortgage-backed securities are due to overall increases in market interest rates subsequent to purchase. The Corporation has the ability and intent to hold these securities for a period of time sufficient to recover all gross unrealized losses. Accordingly, the Corporation has not recognized any other-than-temporary impairment for these securities.

The Corporation had investments in securities from Fannie Mae and Freddie Mac that exceeded 10 percent of consolidated shareholders' equity as of December 31, 2007 and 2006. Those investments had fair values of $100.8 billion and $43.2 billion at December 31, 2007, and $109.9 billion and $42.0 billion at December 31, 2006. In addition, these investments had total amortized costs of $102.9 billion and $43.9 billion at December 31, 2007, and $113.5 billion and $43.3 billion at December 31, 2006. As disclosed in the preceding paragraph, the Corporation has not recognized any other-than-temporary impairment for these securities.

The Corporation recognized $398 million of impairment losses on AFS debt securities during 2007. No such losses were recognized during 2006 or 2005.

Securities are pledged or assigned to secure borrowed funds, government and trust deposits and for other purposes. The carrying value of pledged securities was $107.4 billion and $83.8 billion at December 31, 2007 and 2006.

The expected maturity distribution of the Corporation's mortgage-backed securities and the contractual maturity distribution of the Corporation's other debt securities, and the yields of its AFS debt securities portfolio at December 31, 2007 are summarized in the following table. Actual maturities may differ from the contractual or expected maturities shown in the following table since borrowers may have the right to prepay obligations with or without prepayment penalties.

| (Dollars in millions) | December 31, 2007 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Due in one year or less | | Due after one year through five years | | Due after five years through ten years | | Due after ten years | | Total | |
| | Amount | Yield [1] | Amount | Yield [1] | Amount | Yield [1] | Amount | Yield [1] | Amount | Yield [1] |
| **Fair value of available-for-sale debt securities** | | | | | | | | | | |
| U.S. Treasury securities and agency debentures | $ 93 | 3.82% | $ 541 | 3.97% | $ 119 | 4.45% | $ 6 | 5.82% | $ 759 | 4.04% |
| Mortgage-backed securities | 30 | 7.50 | 7,484 | 5.20 | 141,558 | 5.08 | 14,644 | 6.81 | 163,716 | 5.24 |
| Foreign securities | 1,658 | 4.57 | 4,095 | 5.52 | 54 | 8.96 | 950 | 7.57 | 6,757 | 5.67 |
| Corporate/Agency bonds | 215 | 4.30 | 1,032 | 4.47 | 1,691 | 4.97 | 95 | 5.52 | 3,033 | 4.77 |
| Other taxable securities | 13,044 | 4.69 | 7,017 | 5.13 | 2,399 | 5.76 | 2,133 | 5.59 | 24,593 | 5.00 |
| Total taxable securities | 15,040 | 4.67 | 20,169 | 5.17 | 145,821 | 5.09 | 17,828 | 6.70 | 198,858 | 5.21 |
| Tax-exempt securities [2] | 352 | 5.79 | 2,891 | 5.89 | 8,058 | 6.38 | 3,171 | 6.86 | 14,472 | 6.38 |
| **Total available-for-sale debt securities** | **$ 15,392** | **4.69** | **$ 23,060** | **5.26** | **$ 153,879** | **5.16** | **$ 20,999** | **6.72** | **$ 213,330** | **5.29** |
| **Amortized cost of available-for-sale debt securities** | **$ 15,120** | | **$ 23,205** | | **$ 156,495** | | **$ 21,448** | | **$ 216,268** | |

(1) Yields are calculated based on the amortized cost of the securities.
(2) Yields of tax-exempt securities are calculated on a fully taxable-equivalent (FTE) basis.

The components of realized gains and losses on sales of debt securities for 2007, 2006 and 2005 were:

| (Dollars in millions) | 2007 | 2006 | 2005 |
|---|---|---|---|
| Gross gains | **$197** | $ 87 | $1,154 |
| Gross losses | **(17)** | (530) | (70) |
| **Net gains (losses) on sales of debt securities** | **$180** | $(443) | $1,084 |

The income tax expense (benefit) attributable to realized net gains (losses) on sales of debt securities was $67 million, $(163) million and $400 million in 2007, 2006 and 2005, respectively.

## Certain Corporate and Strategic Investments

In 2007, the Corporation made a $2.0 billion investment in Countrywide Financial Corporation (Countrywide), the largest mortgage lender in the U.S., in the form of Series B non-voting convertible preferred securities yielding 7.25 percent, which are recorded in other assets. This investment is accounted for under the cost method of accounting.

The Corporation owns approximately eight percent, or 19.1 billion common shares, of CCB. These common shares are accounted for at fair value and recorded as AFS marketable equity securities in other assets. Prior to the fourth quarter of 2007, these shares were accounted for at cost as they are nontransferable until October 2008. The cost and fair value of the CCB investment was approximately $3.0 billion and $16.4 billion at December 31, 2007. Dividend income on this investment is recorded in equity investment income. The Corporation also holds an option to increase its ownership interest in CCB to 19.1 percent. Additional shares received upon exercise of this option are restricted through August 2011. This option expires in February 2011. The strike price of the option is based on the IPO price that steps up on an annual basis and is currently at 103 percent of the IPO price. The strike price of the option is capped at 118 percent depending when the option is exercised.

Additionally, the Corporation owns approximately 137.0 million and 41.1 million of preferred and common shares, respectively, of Banco Itaú Holding Financeira S.A. (Banco Itaú) at December 31, 2007 which are recorded in other assets. These shares are accounted for at cost as they are non-transferable until May 2009. These shares are currently carried at cost but will be accounted for as AFS marketable equity securities and carried at fair value with an offset to accumulated OCI beginning in the second quarter of 2008. Dividend income on this investment is recorded in equity investment income. The cost and fair value of this investment was $2.6 billion and $4.6 billion at December 31, 2007.

The Corporation has a 24.9 percent, or $2.6 billion, investment in Grupo Financiero Santander, S.A., the subsidiary of Grupo Santander, S.A. This investment is recorded in other assets and is accounted for under the equity method of accounting with income being recorded in equity investment income.

For additional information on securities, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

## Note 6 – Outstanding Loans and Leases

Outstanding loans and leases at December 31, 2007 and 2006 were:

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| **Consumer** | | |
| Residential mortgage | **$ 274,949** | $ 241,181 |
| Credit card – domestic | **65,774** | 61,195 |
| Credit card – foreign | **14,950** | 10,999 |
| Home equity [1] | **114,834** | 87,893 |
| Direct/Indirect consumer [1, 2] | **76,844** | 59,378 |
| Other consumer [1, 3] | **3,850** | 5,059 |
| **Total consumer** | **551,201** | 465,705 |
| **Commercial** | | |
| Commercial – domestic [4] | **208,297** | 161,982 |
| Commercial real estate [5] | **61,298** | 36,258 |
| Commercial lease financing | **22,582** | 21,864 |
| Commercial – foreign | **28,376** | 20,681 |
| Total commercial loans measured at historical cost | **320,553** | 240,785 |
| Commercial loans measured at fair value [6] | **4,590** | n/a |
| **Total commercial** | **325,143** | 240,785 |
| **Total loans and leases** | **$ 876,344** | $ 706,490 |

(1) Home equity loan balances previously included in direct/indirect consumer and other consumer were reclassified to home equity to conform to current year presentation. Additionally, certain foreign consumer balances were reclassified from other consumer to direct/indirect consumer to conform to current year presentation.
(2) Includes foreign consumer loans of $3.4 billion and $3.9 billion at December 31, 2007 and 2006.
(3) Includes other foreign consumer loans of $829 million and $2.3 billion, and consumer finance loans of $3.0 billion and $2.8 billion at December 31, 2007 and 2006.
(4) Includes small business commercial – domestic loans, primarily card-related, of $17.8 billion and $13.7 billion at December 31, 2007 and 2006.
(5) Includes domestic commercial real estate loans of $60.2 billion and $35.7 billion, and foreign commercial real estate loans of $1.1 billion and $578 million at December 31, 2007 and 2006.
(6) Certain commercial loans are measured at fair value in accordance with SFAS 159 and include commercial – domestic loans of $3.5 billion, commercial – foreign loans of $790 million and commercial real estate loans of $304 million at December 31, 2007. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional discussion of fair value for certain financial instruments.
n/a = not applicable

The following table presents the recorded loan amounts, without consideration for the specific component of the allowance for loan and lease losses, that were considered individually impaired in accordance with SFAS 114 at December 31, 2007 and 2006. SFAS 114 impairment includes performing troubled debt restructurings and excludes all commercial leases.

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| Commercial – domestic [1] | **$1,018** | $586 |
| Commercial real estate | **1,099** | 118 |
| Commercial – foreign | **19** | 13 |
| **Total impaired loans** | **$2,136** | $717 |

(1) Includes small business commercial – domestic loans of $135 million and $79 million at December 31, 2007 and 2006.

The average recorded investment in certain impaired loans for 2007, 2006 and 2005 was approximately $1.2 billion, $722 million and $852 million, respectively. At December 31, 2007 and 2006, the recorded investment in impaired loans requiring an allowance for loan and lease losses based on individual analysis per SFAS 114 guidelines was $1.2 billion and $567 million, and the related allowance for loan and lease losses was $123 million and $43 million. For 2007, 2006 and 2005, interest income recognized on impaired loans totaled $130 million, $36 million and $17 million, respectively, all of which was recognized on a cash basis.

At December 31, 2007 and 2006, nonperforming loans and leases, including impaired and nonaccrual consumer loans, totaled $5.6 billion and $1.8 billion. In addition, included in other assets were consumer and commercial nonperforming loans held-for-sale of $188 million and $80 million at December 31, 2007 and 2006.

The Corporation has loan products with varying terms (e.g., interest-only mortgages, option adjustable rate mortgages, etc.) and loans with high loan-to-value ratios. Exposure to any of these loan products does not result in a significant concentration of credit risk. Terms of loan products, collateral coverage, the borrower's credit history, and the amount of these loans that are retained on the Corporation's balance sheet are included in the Corporation's assessment when establishing its allowance for loan and lease losses.

## Note 7 – Allowance for Credit Losses

The following table summarizes the changes in the allowance for credit losses for 2007, 2006 and 2005.

| (Dollars in millions) | 2007 | 2006 | 2005 |
|---|---|---|---|
| **Allowance for loan and lease losses, January 1** | **$ 9,016** | $ 8,045 | $ 8,626 |
| Adjustment due to the adoption of SFAS 159 | **(32)** | – | – |
| LaSalle balance, October 1, 2007 | **725** | – | – |
| U.S. Trust Corporation balance, July 1, 2007 | **25** | – | – |
| MBNA balance, January 1, 2006 | – | 577 | – |
| Loans and leases charged off | **(7,730)** | (5,881) | (5,794) |
| Recoveries of loans and leases previously charged off | **1,250** | 1,342 | 1,232 |
| Net charge-offs | **(6,480)** | (4,539) | (4,562) |
| Provision for loan and lease losses | **8,357** | 5,001 | 4,021 |
| Other | **(23)** | (68) | (40) |
| **Allowance for loan and lease losses, December 31** | **11,588** | 9,016 | 8,045 |
| **Reserve for unfunded lending commitments, January 1** | **397** | 395 | 402 |
| Adjustment due to the adoption of SFAS 159 | **(28)** | – | – |
| LaSalle balance, October 1, 2007 | **124** | – | – |
| Provision for unfunded lending commitments | **28** | 9 | (7) |
| Other | **(3)** | (7) | – |
| **Reserve for unfunded lending commitments, December 31** | **518** | 397 | 395 |
| **Allowance for credit losses, December 31** | **$12,106** | $ 9,413 | $ 8,440 |

## Note 8 – Securitizations

The Corporation securitizes loans which may be serviced by the Corporation or by third parties. With each securitization, the Corporation may retain all or a portion of the securities, subordinated tranches, interest-only strips, subordinated interests in accrued interest and fees on the securitized receivables, and, in some cases, cash reserve accounts, all of which are called retained interests. These retained interests are recorded in other assets and/or AFS debt securities and are carried at fair value or amounts that approximate fair value with changes recorded in income or accumulated OCI. Changes in the fair value for credit card-related interest-only strips are recorded in card income.

### Mortgage-related Securitizations

The Corporation securitizes a portion of its residential mortgage loan originations in conjunction with or shortly after loan closing. In addition, the Corporation may, from time to time, securitize commercial mortgages and first residential mortgages that it originates or purchases from other entities. In 2007 and 2006, the Corporation converted a total of $84.5 billion (including $13.2 billion originated by other entities) and $70.4 billion (including $20.4 billion originated by other entities), of commercial mortgages and first residential mortgages into mortgage-backed securities issued through Fannie Mae, Freddie Mac, GNMA, Bank of America, N.A. and Banc of America Mortgage Securities. At December 31, 2007 and 2006, the Corporation retained $9.2 billion (including $3.3 billion issued prior to 2007) and $5.5 billion (including $4.2 billion issued prior to 2006) of securities that were valued using quoted market prices. In addition, the Corporation retained securities, including residual interests, which totaled $196 million and $224 million at December 31, 2007 and 2006 and are classified in trading account assets, with changes in fair value recorded in earnings.

In 2007, the Corporation reported $633 million in gains on loans converted into securities and sold, of which gains of $584 million were from loans originated by the Corporation and $49 million were from loans originated by other entities. In 2006, the Corporation reported $357 million in gains on loans converted into securities and sold, of which gains of $329 million were from loans originated by the Corporation and $28 million were from loans originated by other entities. At December 31, 2007 and 2006, the Corporation had recourse obligations of $150 million and $412 million with varying terms up to seven years on loans that had been securitized and sold.

In 2007 and 2006, the Corporation purchased $18.1 billion and $17.4 billion of mortgage-backed securities from third parties and resecuritized them. Net gains, which include net interest income earned during the holding period, totaled $13 million and $25 million. At December 31, 2007, the Corporation retained $540 million of the securities issued in these transactions. At December 31, 2006, the Corporation did not retain any securities issued in these transactions.

The Corporation has retained MSRs from the sale or securitization of mortgage loans. Servicing fee and ancillary fee income on all mortgage loans serviced, including securitizations, was $810 million and $775 million in 2007 and 2006. For more information on MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

Due to current market conditions, members of the mortgage servicing industry are evaluating a number of programs for identifying subprime residential mortgage loan borrowers who are at risk of default and offering loss mitigation strategies, including repayment plans and loan modifications, to such borrowers. Generally these programs require that the borrower and subprime residential mortgage loan meet certain criteria in order to qualify for a modification. The SEC's Office of the Chief Accountant (OCA) noted that if certain loan modification requirements are met, the OCA will not object to continued status of the transferee as a QSPE under SFAS 140. The Corporation does not currently originate or service significant subprime residential mortgage loans, nor does it hold a significant amount of beneficial interests in QSPE securitizations of subprime residential mortgage loans. The Corporation does not expect that the implementation of these programs will have a significant impact on its financial condition and results of operations.

## Credit Card and Other Securitizations

The Corporation maintains interests in credit card, other consumer, and commercial loan securitization vehicles. These acquired interests include interest-only strips, subordinated tranches, cash reserve accounts, and subordinated interests in accrued interest and fees on the securitized receivables. During 2007 and 2006, the Corporation securitized $19.9 billion and $23.7 billion of credit card receivables resulting in $99 million and $104 million in gains (net of securitization transaction costs of $14 million and $28 million) which were recorded in card income. As of December 31, 2007 and 2006, the aggregate debt securities outstanding for the Corporation's credit card securitization trusts were $101.3 billion and $96.8 billion.

The Corporation also securitized $3.3 billion of automobile loans and recorded losses of $6 million in 2006. The Corporation did not securitize any automobile loans in 2007. At December 31, 2007 and 2006, aggregate debt securities outstanding for the Corporation's automobile securitization vehicles were $2.6 billion and $5.2 billion, and the Corporation held residual interests which totaled $100 million and $130 million. At December 31, 2007 and 2006, the remaining other consumer and commercial loan securitization vehicles were not material to the Corporation.

At December 31, 2007 and 2006, the Corporation held investment grade securities issued by its securitization vehicles of $2.1 billion ($425 million of which were issued in 2007) and $3.5 billion (none of which were issued in 2006) in the AFS debt securities portfolio which are valued using quoted market prices. At December 31, 2007 and 2006, there were no recognized servicing assets or liabilities associated with any of these credit card and other securitization transactions.

Key economic assumptions used in measuring the fair value of certain residual interests that continue to be held by the Corporation (included in other assets) in credit card securitizations and the sensitivity of the current fair value of residual cash flows to changes in those assumptions are disclosed in the table below.

The sensitivities in the table below are hypothetical and should be used with caution. As the amounts indicate, changes in fair value based on variations in assumptions generally cannot be extrapolated because the relationship of the change in assumption to the change in fair value may not be linear. Also, the effect of a variation in a particular assumption on the fair value of an interest that continues to be held by the Corporation is calculated without changing any other assumption. In reality, changes in one factor may result in changes in another, which might magnify or counteract the sensitivities. Additionally, the Corporation has the ability to hedge interest rate risk associated with retained residual positions. The above sensitivities do not reflect any hedge strategies that may be undertaken to mitigate such risk.

Principal proceeds from collections reinvested in revolving credit card securitizations were $178.6 billion and $163.4 billion in 2007 and 2006. Contractual credit card servicing fee income totaled $2.1 billion and $1.9 billion in 2007 and 2006. Other cash flows received on retained interests, such as cash flow from interest-only strips, were $6.6 billion and $6.7 billion in 2007 and 2006, for credit card securitizations. Proceeds from collections reinvested in revolving commercial loan securitizations were $2.9 billion and $4.6 billion in 2007 and 2006. Servicing fees and other cash flows received on retained interests, such as cash flows from interest-only strips, were $1 million and $9 million in 2007, and $2 million and $15 million in 2006 for commercial loan securitizations.

The Corporation also reviews its loans and leases portfolio on a managed basis. Managed loans and leases are defined as on-balance sheet loans and leases as well as those loans in revolving securitizations and other securitizations where servicing is retained that are undertaken for corporate management purposes, which include credit card, commercial loans, automobile and certain mortgage securitizations. Managed loans and leases exclude originate-to-distribute loans and other loans in securitizations where the Corporation has not retained servicing. New advances on accounts for which previous loan balances were sold to the securitization trusts will be recorded on the Corporation's Consolidated Balance Sheet after the revolving period of the securitization, which has the effect of increasing loans and leases on the Corporation's Consolidated Balance Sheet and increasing net interest income and charge-offs, with a related reduction in noninterest income.

| (Dollars in millions) | 2007 | 2006 |
|---|---|---|
| **Carrying amount of residual interests (at fair value) [1]** | **$ 2,766** | $ 2,929 |
| **Balance of unamortized securitized loans** | **102,967** | 98,295 |
| **Weighted average life to call or maturity (in years)** | **0.3** | 0.3 |
| **Monthly payment rate** | **11.6-16.6%** | 11.2-19.8% |
| Impact on fair value of 10% favorable change | **$ 51** | $ 43 |
| Impact on fair value of 25% favorable change | **158** | 133 |
| Impact on fair value of 10% adverse change | **(35)** | (38) |
| Impact on fair value of 25% adverse change | **(80)** | (82) |
| **Expected credit losses (annual rate)** | **3.7-5.4%** | 3.8-5.8% |
| Impact on fair value of 10% favorable change | **$ 141** | $ 86 |
| Impact on fair value of 25% favorable change | **374** | 218 |
| Impact on fair value of 10% adverse change | **(133)** | (85) |
| Impact on fair value of 25% adverse change | **(333)** | (211) |
| **Residual cash flows discount rate (annual rate)** | **11.5%** | 12.5% |
| Impact on fair value of 100 bps favorable change | **$ 9** | $ 12 |
| Impact on fair value of 200 bps favorable change | **13** | 17 |
| Impact on fair value of 100 bps adverse change | **(12)** | (14) |
| Impact on fair value of 200 bps adverse change | **(23)** | (27) |

(1) Residual interests include interest-only strips, subordinated tranches, subordinated interests in accrued interest and fees on the securitized receivables and cash reserve accounts which are carried at fair value or amounts that approximate fair value.

Portfolio balances, delinquency and historical loss amounts of the managed loans and leases portfolio for 2007 and 2006 were as follows:

| (Dollars in millions) | December 31, 2007 Total Loans and Leases | Accruing Loans and Leases Past Due 90 Days or More | Nonperforming Loans and Leases | December 31, 2006 Total Loans and Leases | Accruing Loans and Leases Past Due 90 Days or More | Nonperforming Loans and Leases |
|---|---|---|---|---|---|---|
| Residential mortgage [1] | $ 278,733 | $ 237 | $ 1,999 | $ 245,840 | $ 118 | $ 660 |
| Credit card – domestic | 151,862 | 4,170 | n/a | 142,599 | 3,828 | n/a |
| Credit card – foreign | 31,829 | 714 | n/a | 27,890 | 608 | n/a |
| Home equity | 115,009 | – | 1,342 | 88,202 | – | 293 |
| Direct/Indirect consumer | 78,564 | 752 | 8 | 66,266 | 524 | 2 |
| Other consumer | 3,850 | 4 | 95 | 5,059 | 7 | 77 |
| Total consumer | 659,847 | 5,877 | 3,444 | 575,856 | 5,085 | 1,032 |
| Commercial – domestic [2, 3] | 209,087 | 546 | 1,004 | 163,274 | 265 | 598 |
| Commercial real estate | 61,298 | 36 | 1,099 | 36,258 | 78 | 118 |
| Commercial lease financing | 22,582 | 25 | 33 | 21,864 | 26 | 42 |
| Commercial – foreign | 28,376 | 16 | 19 | 20,681 | 9 | 13 |
| Total commercial | 321,343 | 623 | 2,155 | 242,077 | 378 | 771 |
| **Total managed loans and leases measured at historical cost** | 981,190 | 6,500 | 5,599 | 817,933 | 5,463 | 1,803 |
| Total measured at fair value | 4,590 | – | – | n/a | n/a | n/a |
| Managed loans in securitizations | (109,436) | (2,764) | (2) | (111,443) | (2,407) | (16) |
| **Total held loans and leases** | $ 876,344 | $ 3,736 | $ 5,597 | $ 706,490 | $ 3,056 | $ 1,787 |

| (Dollars in millions) | Year Ended December 31, 2007 Average Loans and Leases Outstanding | Net Losses | Net Loss Ratio [4] | Year Ended December 31, 2006 Average Loans and Leases Outstanding | Net Losses | Net Loss Ratio [4] |
|---|---|---|---|---|---|---|
| Residential mortgage | $ 268,879 | $ 57 | 0.02% | $ 213,097 | $ 39 | 0.02% |
| Credit card – domestic | 141,795 | 6,960 | 4.91 | 138,592 | 5,395 | 3.89 |
| Credit card – foreign | 29,581 | 1,254 | 4.24 | 24,817 | 980 | 3.95 |
| Home equity | 99,023 | 274 | 0.28 | 78,692 | 51 | 0.07 |
| Direct/Indirect consumer | 74,829 | 1,603 | 2.14 | 62,002 | 925 | 1.49 |
| Other consumer | 4,259 | 278 | 6.54 | 7,317 | 217 | 2.97 |
| Total consumer | 618,366 | 10,426 | 1.69 | 524,517 | 7,607 | 1.45 |
| Commercial – domestic [2, 5] | 178,932 | 1,007 | 0.56 | 153,796 | 367 | 0.24 |
| Commercial real estate | 42,783 | 47 | 0.11 | 36,939 | 3 | 0.01 |
| Commercial lease financing | 20,435 | 2 | 0.01 | 20,862 | (28) | (0.14) |
| Commercial – foreign | 23,931 | 1 | – | 23,521 | (8) | (0.04) |
| Total commercial | 266,081 | 1,057 | 0.40 | 235,118 | 334 | 0.14 |
| **Total managed loans and leases measured at historical cost** | 884,447 | 11,483 | 1.30 | 759,635 | 7,941 | 1.05 |
| Total measured at fair value | 3,012 | n/a | n/a | n/a | n/a | n/a |
| Managed loans in securitizations | (111,305) | (5,003) | 4.50 | (107,218) | (3,402) | 3.17 |
| **Total held loans and leases** | $ 776,154 | $ 6,480 | 0.84 | $ 652,417 | $ 4,539 | 0.70 |

(1) Accruing loans and leases past due 90 days or more represent residential mortgage loans related to repurchases pursuant to the Corporation's servicing agreements with GNMA mortgage pools, where repayments are insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs.
(2) Includes small business commercial – domestic loans.
(3) Includes small business – commercial domestic accruing loans and leases past due 90 days or more of $427 million and $199 million and nonperforming loans and leases of $135 million and $79 million at December 31, 2007 and 2006.
(4) The net loss ratios are calculated as managed net losses divided by average outstanding managed loans and leases measured at historical cost for each loan and lease category.
(5) Includes small business – commercial domestic net losses of $869 million, or 5.57 percent, and $361 million, or 3.00 percent, in 2007 and 2006.
n/a= not applicable

## Note 9 – Variable Interest Entities

The following table presents total assets of those VIEs in which the Corporation holds a significant variable interest and, in the unlikely event that all of the assets in the VIEs become worthless, the Corporation's maximum exposure to loss. The Corporation's maximum exposure to loss incorporates not only potential losses associated with assets recorded on the Corporation's balance sheet but also off-balance sheet commitments, such as unfunded liquidity and lending commitments and other contractual arrangements.

| | Consolidated [1] | | Unconsolidated | |
|---|---|---|---|---|
| (Dollars in millions) | Total Assets | Loss Exposure | Total Assets | Loss Exposure |
| **Variable interest entities, December 31, 2007** | | | | |
| Corporation-sponsored multi-seller conduits | **$ 11,944** | **$ 16,984** | **$ 29,363** | **$ 47,335** |
| Collateralized debt obligation vehicles | **4,464** | **4,311** | **8,324** | **7,410** |
| Leveraged lease trusts | **6,236** | **6,236** | **–** | **–** |
| Other | **13,771** | **12,347** | **8,260** | **5,953** |
| **Total variable interest entities** | **$ 36,415** | **$ 39,878** | **$ 45,947** | **$ 60,698** |
| **Variable interest entities, December 31, 2006** | | | | |
| Corporation-sponsored multi-seller conduits | $ 9,090 | $ 11,515 | $ 18,983 | $ 29,836 |
| Collateralized debt obligation vehicles | – | – | 8,489 | 7,658 |
| Leveraged lease trusts | 8,575 | 8,575 | – | – |
| Other | 4,717 | 3,019 | 12,709 | 9,310 |
| **Total variable interest entities** | $ 22,382 | $ 23,109 | $ 40,181 | $ 46,804 |

[1] The Corporation consolidates VIEs when it is the primary beneficiary that will absorb the majority of the expected losses or expected residual returns of the VIEs or both.

### Corporation-Sponsored Multi-seller Conduits

The Corporation administers three multi-seller conduits which provide a low-cost funding alternative to its customers by facilitating their access to the commercial paper market. These customers sell or otherwise transfer assets to the conduits, which in turn issue high-grade, short-term commercial paper that is collateralized by the underlying assets. The Corporation receives fees for providing combinations of liquidity and SBLCs or similar loss protection commitments to the conduits.

At December 31, 2007, our liquidity commitments to the conduits were collateralized by various classes of assets. Assets held in the conduits incorporate features such as overcollateralization and cash reserves which are designed to provide credit support at a level that is equivalent to investment grade as determined in accordance with internal risk rating guidelines. During 2007, there were no material write-downs or downgrades of assets.

The Corporation is the primary beneficiary of one conduit which is included in the Consolidated Financial Statements. The assets of the consolidated conduit are recorded in AFS and held-to-maturity debt securities, and other assets. At December 31, 2007, the Corporation's liquidity commitments to the conduit were collateralized by credit card loans (21 percent), auto loans (14 percent), equipment loans (13 percent), and student loans (eight percent). None of these assets are subprime residential mortgages. In addition, 29 percent of the Corporation's liquidity commitments were collateralized by projected cash flows from long-term contracts (e.g., television broadcast contracts, stadium revenues and royalty payments) which, as mentioned above, incorporate features that provide credit support at a level equivalent to investment grade. Assets of the Corporation are not available to pay creditors of the consolidated conduit, except to the extent the Corporation may be obligated to perform under the liquidity commitments and SBLCs. Assets of the consolidated conduit are not available to pay creditors of the Corporation.

The Corporation does not consolidate the other two conduits which issued capital notes and equity interests to independent third parties as it does not expect to absorb a majority of the variability of the conduits. At December 31, 2007, the Corporation's liquidity commitments to the unconsolidated conduits were collateralized by student loans (27 percent), credit card loans and trade receivables (10 percent each), and auto loans (eight percent). Less than one percent of these assets are subprime residential mortgages. In addition, 29 percent of the Corporation's commitments were collateralized by the conduits' short-term lending arrangements with investment funds, primarily real estate funds, which, as mentioned above, incorporate features that provide credit support at a level equivalent to investment grade. Amounts advanced under these arrangements will be repaid when the investment funds issue capital calls to their qualified equity investors.

Net revenues earned from fees associated with these commitments were $184 million and $121 million in 2007 and 2006.

### Collateralized Debt Obligation Vehicles

CDO vehicles are SPEs that hold diversified pools of fixed income securities. They issue multiple tranches of debt securities, including commercial paper, and equity securities. The Corporation receives fees for structuring the CDOs and/or placing debt securities with third party investors. The Corporation provided total liquidity support to CDO vehicles of $12.3 billion and $7.7 billion notional amount at December 31, 2007 and 2006 consisting of $10.0 billion (including $3.2 billion for a consolidated CDO) and $2.1 billion of written put options and $2.3 billion and $5.5 billion of other liquidity support at December 31, 2007 and 2006.

The Corporation is the primary beneficiary of certain CDOs which are included in the Consolidated Financial Statements at December 31, 2007. Assets held in the consolidated CDOs are classified in trading account assets and AFS debt securities, including AFS debt securities with a fair value of $2.8 billion that were principally related to certain assets that were removed from the CDO conduit discussed below. The creditors of the consolidated CDOs have no recourse to the general credit of the Corporation.

At December 31, 2007 and 2006, the Corporation provided liquidity support in the form of written put options on $10.0 billion and $2.1 billion notional amount of commercial paper issued by CDOs including $3.2 billion issued by a consolidated CDO at December 31, 2007. The commercial paper is the most senior class of securities issued by the CDOs and benefits from the subordination of all other securities, including AAA-rated securities, issued by the CDOs. The Corporation is obligated under the written put options to provide funding to the CDOs by purchasing the commercial paper at predetermined contractual yields in the event of a severe disruption in the short-term funding market. These written put

options are recorded as derivatives on the Consolidated Balance Sheet and are carried at fair value with changes in fair value recorded in trading account profits (losses). See *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements for more information on the written put options. Derivative activity related to these entities is included in *Note 4 – Derivatives* to the Consolidated Financial Statements.

The Corporation also administers a CDO conduit that obtains funds by issuing commercial paper to third party investors. The conduit held $2.3 billion and $5.5 billion of assets at December 31, 2007 and 2006 consisting of super senior tranches of debt securities issued by other CDOs. These securities benefit from overcollateralization exceeding the amount that would be required for a AAA-rating. The Corporation provides liquidity support equal to the amount of assets in this conduit which obligates it to purchase the commercial paper at a predetermined contractual yield in the event of a severe disruption in the short-term funding market.

At December 31, 2007, the Corporation held $6.6 billion of commercial paper on the balance sheet that was issued by unconsolidated CDO vehicles, of which $5.0 billion related to these written put options and $1.6 billion related to other liquidity support. The Corporation recorded losses of $3.5 billion, net of insurance, in 2007 (of which $3.2 billion was recorded in trading account profits (losses) and $288 million was recorded in other income) due to writedowns of assets in consolidated CDOs and losses recorded in connection with written put options and liquidity commitments to unconsolidated CDOs. No losses were recorded in 2006.

Net revenues earned from fees associated with these liquidity commitments were $5 million and $3 million in 2007 and 2006.

**Leveraged Lease Trusts**

The Corporation's net investment in leveraged lease trusts totaled $6.2 billion and $8.6 billion at December 31, 2007 and 2006. These amounts, which were recorded in loans and leases, represent the Corporation's maximum loss exposure to these entities in the unlikely event that the leveraged lease investments become worthless. Debt issued by the leveraged lease trusts is nonrecourse to the Corporation. The Corporation has no liquidity exposure to these leveraged lease trusts.

**Other**

Other consolidated VIEs at December 31, 2007 and 2006 consisted primarily of securitization vehicles, including an asset acquisition conduit that holds securities on the Corporation's behalf and term securitization vehicles that did not meet QSPE status, as well as managed investment vehicles that invest in financial assets, primarily debt securities. The Corporation's maximum exposure to loss of these VIEs included $7.4 billion and $272 million of liquidity exposure to consolidated trusts that hold municipal bonds and $1.6 billion and $1.1 billion of liquidity exposure to the consolidated asset acquisition conduit at December 31, 2007 and 2006. The assets of these consolidated VIEs were recorded in trading account assets, AFS debt securities and other assets. Other unconsolidated VIEs at December 31, 2007 and 2006 consisted primarily of securitization vehicles, managed investment vehicles that invest in financial assets, primarily debt securities, and investments in affordable housing investment partnerships. Revenues associated with administration, asset management, liquidity, and other services were $17 million and $20 million in 2007 and 2006.

## Note 10 – Goodwill and Intangible Assets

The following tables present goodwill and intangible assets at December 31, 2007 and 2006.

| | December 31 | |
|---|---|---|
| (Dollars in millions) | **2007** | 2006 |
| Global Consumer and Small Business Banking | **$40,340** | $38,201 |
| Global Corporate and Investment Banking | **29,648** | 21,979 |
| Global Wealth and Investment Management | **6,451** | 5,243 |
| All Other | **1,091** | 239 |
| **Total goodwill** | **$77,530** | $65,662 |

The gross carrying values and accumulated amortization related to intangible assets at December 31, 2007 and 2006 are presented below:

| | December 31 | | | |
|---|---|---|---|---|
| | **2007** | | 2006 | |
| (Dollars in millions) | **Gross Carrying Value** | **Accumulated Amortization** | Gross Carrying Value | Accumulated Amortization |
| Purchased credit card relationships | **$ 7,027** | **$ 1,970** | $ 6,790 | $ 1,159 |
| Core deposit intangibles | **4,594** | **2,828** | 3,850 | 2,396 |
| Affinity relationships | **1,681** | **406** | 1,650 | 205 |
| Other intangibles | **3,050** | **852** | 1,525 | 633 |
| **Total intangible assets** | **$ 16,352** | **$ 6,056** | $ 13,815 | $ 4,393 |

The above tables include $11.1 billion and $1.6 billion of goodwill and $1.0 billion and $1.3 billion of intangible assets related to the preliminary purchase price allocations of LaSalle and U.S. Trust Corporation. For more information on the impact of these acquisitions, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

Amortization of intangibles expense was $1.7 billion, $1.8 billion and $809 million in 2007, 2006 and 2005, respectively. The Corporation estimates aggregate amortization expense will be approximately $1.7 billion, $1.5 billion, $1.5 billion, $1.2 billion and $1.0 billion for 2008 through 2012, respectively. These estimates exclude the impact of any planned acquisitions.

## Note 11 – Deposits

The Corporation had domestic certificates of deposit and other domestic time deposits of $100 thousand or more totaling $94.4 billion and $74.5 billion at December 31, 2007 and 2006. Foreign certificates of deposit and other foreign time deposits of $100 thousand or more totaled $109.1 billion and $62.1 billion at December 31, 2007 and 2006.

**Time deposits of $100 thousand or more**

| (Dollars in millions) | Three months or less | Over three months to twelve months | Thereafter | Total |
|---|---|---|---|---|
| Domestic certificates of deposit and other time deposits | $ 45,172 | $ 46,199 | $ 3,069 | $ 94,440 |
| Foreign certificates of deposit and other time deposits | 100,515 | 5,900 | 2,706 | 109,121 |

At December 31, 2007, the scheduled maturities for total time deposits were as follows:

| (Dollars in millions) | Domestic | Foreign | Total |
|---|---|---|---|
| Due in 2008 | $ 205,359 | $ 107,334 | $ 312,693 |
| Due in 2009 | 7,656 | 786 | 8,442 |
| Due in 2010 | 3,484 | 180 | 3,664 |
| Due in 2011 | 1,569 | 23 | 1,592 |
| Due in 2012 | 1,776 | 1,023 | 2,799 |
| Thereafter | 1,963 | 730 | 2,693 |
| **Total time deposits** | $ 221,807 | $ 110,076 | $ 331,883 |

## Note 12 – Short-term Borrowings and Long-term Debt

### Short-term Borrowings

Bank of America Corporation and certain of its subsidiaries issue commercial paper in order to meet short-term funding needs. Commercial paper outstanding at December 31, 2007 was $55.6 billion compared to $41.2 billion at December 31, 2006.

Bank of America, N.A. maintains a domestic program to offer up to a maximum of $75.0 billion, at any one time, of bank notes with fixed or floating rates and maturities of at least seven days from the date of issue. Short-term bank notes outstanding under this program totaled $12.3 billion at December 31, 2007 compared to $24.5 billion at December 31, 2006. These short-term bank notes, along with commercial paper, Federal Home Loan Bank advances, Treasury tax and loan notes, and term federal funds purchased, are reflected in commercial paper and other short-term borrowings on the Consolidated Balance Sheet.

## Long-term Debt

The following table presents the balance of long-term debt at December 31, 2007 and 2006 and the related rates and maturity dates at December 31, 2007:

| | December 31 | |
|---|---|---|
| (Dollars in millions) | **2007** | 2006 |
| **Notes issued by Bank of America Corporation** | | |
| Senior notes: | | |
| Fixed, with a weighted average rate of 4.62%, ranging from 0.84% to 8.61%, due 2008 to 2043 | **$ 47,430** | $ 38,587 |
| Floating, with a weighted average rate of 4.97%, ranging from 0.54% to 9.07%, due 2008 to 2041 | **41,791** | 26,695 |
| Subordinated notes: | | |
| Fixed, with a weighted average rate of 5.78%, ranging from 2.40% to 10.20%, due 2008 to 2037 | **28,630** | 23,896 |
| Floating, with a weighted average rate of 5.78%, ranging from 4.58% to 7.52%, due 2016 to 2019 | **686** | 510 |
| Junior subordinated notes (related to trust preferred securities): | | |
| Fixed, with a weighted average rate of 6.64%, ranging from 5.25% to 11.45%, due 2026 to 2055 | **13,866** | 13,665 |
| Floating, with a weighted average rate of 5.71%, ranging from 5.24% to 8.59%, due 2027 to 2056 | **3,359** | 2,203 |
| **Total notes issued by Bank of America Corporation** | **135,762** | 105,556 |
| **Notes issued by Bank of America, N.A. and other subsidiaries** | | |
| Senior notes: | | |
| Fixed, with a weighted average rate of 4.66%, ranging from 0.93% to 11.30%, due 2008 to 2027 | **5,648** | 6,450 |
| Floating, with a weighted average rate of 5.03%, ranging from 1.00% to 8.00%, due 2008 to 2051 | **32,873** | 22,219 |
| Subordinated notes: | | |
| Fixed, with a weighted average rate of 5.99%, ranging from 5.30% to 7.13%, due 2008 to 2036 | **6,592** | 4,294 |
| Floating, with a weighted average rate of 5.25%, ranging from 4.85% to 5.29%, due 2010 to 2027 | **1,907** | 918 |
| **Total notes issued by Bank of America, N.A. and other subsidiaries** | **47,020** | 33,881 |
| **Notes issued by NB Holdings Corporation** | | |
| Junior subordinated notes (related to trust preferred securities): | | |
| Fixed | **–** | 515 |
| Floating, 5.54%, due 2027 | **258** | 258 |
| **Total notes issued by NB Holdings Corporation** | **258** | 773 |
| **Notes issued by BAC North America Holding Company and subsidiaries** [(1)] | | |
| Senior notes: | | |
| Fixed, with a weighted average rate of 5.04%, ranging from 3.00% to 8.00%, due 2008 to 2026 | **583** | – |
| Floating, 3.62%, due 2013 | **215** | – |
| Preferred Securities (related to securities issued by trusts): | | |
| Fixed, 6.97%, redeemable on or after 9/15/2010 | **491** | – |
| Floating, with a weighted average rate of 6.56%, ranging from 5.05% to 7.00%, redeemable starting on or after 9/15/2010 | **1,627** | – |
| **Total notes issued by BAC North America Holding Company and subsidiaries** | **2,916** | – |
| **Other debt** | | |
| Advances from the Federal Home Loan Bank of Atlanta | | |
| Floating | **–** | 500 |
| Advances from the Federal Home Loan Bank of New York | | |
| Fixed, with a weighted average rate of 6.06%, ranging from 4.00% to 8.29%, due 2008 to 2016 | **230** | 285 |
| Advances from the Federal Home Loan Bank of Seattle | | |
| Fixed, with a weighted average rate of 6.34%, ranging from 5.40% to 7.42%, due 2008 to 2031 | **122** | 125 |
| Floating, with a weighted average rate of 5.20%, ranging from 5.12% to 5.22%, due 2008 | **2,100** | 3,200 |
| Advances from the Federal Home Loan Bank of Boston | | |
| Fixed, with a weighted average rate of 5.89%, ranging from 1.00% to 7.72%, due 2008 to 2026 | **133** | 146 |
| Floating, with a weighted average rate of 4.42%, ranging from 4.36% to 4.45%, due 2008 to 2009 | **2,500** | 1,500 |
| Advances from the Federal Home Loan Bank of Chicago | | |
| Fixed, with a weighted average rate of 4.03%, ranging from 2.97% to 8.29%, due 2008 to 2015 | **1,966** | – |
| Floating, with a weighted average rate of 4.90%, ranging from 4.76% to 5.00%, due 2008 to 2013 | **850** | – |
| Advances from the Federal Home Loan Bank of Indianapolis | | |
| Fixed, with a weighted average rate of 4.13%, ranging from 2.95% to 6.61%, due 2008 to 2013 | **3,300** | – |
| Other | **351** | 34 |
| **Total other debt** | **11,552** | 5,790 |
| **Total long-term debt** | **$ 197,508** | $ 146,000 |

(1)Formerly ABN AMRO North America Holding Company which was acquired on October 1, 2007 as part of the LaSalle acquisition.

The majority of the floating rates are based on three- and six-month London InterBank Offered Rates (LIBOR). Bank of America Corporation and Bank of America, N.A. maintain various domestic and international debt programs to offer both senior and subordinated notes. The notes may be denominated in U.S. dollars or foreign currencies. At December 31, 2007 and 2006, the amount of foreign currency-denominated debt translated into U.S. dollars included in total long-term debt was $58.8 billion and $37.8 billion. Foreign currency contracts are used to convert certain foreign currency-denominated debt into U.S. dollars.

At December 31, 2007 and 2006, Bank of America Corporation was authorized to issue approximately $64.0 billion and $58.1 billion of additional corporate debt and other securities under its existing shelf-registration statements. At December 31, 2007 and 2006, Bank of America, N.A. was authorized to issue approximately $62.1 billion and $30.8 billion of bank notes. At December 31, 2007, Bank of America, N.A. was authorized to issue approximately $20.6 billion of additional mortgage notes.

The weighted average effective interest rates for total long-term debt, total fixed-rate debt and total floating-rate debt (based on the rates in effect at December 31, 2007) were 5.09 percent, 5.21 percent and 4.93 percent, respectively, at December 31, 2007 and (based on the rates in effect at December 31, 2006) were 5.32 percent, 5.41 percent and 5.18 percent, respectively, at December 31, 2006. These obligations were denominated primarily in U.S. dollars.

The following table presents aggregate annual maturities of long-term debt obligations (based on final maturity dates) at December 31, 2007.

| (Dollars in millions) | 2008 | 2009 | 2010 | 2011 | 2012 | Thereafter | Total |
|---|---|---|---|---|---|---|---|
| Bank of America Corporation | $ 7,303 | $13,487 | $19,632 | $ 8,430 | $12,188 | $ 74,722 | $135,762 |
| Bank of America, N.A. and other subsidiaries | 18,802 | 9,879 | 2,967 | 147 | 5,663 | 9,562 | 47,020 |
| NB Holdings Corporation | – | – | – | – | – | 258 | 258 |
| BAC North America Holding Company and subsidiaries | 16 | 73 | 91 | 51 | 15 | 2,670 | 2,916 |
| Other | 4,314 | 2,783 | 1,781 | 1,505 | 116 | 1,053 | 11,552 |
| **Total** | **$30,435** | **$26,222** | **$24,471** | **$10,133** | **$17,982** | **$ 88,265** | **$197,508** |

**Trust Preferred and Hybrid Securities**

Trust preferred securities (Trust Securities) are issued by the trust companies (the Trusts) which are not consolidated. These Trust Securities are mandatorily redeemable preferred security obligations of the Trusts. The sole assets of the Trusts are Junior Subordinated Deferrable Interest Notes of the Corporation (the Notes). The Trusts are 100 percent-owned finance subsidiaries of the Corporation. Obligations associated with the Notes are included in the Long-term Debt table on the previous page.

Certain of the Trust Securities were issued at a discount and may be redeemed prior to maturity at the option of the Corporation. The Trusts have invested the proceeds of such Trust Securities in the Notes. Each issue of the Notes has an interest rate equal to the corresponding Trust Securities distribution rate. The Corporation has the right to defer payment of interest on the Notes at any time, or from time to time for a period not exceeding five years, provided that no extension period may extend beyond the stated maturity of the relevant Notes. During any such extension period, distributions on the Trust Securities will also be deferred and the Corporation's ability to pay dividends on its common and preferred stock will be restricted.

The Trust Securities are subject to mandatory redemption upon repayment of the related Notes at their stated maturity dates or their earlier redemption at a redemption price equal to their liquidation amount plus accrued distributions to the date fixed for redemption and the premium, if any, paid by the Corporation upon concurrent repayment of the related Notes.

Periodic cash payments and payments upon liquidation or redemption with respect to Trust Securities are guaranteed by the Corporation to the extent of funds held by the Trusts (the Preferred Securities Guarantee). The Preferred Securities Guarantee, when taken together with the Corporation's other obligations, including its obligations under the Notes, will constitute a full and unconditional guarantee, on a subordinated basis, by the Corporation of payments due on the Trust Securities.

Hybrid Income Term Securities (HITS) totaling $1.6 billion were also issued by the Trusts to institutional investors. The BAC Capital Trust XIII Floating Rate Preferred HITS have a distribution rate of three-month LIBOR plus 40 bps and the BAC Capital Trust XIV Fixed-to-Floating Rate Preferred HITS have an initial distribution rate of 5.63 percent. Both series of HITS represent beneficial interests in the assets of the respective capital trust, which consists of a series of the Corporation's junior subordinated notes and a stock purchase contract for a specified series of the Corporation's preferred stock. The Corporation will remarket the junior subordinated notes underlying each series of HITS on or about the five-year anniversary of the issuance to obtain sufficient funds for the capital trusts to buy the Corporation's preferred stock under the stock purchase contracts.

In connection with the HITS, the Corporation entered into two replacement capital covenants for the benefit of investors in certain series of the Corporation's long-term indebtedness (Covered Debt). As of the date of this report, the Corporation's 6 5/8% Junior Subordinated Notes due 2036 constitutes the Covered Debt under the covenant corresponding to the Floating Rate Preferred HITS and the Corporation's 5 5/8% Junior Subordinated Notes due 2035 constitutes the Covered Debt under the covenant corresponding to the Fixed-to-Floating Rate Preferred HITS. These covenants generally restrict the ability of the Corporation and its subsidiaries to redeem or purchase the HITS and related securities unless the Corporation has obtained the prior approval of the FRB if required under the FRB's capital guidelines, the redemption or purchase price of the HITS does not exceed the amount received by the Corporation from the sale of certain qualifying securities, and such replacement securities qualify as Tier 1 Capital and are not "restricted core capital elements" under the FRB's guidelines.

The following table is a summary of the outstanding Trust Securities and the Notes at December 31, 2007 as originated by Bank of America Corporation and the predecessor banks.

(Dollars in millions)

| Issuer | Issuance Date | Aggregate Principal Amount of Trust Securities | Aggregate Principal Amount of the Notes | Stated Maturity of the Notes | Per Annum Interest Rate of the Notes | Interest Payment Dates | Redemption Period |
|---|---|---|---|---|---|---|---|
| **Bank of America** | | | | | | | |
| Capital Trust I | December 2001 | $ 575 | **$ 593** | December 2031 | 7.00% | 3/15,6/15,9/15,12/15 | On or after 12/15/06 |
| Capital Trust II | January 2002 | 900 | **928** | February 2032 | 7.00 | 2/1,5/1,8/1,11/1 | On or after 2/01/07 |
| Capital Trust III | August 2002 | 500 | **516** | August 2032 | 7.00 | 2/15,5/15,8/15,11/15 | On or after 8/15/07 |
| Capital Trust IV | April 2003 | 375 | **387** | May 2033 | 5.88 | 2/1,5/1,8/1,11/1 | On or after 5/01/08 |
| Capital Trust V | November 2004 | 518 | **534** | November 2034 | 6.00 | 2/3,5/3,8/3,11/3 | On or after 11/03/09 |
| Capital Trust VI | March 2005 | 1,000 | **1,031** | March 2035 | 5.63 | 3/8,9/8 | Any time |
| Capital Trust VII | August 2005 | 1,685 | **1,738** | August 2035 | 5.25 | 2/10,8/10 | Any time |
| Capital Trust VIII | August 2005 | 530 | **546** | August 2035 | 6.00 | 2/25,5/25,8/25,11/25 | On or after 8/25/10 |
| Capital Trust X | March 2006 | 900 | **928** | March 2055 | 6.25 | 3/29,6/29,9/29,12/29 | On or after 3/29/11 |
| Capital Trust XI | May 2006 | 1,000 | **1,031** | May 2036 | 6.63 | 5/23,11/23 | Any time |
| Capital Trust XII | August 2006 | 863 | **890** | August 2055 | 6.88 | 2/2,5/2,8/2,11/2 | On or after 8/02/11 |
| Capital Trust XIII | February 2007 | 700 | **700** | March 2043 | 3-mo. LIBOR +40 bps | 3/15,6/15,9/15,12/15 | On or after 3/15/17 |
| Capital Trust XIV | February 2007 | 850 | **850** | March 2043 | 5.63 | 3/15,9/15 | On or after 3/15/17 |
| Capital Trust XV | May 2007 | 500 | **500** | June 2056 | 3-mo. LIBOR +80 bps | 3/1,6/1,9/1,12/1 | On or after 6/01/37 |
| **NationsBank** | | | | | | | |
| Capital Trust II | December 1996 | 365 | **376** | December 2026 | 7.83 | 6/15,12/15 | On or after 12/15/06 |
| Capital Trust III | February 1997 | 500 | **515** | January 2027 | 3-mo. LIBOR +55 bps | 1/15,4/15,7/15,10/15 | On or after 1/15/07 |
| Capital Trust IV | April 1997 | 500 | **515** | April 2027 | 8.25 | 4/15,10/15 | On or after 4/15/07 |
| **BankAmerica** | | | | | | | |
| Institutional Capital A | November 1996 | 450 | **464** | December 2026 | 8.07 | 6/30,12/31 | On or after 12/31/06 |
| Institutional Capital B | November 1996 | 300 | **309** | December 2026 | 7.70 | 6/30,12/31 | On or after 12/31/06 |
| Capital II | December 1996 | 450 | **464** | December 2026 | 8.00 | 6/15,12/15 | On or after 12/15/06 |
| Capital III | January 1997 | 400 | **412** | January 2027 | 3-mo. LIBOR +57 bps | 1/15,4/15,7/15,10/15 | On or after 1/15/02 |
| **Barnett** | | | | | | | |
| Capital III | January 1997 | 250 | **258** | February 2027 | 3-mo. LIBOR +62.5 bps | 2/1,5/1,8/1,11/1 | On or after 2/01/07 |
| **Fleet** | | | | | | | |
| Capital Trust II | December 1996 | 250 | **258** | December 2026 | 7.92 | 6/15,12/15 | On or after 12/15/06 |
| Capital Trust V | December 1998 | 250 | **258** | December 2028 | 3-mo. LIBOR +100 bps | 3/18,6/18,9/18,12/18 | On or after 12/18/03 |
| Capital Trust VIII | March 2002 | 534 | **550** | March 2032 | 7.20 | 3/15,6/15,9/15,12/15 | On or after 3/08/07 |
| Capital Trust IX | July 2003 | 175 | **180** | August 2033 | 6.00 | 2/1,5/1,8/1,11/1 | On or after 7/31/08 |
| **BankBoston** | | | | | | | |
| Capital Trust III | June 1997 | 250 | **258** | June 2027 | 3-mo. LIBOR +75 bps | 3/15,6/15,9/15,12/15 | On or after 6/15/07 |
| Capital Trust IV | June 1998 | 250 | **258** | June 2028 | 3-mo. LIBOR +60 bps | 3/8,6/8,9/8,12/8 | On or after 6/08/03 |
| **Progress** | | | | | | | |
| Capital Trust I | June 1997 | 9 | **9** | June 2027 | 10.50 | 6/1,12/1 | On or after 6/01/07 |
| Capital Trust II | July 2000 | 6 | **6** | July 2030 | 11.45 | 1/19,7/19 | On or after 7/19/10 |
| Capital Trust III | November 2002 | 10 | **10** | November 2032 | 3-mo. LIBOR +335 bps | 2/15,5/15,8/15,11/15 | On or after 11/15/07 |
| Capital Trust IV | December 2002 | 5 | **5** | January 2033 | 3-mo. LIBOR +335 bps | 1/7,4/7,7/7,10/7 | On or after 1/07/08 |
| **MBNA** | | | | | | | |
| Capital Trust A | December 1996 | 250 | **258** | December 2026 | 8.28 | 6/1,12/1 | On or after 12/01/06 |
| Capital Trust B | January 1997 | 280 | **289** | February 2027 | 3-mo. LIBOR +80 bps | 2/1,5/1,8/1,11/1 | On or after 2/01/07 |
| Capital Trust D | June 2002 | 300 | **309** | October 2032 | 8.13 | 1/1,4/1,7/1,10/1 | On or after 10/01/07 |
| Capital Trust E | November 2002 | 200 | **206** | February 2033 | 8.10 | 2/15,5/15,8/15,11/15 | On or after 2/15/08 |
| **Total** | | $ 16,880 | **$ 17,339** | | | | |

In addition to the outstanding Trust Securities and Notes included in the preceding table, non-consolidated wholly-owned subsidiary funding vehicles of BAC North America Holding Company (BACNAH, formerly ABN AMRO North America Holding Company) and its direct subsidiary, LaSalle Bank Corporation (LBC) issued preferred securities (Funding Securities). These subsidiary funding vehicles have invested the proceeds of their Funding Securities in separate series of preferred securities of BACNAH or LBC (BACNAH Preferred Securities). The BACNAH Preferred Securities (and the corresponding Funding Securities) are non-cumulative and permit nonpayment of dividends within certain limitations. The issuance dates for the BACNAH Preferred Securities (and the related Funding Securities) range from 2000 to 2002. These Funding Securities are subject to mandatory redemption upon repayment by the Corporation of the corresponding series of BACNAH Preferred Securities at a redemption price equal to their liquidation amount plus accrued and unpaid distributions for up to one quarter.

For additional information on Trust Securities for regulatory capital purposes, see *Note 15 – Regulatory Requirements and Restrictions* to the Consolidated Financial Statements.

## Note 13 – Commitments and Contingencies

In the normal course of business, the Corporation enters into a number of off-balance sheet commitments. These commitments expose the Corporation to varying degrees of credit and market risk and are subject to the same credit and market risk limitation reviews as those instruments recorded on the Corporation's Consolidated Balance Sheet.

### Credit Extension Commitments

The Corporation enters into commitments to extend credit such as loan commitments, SBLCs and commercial letters of credit to meet the financing needs of its customers. The unfunded legally binding lending commitments shown in the following table are net of amounts distributed (e.g., syndicated) to other financial institutions of $39.2 billion and $30.5 billion at December 31, 2007 and 2006. At December 31, 2007, the carrying amount of these commitments, excluding fair value adjustments as discussed below, was $550 million, including deferred revenue of $32 million and a reserve for unfunded legally binding lending commitments of $518 million. At December 31, 2006, the carrying amount of these commitments was $444 million, including deferred revenue of $47 million and a reserve for unfunded legally binding lending commitments of $397 million. The carrying amount of these commitments is recorded in accrued expenses and other liabilities.

The table below also includes the notional value of commitments of $20.9 billion which was measured at fair value in accordance with SFAS 159 at December 31, 2007. However, the table below excludes the fair value adjustment of $660 million on these commitments that was recorded in accrued expenses and other liabilities. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional information on the adoption of SFAS 159.

Legally binding commitments to extend credit generally have specified rates and maturities. Certain of these commitments have adverse change clauses that help to protect the Corporation against deterioration in the borrowers' ability to pay.

| (Dollars in millions) | Expires in 1 year or less | Expires after 1 year through 3 years | Expires after 3 years through 5 years | Expires after 5 years | Total |
|---|---|---|---|---|---|
| **Credit extension commitments, December 31, 2007** | | | | | |
| Loan commitments | **$ 178,931** | **$ 92,153** | **$ 106,904** | **$ 27,902** | **$ 405,890** |
| Home equity lines of credit | **8,482** | **1,828** | **2,758** | **107,055** | **120,123** |
| Standby letters of credit and financial guarantees | **31,629** | **14,493** | **7,943** | **8,731** | **62,796** |
| Commercial letters of credit | **3,753** | **50** | **33** | **717** | **4,553** |
| Legally binding commitments [1] | **222,795** | **108,524** | **117,638** | **144,405** | **593,362** |
| Credit card lines | **876,393** | **17,864** | **–** | **–** | **894,257** |
| **Total credit extension commitments** | **$ 1,099,188** | **$ 126,388** | **$ 117,638** | **$ 144,405** | **$1,487,619** |
| **Credit extension commitments, December 31, 2006** | | | | | |
| Loan commitments | $ 151,604 | $ 60,637 | $ 90,988 | $ 32,133 | $ 335,362 |
| Home equity lines of credit | 1,738 | 1,801 | 2,742 | 91,919 | 98,200 |
| Standby letters of credit and financial guarantees | 29,213 | 10,712 | 6,744 | 6,337 | 53,006 |
| Commercial letters of credit | 3,880 | 180 | 27 | 395 | 4,482 |
| Legally binding commitments [1] | 186,435 | 73,330 | 100,501 | 130,784 | 491,050 |
| Credit card lines | 840,215 | 13,377 | – | – | 853,592 |
| **Total credit extension commitments** | $ 1,026,650 | $ 86,707 | $ 100,501 | $ 130,784 | $1,344,642 |

(1) Includes commitments to VIEs disclosed in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements, including $47.3 billion and $29.8 billion to corporation-sponsored multi-seller conduits and $2.3 billion and $5.5 billion to CDOs at December 31, 2007 and 2006. Also includes commitments to SPEs that are not disclosed in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements because the Corporation does not hold a significant variable interest or because they are QSPEs, including $6.1 billion and $2.3 billion to municipal bond trusts and $1.7 billion and $4.6 billion to customer-sponsored conduits at December 31, 2007 and 2006.

The Corporation also facilitates bridge financing (high grade debt, high yield debt and equity) to fund acquisitions, recapitalizations and other short-term needs as well as provide syndicated financing for clients. These concentrations are managed in part through the Corporation's established "originate to distribute" strategy. These client transactions are sometimes large and leveraged. They can also have a higher degree of risk as the Corporation is providing offers or commitments for various components of the clients' capital structures, including lower-rated unsecured and subordinated debt tranches and/or equity. In many cases, these offers to finance will not be accepted. If accepted, these conditional commitments are often retired prior to or shortly following funding via the placement of securities, syndication or the client's decision to terminate. Where the Corporation has a commitment and there is a market disruption or other unexpected event, there may be heightened exposure in the portfolios, and higher potential for loss, unless an orderly disposition of the exposure can be made. These commitments are not necessarily indicative of actual risk or funding requirements as the commitments may expire unused, the borrower may not be successful in completing the proposed transaction or may utilize multiple financing sources, including other investment and commercial banks, as well as accessing the general capital markets instead of drawing on the commitment. In addition, the Corporation may reduce its portion of the commitment through syndications to investors and/or lenders prior to funding. Therefore, these commitments are generally significantly greater than the amounts the Corporation will ultimately fund. Additionally, the borrower's ability to draw on the commitment may be subject to there being no material adverse change in the borrower's financial condition, among other factors. Commitments also generally contain certain flexible pricing features to adjust for changing market conditions prior to closing. The Corporation's share of the leveraged finance forward calendar was $12.2 billion and $20.6 billion at December 31, 2007 and 2006. The Corporation also had unfunded real estate loan commitments of $2.0 billion and $8.2 billion at December 31, 2007 and 2006.

## Other Commitments

### Principal Investing and Other Equity Investments

At December 31, 2007 and 2006, the Corporation had unfunded equity investment commitments of approximately $2.6 billion and $2.8 billion. These commitments related primarily to those included in the Strategic Investments portfolio, as well as equity commitments included in the Corporation's Principal Investing business, which is comprised of a diversified portfolio of investments in privately-held and publicly-traded companies at all stages of their life cycle from start-up to buyout. These investments are made either directly in a company or held through a fund and are accounted for at fair value. Included in the Corporation's unfunded equity investment commitments were also unfunded bridge equity commitments of $1.2 billion at December 31, 2006. At December 31, 2007, the Corporation did not have any unfunded bridge equity commitments and had funded $1.2 billion of equity bridges that it still intends to distribute. Bridge equity commitments provide equity bridge financing to facilitate clients' investment activities. These conditional commitments are often retired prior to or shortly following funding via syndication or the client's decision to terminate. Where the Corporation has a binding equity bridge commitment and there is a market disruption or other unexpected event, there may be heightened exposure in the portfolio and higher potential for loss, unless an orderly disposition of the exposure can be made.

### U.S. Government Guaranteed Charge Cards

At December 31, 2007 and 2006, the unfunded lending commitments related to charge cards (nonrevolving card lines) to individuals and government entities guaranteed by the U.S. Government in the amount of $9.9 billion and $9.6 billion were not included in credit card line commitments in the previous table. The outstanding balances related to these charge cards were $193 million at both December 31, 2007 and 2006.

### Loan Purchases

At December 31, 2007, the Corporation had net collateralized mortgage obligation loan purchase commitments related to the Corporation's ALM activities of $752 million, all of which will settle in the first quarter of 2008. At December 31, 2006, the Corporation had collateralized mortgage obligation loan purchase commitments related to the Corporation's ALM activities of $8.5 billion, all of which settled in the first quarter of 2007.

In 2005, the Corporation entered into an agreement for the committed purchase of retail automotive loans over a five-year period, ending June 30, 2010. In 2007 and 2006, the Corporation purchased $4.5 billion and $7.5 billion of loans under this agreement. Under the agreement, the Corporation is committed to purchase up to $5.0 billion for the fiscal period July 1, 2007 to June 30, 2008 and $10.0 billion in each of the agreement's following two fiscal years. As of December 31, 2007, the remaining commitment amount was $25.0 billion.

### Operating Leases

The Corporation is a party to operating leases for certain of its premises and equipment. Commitments under these leases approximate $2.0 billion, $1.8 billion, $1.6 billion, $1.3 billion and $1.2 billion for 2008 through 2012, respectively, and $8.2 billion for all years thereafter.

### Other Commitments

In the second half of 2007, the Corporation provided support to certain cash funds managed within *GWIM*. The funds for which the Corporation provided support typically invest in high quality, short-term securities with a weighted average maturity of 90 days or less, including a limited number of securities issued by SIVs. Due to market disruptions, certain SIV investments were downgraded by the rating agencies and experienced a decline in fair value. The Corporation entered into capital commitments which required the Corporation to provide up to $565 million in cash to the funds in the event the net asset value per unit of a fund declines below certain thresholds. The capital commitments expire no later than the third quarter of 2010. At December 31, 2007, losses of $382 million had been recognized and $183 million is still outstanding associated with this capital commitment.

The Corporation may from time to time, but is under no obligation, provide additional support to funds managed within *GWIM*. Future support, if any, may take the form of additional capital commitments to the funds or the purchase of assets from the funds.

The Corporation is not the primary beneficiary of the cash funds and does not consolidate the cash funds managed within the *GWIM* business segment because the subordinated support provided by the Corporation will not absorb a majority of the variability created by the assets of the funds. The cash funds had total assets under management of approximately $189 billion at December 31, 2007.

## Other Guarantees

**Employee Retirement Protection**

The Corporation sells products that offer book value protection primarily to plan sponsors of Employee Retirement Income Security Act of 1974 (ERISA) governed pension plans, such as 401(k) plans and 457 plans. The book value protection is provided on portfolios of intermediate/short-term investment grade fixed income securities and is intended to cover any shortfall in the event that plan participants withdraw funds when market value is below book value. The Corporation retains the option to exit the contract at any time. If the Corporation exercises its option, the purchaser can require the Corporation to purchase zero-coupon bonds with the proceeds of the liquidated assets to assure the return of principal. To manage its exposure, the Corporation imposes significant restrictions and constraints on the timing of the withdrawals, the manner in which the portfolio is liquidated and the funds are accessed, and the investment parameters of the underlying portfolio. These constraints, combined with structural protections, are designed to provide adequate buffers and guard against payments even under extreme stress scenarios. These guarantees are booked as derivatives and marked to market in the trading portfolio. At December 31, 2007 and 2006, the notional amount of these guarantees totaled $35.2 billion and $33.2 billion with estimated maturity dates between 2008 and 2037. As of December 31, 2007 and 2006, the Corporation has not made a payment under these products, and has assessed the probability of payments under these guarantees as remote.

**Written Put Options**

At December 31, 2007 and 2006, the Corporation provided liquidity support in the form of written put options on $10.0 billion and $2.1 billion of commercial paper issued by CDOs, including $3.2 billion issued by a consolidated CDO at December 31, 2007. The commercial paper is the most senior class of securities issued by the CDOs and benefits from the subordination of all other securities, including AAA-rated securities, issued by the CDOs. The Corporation is obligated under the written put options to provide funding to the CDOs by purchasing the commercial paper at predetermined contractual yields in the event of a severe disruption in the short-term funding market. These agreements have various maturities ranging from two to five years. The underlying collateral in the CDOs includes mortgage-backed securities, ABS, and CDO securities issued by other vehicles. These written put options are recorded as derivatives on the Consolidated Balance Sheet and are carried at fair value with changes in fair value recorded in trading account profits (losses). Derivative activity related to these entities is included in *Note 4 – Derivatives* to the Consolidated Financial Statements. At December 31, 2007, the Corporation held $5.0 billion of commercial paper on the balance sheet that was issued by the unconsolidated CDOs and all of the commercial paper issued by the consolidated CDO. The Corporation recorded losses of $2.7 billion, net of insurance, in trading account profits (losses) in 2007 associated with these activities.

**Indemnifications**

In the ordinary course of business, the Corporation enters into various agreements that contain indemnifications, such as tax indemnifications, whereupon payment may become due if certain external events occur, such as a change in tax law. These agreements typically contain an early termination clause that permits the Corporation to exit the agreement upon these events. The maximum potential future payment under indemnification agreements is difficult to assess for several reasons, including the inability to predict future changes in tax and other laws, the difficulty in determining how such laws would apply to parties in contracts, the absence of exposure limits contained in standard contract language and the timing of the early termination clause. Historically, any payments made under these guarantees have been de minimis. The Corporation has assessed the probability of making such payments in the future as remote.

**Merchant Services**

The Corporation provides credit and debit card processing services to various merchants by processing credit and debit card transactions on their behalf. In connection with these services, a liability may arise in the event of a billing dispute between the merchant and a cardholder that is ultimately resolved in the cardholder's favor and the merchant defaults upon its obligation to reimburse the cardholder. A cardholder, through its issuing bank, generally has until the later of up to six months after the date a transaction is processed or the delivery of the product or service to present a chargeback to the Corporation as the merchant processor. If the Corporation is unable to collect this amount from the merchant, it bears the loss for the amount paid to the cardholder. In 2007 and 2006, the Corporation processed $361.9 billion and $377.8 billion of transactions and recorded losses as a result of these chargebacks of $13 million and $20 million.

At December 31, 2007 and 2006, the Corporation held as collateral approximately $19 million and $32 million of merchant escrow deposits which the Corporation has the right to offset against amounts due from the individual merchants. The Corporation also has the right to offset any payments with cash flows otherwise due to the merchant. Accordingly, the Corporation believes that the maximum potential exposure is not representative of the actual potential loss exposure. The Corporation believes the maximum potential exposure for chargebacks would not exceed the total amount of merchant transactions processed through Visa and MasterCard for the last six months, which represents the claim period for the cardholder, plus any outstanding delayed-delivery transactions. As of December 31, 2007 and 2006, the maximum potential exposure totaled approximately $151.2 billion and $176.0 billion.

**Brokerage Business**

Within the Corporation's brokerage business, the Corporation has contracted with a third party to provide clearing services that include underwriting margin loans to its clients. This contract stipulates that the Corporation will indemnify the third party for any margin loan losses that occur in their issuing margin to its clients. The maximum potential future payment under this indemnification was $1.0 billion and $938 million at December 31, 2007 and 2006. Historically, any payments made under this indemnification have been immaterial. As these margin loans are highly collateralized by the securities held by the brokerage clients, the Corporation has assessed the probability of making such payments in the future as remote. This indemnification would end with the termination of the clearing contract.

**Other Guarantees**

The Corporation also sells products that guarantee the return of principal to investors at a preset future date. These guarantees cover a broad range of underlying asset classes and are designed to cover the shortfall between the market value of the underlying portfolio and the principal amount on the preset future date. To manage its exposure, the Corporation requires that these guarantees be backed by structural and investment constraints and certain pre-defined triggers that would require the underlying assets or portfolio to be liquidated and invested in zero-coupon

bonds that mature at the preset future date. The Corporation is required to fund any shortfall at the preset future date between the proceeds of the liquidated assets and the purchase price of the zero-coupon bonds. These guarantees are booked as derivatives and marked to market in the trading portfolio. At December 31, 2007 and 2006, the notional amount of these guarantees totaled $1.5 billion and $4.0 billion. These guarantees have various maturities ranging from two to five years. At December 31, 2007 and 2006, the Corporation had not made a payment under these products and has assessed the probability of payments under these guarantees as remote.

The Corporation has entered into additional guarantee agreements, including lease end obligation agreements, partial credit guarantees on certain leases, real estate joint venture guarantees, sold risk participation swaps and sold put options that require gross settlement. The maximum potential future payment under these agreements was approximately $4.8 billion and $2.0 billion at December 31, 2007 and 2006. The estimated maturity dates of these obligations are between 2008 and 2033. The Corporation has made no material payments under these guarantees.

For additional information on recourse obligations related to residential mortgage loans sold and other guarantees related to securitizations, see *Note 8 – Securitizations* to the Consolidated Financial Statements.

## Litigation and Regulatory Matters

In the ordinary course of business, the Corporation and its subsidiaries are routinely defendants in or parties to many pending and threatened legal actions and proceedings, including actions brought on behalf of various classes of claimants. Certain of these actions and proceedings are based on alleged violations of consumer protection, securities, environmental, banking, employment and other laws. In certain of these actions and proceedings, claims for substantial monetary damages are asserted against the Corporation and its subsidiaries.

In the ordinary course of business, the Corporation and its subsidiaries are also subject to regulatory examinations, information gathering requests, inquiries and investigations. Certain subsidiaries of the Corporation are registered broker/dealers or investment advisors and are subject to regulation by the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority, the New York Stock Exchange and state securities regulators. In connection with formal and informal inquiries by those agencies, such subsidiaries receive numerous requests, subpoenas and orders for documents, testimony and information in connection with various aspects of their regulated activities.

In view of the inherent difficulty of predicting the outcome of such litigation and regulatory matters, particularly where the claimants seek very large or indeterminate damages or where the matters present novel legal theories or involve a large number of parties, the Corporation cannot state with confidence what the eventual outcome of the pending matters will be, what the timing of the ultimate resolution of these matters will be, or what the eventual loss, fines or penalties related to each pending matter may be.

In accordance with SFAS No. 5, “Accounting for Contingencies”, the Corporation establishes reserves for litigation and regulatory matters when those matters present loss contingencies that are both probable and estimable. When loss contingencies are not both probable and estimable, the Corporation does not establish reserves. In some of the matters described below, including but not limited to a substantial portion of the Parmalat Finanziaria S.p.A. matters, loss contingencies are not both probable and estimable in the view of management, and, accordingly, reserves have not been established for those matters. Based on current knowledge, management does not believe that loss contingencies, if any, arising from pending litigation and regulatory matters, including the litigation and regulatory matters described below, will have a material adverse effect on the consolidated financial position or liquidity of the Corporation, but may be material to the Corporation’s operating results for any particular reporting period.

### Adelphia Communications Corporation (ACC)

Adelphia Recovery Trust is the plaintiff in a lawsuit pending in the U.S. District Court for the Southern District of New York. The lawsuit names over 700 defendants, including Bank of America, N.A. (BANA), Banc of America Securities, LLC (BAS), Fleet National Bank, Fleet Securities, Inc. and other affiliated entities, and asserts over 50 claims under federal statutes and state common law. The principal claims include fraudulent transfer, aiding and abetting fraud, aiding and abetting breach of fiduciary duty, and equitable disallowance and subordination. These claims relate to loans and other services provided to various affiliates of ACC and entities owned by members of the founding family of ACC. The plaintiffs seek unspecified damages in an amount not less than $5 billion.

### Data Treasury Litigation

The Corporation and BANA have been named as defendants in two cases filed by Data Treasury Corporation (Data Treasury) in the U.S. District Court for the Eastern District of Texas. In one case, Data Treasury alleges that defendants “provided, sold, installed, utilized, and assisted others to use and utilize image-based banking and archival solutions” in a manner that infringes United States Patent Nos. 5,910,988 and 6,032,137. In the other case, Data Treasury alleges that the Corporation and BANA, among other defendants, are “making, using, selling, offering for sale, and/or importing into the United States, directly, contributory, and/or by inducement, without authority, products and services that fall within the scope of the claims of” United States Patent Nos. 5,265,007; 5,583,759; 5,717,868; and 5,930,778. Data Treasury seeks unspecified damages and injunctive relief in both cases.

### In re Initial Public Offering Securities Litigation

Beginning in 2001, Robertson Stephens, Inc. (an investment banking subsidiary of FleetBoston that ceased operations during 2002), BAS, other underwriters, and various issuers and others, were named as defendants in certain of the 309 putative class action lawsuits that have been consolidated in the U.S. District Court for the Southern District of New York as *In re Initial Public Offering Securities Litigation*. Plaintiffs contend that the defendants failed to make certain required disclosures and manipulated prices of securities sold in initial public offerings through, among other things, alleged agreements with institutional investors receiving allocations to purchase additional shares in the aftermarket and seek unspecified damages. On December 5, 2006, the U.S. Court of Appeals for the Second Circuit reversed the District Court’s order certifying the proposed classes. On September 27, 2007, plaintiffs filed a motion to certify modified classes, which defendants have opposed. On June 25, 2007, the District Court approved an agreement between plaintiffs and 298 of the issuer defendants terminating their proposed settlement.

### IPO Underwriting Fee Litigation

BAS, Robertson Stephens, Inc., and other underwriters are defendants in putative class action lawsuits captioned *In re Public Offering Fee Antitrust Litigation and In re Issuer Plaintiff Initial Public Offering Fee Antitrust Litigation*, filed in the U.S. District Court for the Southern District of New York in November 1998 and October 2000, respectively, alleging that underwriters conspired to fix the underwriters’ discount at 7% of the offering

price in certain initial public offerings (IPOs). The complaints, which have been filed by both purchasers and certain issuers in IPOs, seek treble damages and injunctive relief. On February 24, 2004, the District Court granted defendants' motion to dismiss as to the purchasers' damages claims. On April 18, 2006, the District Court denied class certification with respect to the issuers' damages claims. On September 11, 2007, the U.S. Court of Appeals for the Second Circuit reversed the order denying class certification as to the issuers' damages claims and remanded the case to the District Court for further class certification proceedings.

**Interchange Antitrust Litigation and Visa-Related Litigation**

The Corporation and certain of its subsidiaries are defendants in putative class actions filed on behalf of retail merchants that accept Visa and MasterCard payment cards. Additional defendants include Visa, MasterCard, and other financial institutions. Plaintiffs' First Consolidated and Amended Class Action Complaint alleges that the defendants conspired to fix the level of interchange and merchant discount fees and that certain other practices, including various Visa and MasterCard rules, violate federal and California antitrust laws. Plaintiffs also filed a supplemental complaint against certain defendants, including the Corporation and certain of its subsidiaries, alleging federal antitrust claims and a fraudulent conveyance claim arising out of MasterCard's 2006 initial public offering. The putative class plaintiffs seek unspecified treble damages and injunctive relief. The actions are coordinated for pre-trial proceedings in the U.S. District Court for the Eastern District of New York with individual actions brought only against Visa and MasterCard under the caption *In Re Payment Card Interchange Fee and Merchant Discount Anti-Trust Litigation (Interchange)*. On January 8, 2008, the District Court dismissed all claims for pre-2004 damages. A motion to dismiss the supplemental complaint is pending.

The Corporation and certain of its subsidiaries have entered into agreements that provide for sharing liabilities in connection with antitrust litigation against Visa (the Visa-Related Litigation), including *Discover Financial Services. v. Visa U.S.A., et al* ., pending in the U.S. District Court for the Southern District of New York, which alleges that Visa and others unlawfully inhibited competition in the payment card industry, and *Interchange*. The agreements also provide for sharing liabilities in connection with *American Express Travel Related Services Company v. Visa USA, et al*., which was settled by Visa in November 2007. Under these agreements, the Corporation's obligations to Visa are capped at the Corporation's membership interest of 12.1% in Visa USA. In November 2007, Visa Inc. filed a registration statement with the SEC with respect to a proposed initial public offering (Visa IPO). Subject to market conditions and other factors, Visa Inc. states that it expects the Visa IPO to occur in the first quarter of 2008. The Corporation expects that a portion of the proceeds from the Visa IPO will be used by Visa Inc. to fund liabilities arising from the Visa-Related Litigation.

**Miller**

On August 13, 1998, a predecessor of BANA was named as a defendant in a class action filed in Superior Court of California, County of San Francisco, entitled *Paul J. Miller v. Bank of America, N.A*., challenging its practice of debiting accounts that received, by direct deposit, governmental benefits to repay fees incurred in those accounts. The action alleges, among other claims, fraud, negligent misrepresentation and other violations of California law. On October 16, 2001, a class was certified consisting of more than one million California residents who have, had or will have, at any time after August 13, 1994, a deposit account with BANA into which payments of public benefits are or have been directly deposited by the government.

On March 4, 2005, the trial court entered a judgment that purported to award the class restitution in the amount of $284 million, plus attorneys' fees, and provided that class members whose accounts were assessed an insufficient funds fee in violation of law suffered substantial emotional or economic harm and, therefore, are entitled to an additional $1,000 statutory penalty. The judgment also purported to enjoin BANA, among other things, from engaging in the account balancing practices at issue. On November 22, 2005, the California Court of Appeal stayed the judgment, including the injunction, pending appeal.

On November 20, 2006, the California Court of Appeal reversed the judgment in its entirety, holding that BANA's practice did not constitute a violation of California law. On March 21, 2007, the California Supreme Court granted plaintiff's petition to review the Court of Appeal's decision.

**Municipal Derivatives Matters**

The Antitrust Division of the U.S. Department of Justice (DOJ), the SEC, and the IRS are investigating possible anticompetitive bidding practices in the municipal derivatives industry involving various parties, including BANA, from the early 1990s to date. The activities at issue in these industry-wide government investigations concern the bidding process for municipal derivatives that are offered to states, municipalities and other issuers of tax-exempt bonds. The Corporation has cooperated, and continues to cooperate, with the DOJ, the SEC and the IRS. On February 4, 2008, BANA received a Wells notice advising that the SEC staff is considering recommending that the SEC bring a civil injunctive action and/or an administrative proceeding "in connection with the bidding of various financial instruments associated with municipal securities." BANA intends to respond to the notice. An SEC action or proceeding could seek a permanent injunction, disgorgement plus prejudgment interest, civil penalties and other remedial relief.

On January 11, 2007, the Corporation entered into a Corporate Conditional Leniency Letter (the Letter) with DOJ. Under the Letter and subject to the Corporation's continuing cooperation, DOJ will not bring any criminal antitrust prosecution against the Corporation in connection with the matters that the Corporation reported to DOJ. Civil actions may be filed. Subject to satisfying DOJ and the court presiding over any civil litigation of the Corporation's cooperation, the Corporation is eligible for (i) a limit on liability to single, rather than treble, damages in certain types of related civil antitrust actions, and (ii) relief from joint and several antitrust liability with other civil defendants.

**Parmalat Finanziaria S.p.A.**

On December 24, 2003, Parmalat Finanziaria S.p.A. was admitted into insolvency proceedings in Italy, known as "extraordinary administration." The Corporation, through certain of its subsidiaries, including BANA, provided financial services and extended credit to Parmalat and its related entities. On June 21, 2004, Extraordinary Commissioner Dr. Enrico Bondi filed with the Italian Ministry of Production Activities a plan of reorganization for the restructuring of the companies of the Parmalat group that are included in the Italian extraordinary administration proceeding.

In July 2004, the Italian Ministry of Production Activities approved the Extraordinary Commissioner's restructuring plan, as amended, for the Parmalat group companies that are included in the Italian extraordinary administration proceeding. This plan was approved by the voting creditors and the Court of Parma, Italy in October of 2005.

Litigation and investigations relating to Parmalat are pending in both Italy and the United States, and the Corporation is responding to inquiries concerning Parmalat from regulatory and law enforcement authorities in Italy and the United States.

**Proceedings in Italy**

On May 26, 2004, The Public Prosecutor's Office for the Court of Milan, Italy filed criminal charges against Luca Sala, Luis Moncada, and Antonio Luzi, three former employees of the Corporation, alleging the crime of market manipulation in connection with a press release issued by Parmalat. The Public Prosecutor's Office also filed a related charge against the Corporation asserting administrative liability based on an alleged failure to maintain an organizational model sufficient to prevent the alleged criminal activities of its former employees. The trial on such charges will begin in March 2008.

The main trial of the market manipulation charges against Messrs. Luzi, Moncada, and Sala began in the Court of Milan, Italy on September 28, 2005. Hearing dates in this trial are currently set through May of 2008. The Corporation is participating in this trial as a party that has been damaged by the alleged actions of defendants other than its former employees, including former Parmalat officials. Additionally, pursuant to a December 19, 2005 court ruling, other third parties are participating in the trial who claim damages against BANA as a result of the alleged criminal violations by the Corporation's former employees and other defendants.

Separately, The Public Prosecutor's Office for the Court of Parma, Italy is conducting an investigation into the collapse of Parmalat. The Corporation has cooperated, and continues to cooperate, with the Public Prosecutor's Office with respect to this investigation. The Public Prosecutor's Office has given notice of its intention to file charges, including a charge of the crime of fraudulent bankruptcy under Italian criminal law, in connection with this investigation against the same three former employees of the Corporation who are named in the Milan criminal proceedings, Messrs. Luzi, Moncada and Sala.

**Proceedings in the United States**

On March 5, 2004, a First Amended Complaint was filed in a securities action pending in the U.S. District Court for the Southern District of New York entitled *Southern Alaska Carpenters Pension Fund et al. v. Bonlat Financing Corporation et al*. The action is brought on behalf of a putative class of purchasers of Parmalat securities, alleges violations of the federal securities laws against the Corporation and certain affiliates, and seeks unspecified damages. Following orders on motions to dismiss, the remaining claims concern two transactions entered into between the Corporation and Parmalat. The plaintiffs filed a motion for class certification on September 21, 2006, which remains pending. On July 24, 2007, the District Court granted the Corporation's motion to dismiss the claims of foreign purchaser plaintiffs for lack of subject matter jurisdiction.

On October 7, 2004, Enrico Bondi filed an action in the U.S. District Court for the Western District of North Carolina on behalf of Parmalat and its shareholders and creditors against the Corporation and various related entities, entitled *Dr. Enrico Bondi, Extraordinary Commissioner of Parmalat Finanziaria, S.p.A., et al. v. Bank of America Corporation, et al*. (the Bondi Action). The complaint alleged federal and state RICO claims and various state law claims, including fraud. The complaint seeks damages in excess of $10 billion. The Bondi Action was transferred to the U.S. District Court for the Southern District of New York for coordinated pre-trial purposes with putative class actions and other related cases against non-Bank of America defendants under the caption *In re Parmalat Securities Litigation*. Following orders on motions to dismiss, the remaining claims are federal and state RICO claims, a breach of fiduciary duty claim, and other state law claims with respect to three transactions entered into between the Corporation and Parmalat. The Corporation filed an answer and counterclaims (the Counterclaims) seeking damages. The District Court granted in part a motion to dismiss certain of the Counterclaims, leaving intact the counterclaims for fraud, negligent misrepresentation and civil conspiracy against Parmalat S.p.A., Parmalat Finanziaria S.p.A. and Parmalat Netherlands, B.V., as well as a claim for securities fraud against Parmalat S.p.A. and Parmalat Finanziaria S.p.A.

Certain purchasers of Parmalat-related private placement offerings have filed complaints against the Corporation and various related entities in the following actions: *Principal Global Investors, LLC, et al. v. Bank of America Corporation, et al*. in the U.S. District Court for the Southern District of Iowa; *Monumental Life Insurance Company, et al. v. Bank of America Corporation, et al* . in the U.S. District Court for the Northern District of Iowa; *Prudential Insurance Company of America and Hartford Life Insurance Company v. Bank of America Corporation, et al*. in the U.S. District Court for the Northern District of Illinois; *Allstate Life Insurance Company v. Bank of America Corporation, et al*. in the U.S. District Court for the Northern District of Illinois; *Hartford Life Insurance v. Bank of America Corporation, et al*. in the U.S. District Court for the Southern District of New York; and *John Hancock Life Insurance Company, et al. v. Bank of America Corporation et al*. in the U.S. District Court for the District of Massachusetts. The actions variously allege violations of federal and state securities law and state common law, and seek rescission and unspecified damages based upon the Corporation's and related entities' alleged roles in certain private placement offerings issued by Parmalat-related companies. All cases have been transferred to the U.S. District Court for the Southern District of New York for coordinated pre-trial purposes with the *In re Parmalat Securities Litigation* matter. The plaintiffs seek rescission and unspecified damages resulting from alleged purchases of approximately $305 million in private placement instruments.

**Pension Plan Matters**

The Corporation is a defendant in a putative class action entitled *William L. Pender, et al. v. Bank of America Corporation, et al.* (formerly captioned *Anita Pothier, et al. v. Bank of America Corporation, et al.*), which is pending in the U.S. District Court for the Western District of North Carolina. The action is brought on behalf of participants in or beneficiaries of The Bank of America Pension Plan (formerly known as the NationsBank Cash Balance Plan) and The Bank of America 401(k) Plan (formerly known as the NationsBank 401(k) Plan). The Corporation, BANA, The Bank of America Pension Plan, The Bank of America 401(k) Plan, the Bank of America Corporation Corporate Benefits Committee and various members thereof, and PricewaterhouseCoopers LLP are defendants. The complaint alleges violations of ERISA, including that the design of The Bank of America Pension Plan violated ERISA's defined benefit pension plan standards and that such plan's definition of normal retirement age is invalid. In addition, the complaint alleges age discrimination by The Bank of America Pension Plan, unlawful lump sum benefit calculation, violation of ERISA's "anti-backloading" rule, that certain voluntary transfers of assets by participants in The Bank of America 401(k) Plan to The Bank of America Pension Plan violated ERISA, and other related claims. The complaint alleges that plan participants are entitled to greater benefits and seeks declaratory relief, monetary relief in an unspecified amount, equitable relief, including an order reforming The Bank of America Pension Plan, attorneys' fees and interest. On December 1, 2005, the plaintiffs moved to certify classes consisting of, among others, (i) all persons who accrued or who are currently accruing benefits under The Bank of America Pension Plan and (ii) all persons who elected to have amounts representing their account balances under The Bank of America 401(k) Plan transferred to The Bank of America Pension Plan. That motion, and a motion to dismiss the complaint, are pending.

The IRS is conducting an audit of the 1998 and 1999 tax returns of The Bank of America Pension Plan and The Bank of America 401(k) Plan. This audit includes a review of voluntary transfers by participants of 401(k) Plan assets to The Bank of America Pension Plan and whether such transfers were in accordance with applicable law. The Corporation has received Technical Advice Memoranda from the National Office of the IRS that (i) concluded that the voluntary transfers violated the anti-cutback rule of Section 411(d)(6) of the Internal Revenue Code and (ii) denied the Corporation's request that the conclusion reached be applied prospectively only. The Corporation continues to participate in administrative proceedings with the IRS regarding issues raised in the audit.

On September 29, 2004, a class action, now entitled *Donna C. Richards v. FleetBoston Financial Corp., the FleetBoston Financial Pension Plan and Bank of America Corporation*, was filed in the U.S. District Court for the District of Connecticut on behalf of certain former and current Fleet employees. Plaintiffs allege that FleetBoston or its predecessor violated ERISA by amending the Fleet Financial Group, Inc. Pension Plan (a predecessor to the FleetBoston Financial Pension Plan) to add a cash balance benefit formula without notifying participants that the amendment reduced their plan benefits, by reducing the rate of benefit accruals on account of age, and by failing to inform participants of the correct amount of their pensions and related claims. In September 2007, the Corporation and the other named defendants agreed in principle with class counsel to settle all claims brought on behalf of the class. The agreement is subject to the execution of a definitive settlement agreement and court approval.

## Note 14 – Shareholders' Equity and Earnings Per Common Share

### Common Stock

The Corporation repurchased approximately 73.7 million shares of common stock in 2007 which more than offset the 53.5 million shares issued under employee stock plans. The Corporation may repurchase shares, from time to time, in the open market or in private transactions through the Corporation's approved repurchase program. The Corporation expects to continue to repurchase a number of shares of common stock comparable to any shares issued under the Corporation's employee stock plans.

Effective for the third quarter dividend, the Board increased the quarterly cash dividend on common stock 14 percent from $0.56 to $0.64 per share. In October 2007, the Board declared a fourth quarter cash dividend, which was paid on December 28, 2007 to common shareholders of record on December 7, 2007.

### Preferred Stock

In January 2008, the Corporation issued 240 thousand shares of Bank of America Corporation Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K (Series K Preferred Stock) with a par value of $0.01 per share for $6.0 billion. The fixed rate is 8.00 percent through January 29, 2018 and then adjusts to three-month LIBOR plus 363 bps thereafter. Ownership is held in the form of depositary shares, each representing a 1/25$^{th}$ interest in a share of Series K Preferred Stock, paying a semiannual cash dividend through January 29, 2018 then adjusts to a quarterly cash dividend, on the liquidation preference of $25,000 per share of Series K Preferred Stock.

Also in January 2008, the Corporation issued 6.9 million shares of Bank of America Corporation 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L (Series L Preferred Stock) with a par value of $0.01 per share for $6.9 billion, paying a quarterly cash dividend on the liquidation preference of $1,000 per share of Series L Preferred Stock at an annual rate of 7.25 percent. Each share of the Series L Preferred Stock may be converted at any time, at the option of the holder, into 20 shares of the Corporation's common stock plus cash in lieu of fractional shares. On or after January 30, 2013, the Corporation may cause some or all of the Series L Preferred Stock, at its option, at any time or from time to time, to be converted into shares of common stock at the then-applicable conversion rate if, for 20 trading days during any period of 30 consecutive trading days, the closing price of common stock exceeds 130 percent of the then-applicable conversion price of the Series L Preferred Stock. If the Corporation exercises its right to cause the automatic conversion of Series L Preferred Stock on January 30, 2013, it will still pay any accrued dividends payable on January 30, 2013 to the applicable holders of record.

In November and December 2007, the Corporation issued 41 thousand shares of Bank of America Corporation 7.25% Non-Cumulative Preferred Stock, Series J (Series J Preferred Stock) with a par value of $0.01 per share for $1.0 billion. Ownership is held in the form of depositary shares, each representing a 1/1,000$^{th}$ interest in a share of Series J Preferred Stock, paying a quarterly cash dividend on the liquidation preference of $25,000 per share of Series J Preferred Stock at an annual rate of 7.25 percent. On any dividend date on or after November 1, 2012, the Corporation may redeem Series J Preferred Stock, in whole or in part, at its option, at $25,000 per share, plus accrued and unpaid dividends.

In September 2007, the Corporation issued 22 thousand shares of Bank of America Corporation 6.625% Non-Cumulative Preferred Stock, Series I (Series I Preferred Stock) with a par value of $0.01 per share for $550 million. Ownership is held in the form of depositary shares, each representing a 1/1,000$^{th}$ interest in a share of Series I Preferred Stock, paying a quarterly cash dividend on the liquidation preference of $25,000 per share of Series I Preferred Stock at an annual rate of 6.625 percent. On any dividend date on or after October 1, 2017, the Corporation may redeem Series I Preferred Stock, in whole or in part, at its option, at $25,000 per share, plus accrued and unpaid dividends.

In November 2006, the Corporation issued 81 thousand shares, or $2.0 billion, of Bank of America Corporation Floating Rate Non-Cumulative Preferred Stock, Series E (Series E Preferred Stock) with a par value of $0.01 per share. Ownership is held in the form of depositary shares, each representing a 1/1,000$^{th}$ interest in a share of Series E Preferred Stock, paying a quarterly cash dividend on the liquidation preference of $25,000 per share of Series E Preferred Stock at an annual rate equal to the greater of (a) three-month LIBOR plus 0.35 percent and (b) 4.00 percent, payable quarterly in arrears. On any dividend date on or after November 15, 2011, the Corporation may redeem Series E Preferred Stock, in whole or in part, at its option, at $25,000 per share, plus accrued and unpaid dividends.

In September 2006, the Corporation issued 33 thousand shares, or $825 million, of Bank of America Corporation 6.204% Non-Cumulative Preferred Stock, Series D (Series D Preferred Stock) with a par value of $0.01 per share. Ownership is held in the form of depositary shares, each representing a 1/1,000$^{th}$ interest in a share of Series D Preferred Stock, paying a quarterly cash dividend on the liquidation preference of $25,000 per share of Series D Preferred Stock at an annual rate of 6.204 percent. On any dividend date on or after September 14, 2011, the Corporation may redeem Series D Preferred Stock, in whole or in part, at its option, at $25,000 per share, plus accrued and unpaid dividends.

The shares of the series of preferred stock discussed above are not subject to the operations of a sinking fund and have no participation rights. With the exception of the Series L Preferred Stock, the shares of the series of preferred stock discussed above are not convertible. The

holders of these series have no general voting rights. If any quarterly dividend payable on these series is in arrears for six or more quarterly dividend periods (whether consecutive or not), the holders of these series and any other class or series of preferred stock ranking equally as to payment of dividends and upon which equivalent voting rights have been conferred and are exercisable (voting as a single class) will be entitled to vote for the election of two additional directors. These voting rights terminate when the Corporation has paid in full dividends on these series for at least four quarterly dividend periods following the dividend arrearage.

On July 14, 2006, the Corporation redeemed its 6.75% Perpetual Preferred Stock with a stated value of $250 per share. The 382 thousand shares, or $96 million, outstanding of preferred stock were redeemed at the stated value of $250 per share, plus accrued and unpaid dividends.

On July 3, 2006, the Corporation redeemed its Fixed/Adjustable Rate Cumulative Preferred Stock with a stated value of $250 per share. The 700 thousand shares, or $175 million, outstanding of preferred stock were redeemed at the stated value of $250 per share, plus accrued and unpaid dividends.

In addition to the preferred stock described above, the Corporation had eight thousand shares, or $1 million, outstanding of the 7% Cumulative Redeemable Preferred Stock with a stated value of $100 per share paying dividends quarterly at an annual rate of 7.00 percent.

All preferred stock outstanding has preference over the Corporation's common stock with respect to the payment of dividends and distribution of the Corporation's assets in the event of a liquidation or dissolution. Except in certain circumstances, the holders of preferred stock have no voting rights.

## Accumulated OCI

The following table presents the changes in accumulated OCI for 2007, 2006 and 2005, net-of-tax.

| (Dollars in millions) | Securities [1, 2] | Derivatives [3] | Employee Benefit Plans | Foreign Currency | Total |
|---|---|---|---|---|---|
| **Balance, December 31, 2006** | **$ (2,733)** | **$ (3,697)** | **$ (1,428)** | **$ 147** | **$(7,711)** |
| Net change in fair value recorded in accumulated OCI [4] | **9,416** | **(1,252)** | **4** | **142** | **8,310** |
| Net realized (gains) losses reclassified into earnings [5] | **(147)** | **547** | **123** | **7** | **530** |
| **Balance, December 31, 2007** | **$ 6,536** | **$ (4,402)** | **$ (1,301)** | **$ 296** | **$ 1,129** |
| **Balance, December 31, 2005** | $ (2,978) | $ (4,338) | $ (118) | $ (122) | $(7,556) |
| Net change in fair value recorded in accumulated OCI [6] | 465 | 534 | (1,310) | 219 | (92) |
| Net realized (gains) losses reclassified into earnings [5] | (220) | 107 | – | 50 | (63) |
| **Balance, December 31, 2006** | $ (2,733) | $ (3,697) | $ (1,428) | $ 147 | $(7,711) |
| **Balance, December 31, 2004** | $ (197) | $ (2,279) | $ (134) | $ (154) | $(2,764) |
| Net change in fair value recorded in accumulated OCI | (1,907) | (2,225) | 16 | 32 | (4,084) |
| Net realized (gains) losses reclassified into earnings [5] | (874) | 166 | – | – | (708) |
| **Balance, December 31, 2005** | $ (2,978) | $ (4,338) | $ (118) | $ (122) | $(7,556) |

(1) In 2007, 2006 and 2005, the Corporation reclassified net realized (gains) losses into earnings on the sales and impairments of AFS debt securities of $137 million, $279 million and $(683) million, net-of-tax, respectively, and (gains) losses on the sales of AFS marketable equity securities of $(284) million, $(499) million, and $(191) million, net-of-tax, respectively.
(2) Accumulated OCI includes fair value losses of $15 million and gains of $135 million, net-of-tax, on certain retained interests in the Corporation's securitization transactions that were included in other assets at December 31, 2007 and 2006.
(3) The amounts included in accumulated OCI for terminated derivative contracts were losses of $3.8 billion, $3.2 billion and $2.5 billion, net-of-tax, at December 31, 2007, 2006 and 2005, respectively.
(4) Securities include the fair value adjustment of $8.4 billion, net-of-tax, related to the Corporation's investment in CCB.
(5) Included in this line item are amounts related to derivatives used in cash flow hedge relationships. These amounts are reclassified into earnings in the same period or periods during which the hedged forecasted transactions affect earnings. This line item also includes (gains) losses on AFS debt and marketable equity securities and impairments. These amounts are reclassified into earnings upon sale of the related security.
(6) Employee benefit plans include the accumulated adjustment to initially apply SFAS 158 of $(1.3) billion.

## Earnings per Common Share

The calculation of earnings per common share and diluted earnings per common share for 2007, 2006 and 2005 is presented below. See *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements for a discussion on the calculation of earnings per common share.

| (Dollars in millions, except per share information; shares in thousands) | 2007 | 2006 | 2005 |
|---|---|---|---|
| **Earnings per common share** | | | |
| Net income | **$ 14,982** | $ 21,133 | $ 16,465 |
| Preferred stock dividends | **(182)** | (22) | (18) |
| Net income available to common shareholders | **$ 14,800** | $ 21,111 | $ 16,447 |
| Average common shares issued and outstanding | **4,423,579** | 4,526,637 | 4,008,688 |
| **Earnings per common share** | **$ 3.35** | $ 4.66 | $ 4.10 |
| **Diluted earnings per common share** | | | |
| Net income available to common shareholders | **$ 14,800** | $ 21,111 | $ 16,447 |
| Average common shares issued and outstanding | **4,423,579** | 4,526,637 | 4,008,688 |
| Dilutive potential common shares [1, 2] | **56,675** | 69,259 | 59,452 |
| Total diluted average common shares issued and outstanding | **4,480,254** | 4,595,896 | 4,068,140 |
| **Diluted earnings per common share** | **$ 3.30** | $ 4.59 | $ 4.04 |

(1) For 2007, 2006 and 2005, average options to purchase 28 million, 355 thousand and 39 million shares, respectively, were outstanding but not included in the computation of earnings per common share because they were antidilutive.
(2) Includes incremental shares from restricted stock units, restricted stock shares and stock options.

## Note 15 – Regulatory Requirements and Restrictions

The Board of Governors of the Federal Reserve System (FRB) requires the Corporation's banking subsidiaries to maintain reserve balances based on a percentage of certain deposits. Average daily reserve balances required by the FRB were $5.7 billion and $5.6 billion for 2007 and 2006. Currency and coin residing in branches and cash vaults (vault cash) are used to partially satisfy the reserve requirement. The average daily reserve balances, in excess of vault cash, held with the FRB amounted to $49 million and $27 million for 2007 and 2006.

The primary source of funds for cash distributions by the Corporation to its shareholders are dividends received from its banking subsidiaries Bank of America, N.A., FIA Card Services, N.A., and LaSalle Bank, N.A. In 2007, Bank of America Corporation received $15.4 billion in dividends from its banking subsidiaries. In 2008, Bank of America, N.A., FIA Card Services, N.A., and LaSalle Bank, N.A. can declare and pay dividends to Bank of America Corporation of $4.6 billion, $1.6 billion, and $155 million plus an additional amount equal to their net profits for 2008, as defined by statute, up to the date of any such dividend declaration. The other subsidiary national banks can initiate aggregate dividend payments in 2008 of $338 million plus an additional amount equal to their net profits for 2008, as defined by statute, up to the date of any such dividend declaration. The amount of dividends that each subsidiary bank may declare in a calendar year without approval by the Office of the Comptroller of the Currency (OCC) is the subsidiary bank's net profits for that year combined with its net retained profits, as defined, for the preceding two years.

The FRB, the OCC and the Federal Deposit Insurance Corporation (collectively, the Agencies) have issued regulatory capital guidelines for U.S. banking organizations. Failure to meet the capital requirements can initiate certain mandatory and discretionary actions by regulators that could have a material effect on the Corporation's financial statements. At December 31, 2007, the Corporation, Bank of America, N.A., FIA Card Services, N.A., and LaSalle Bank, N.A. were classified as "well-capitalized" under this regulatory framework. At December 31, 2006, the Corporation, Bank of America N.A., and FIA Card Services, N.A. were also classified as "well-capitalized." There have been no conditions or events since December 31, 2007 that management believes have changed the Corporation's, Bank of America, N.A.'s, FIA Card Services, N.A.'s, and LaSalle Bank, N.A.'s capital classifications.

The regulatory capital guidelines measure capital in relation to the credit and market risks of both off- and on-balance sheet items using various risk weights. Under the regulatory capital guidelines, Total Capital consists of three tiers of capital. Tier 1 Capital includes common shareholders' equity, Trust Securities, minority interests and qualifying preferred stock, less goodwill and other adjustments. Tier 2 Capital consists of preferred stock not qualifying as Tier 1 Capital, mandatory convertible debt, limited amounts of subordinated debt, other qualifying term debt, the allowance for credit losses up to 1.25 percent of risk-weighted assets and other adjustments. Tier 3 Capital includes subordinated debt that is unsecured, fully paid, has an original maturity of at least two years, is not redeemable before maturity without prior approval by the FRB and includes a lock-in clause precluding payment of either interest or principal if the payment would cause the issuing bank's risk-based capital ratio to fall or remain below the required minimum. Tier 3 Capital can only be used to satisfy the Corporation's market risk capital requirement and may not be used to support its credit risk requirement. At December 31, 2007 and 2006, the Corporation had no subordinated debt that qualified as Tier 3 Capital.

Certain corporate sponsored trust companies which issue Trust Securities are not consolidated under FIN 46R. As a result, the Trust Securities are not included on the Corporation's Consolidated Balance Sheet. On March 1, 2005, the FRB issued Risk-Based Capital Standards: Trust Preferred Securities and the Definition of Capital (the Final Rule) which allows Trust Securities to continue to qualify as Tier 1 Capital with revised quantitative limits that would be effective after a five-year transition period. As a result, Trust Securities are included in Tier 1 Capital.

The FRB's Final Rule limits restricted core capital elements to 15 percent for internationally active bank holding companies. Internationally active bank holding companies are those with consolidated assets greater than $250 billion or on-balance sheet exposure greater than $10 billion. In addition, the FRB revised the qualitative standards for capital instruments included in regulatory capital. At December 31, 2007, the Corporation's restricted core capital elements comprised 20.3 percent of total core capital elements. The Corporation expects to be fully compliant with the revised limits prior to the implementation date of March 31, 2009.

To meet minimum, adequately-capitalized regulatory requirements, an institution must maintain a Tier 1 Capital ratio of four percent and a Total Capital ratio of eight percent. A well-capitalized institution must generally maintain capital ratios 200 bps higher than the minimum guidelines. The risk-based capital rules have been further supplemented by a leverage ratio, defined as Tier 1 Capital divided by adjusted quarterly average total assets, after certain adjustments. "Well-capitalized" bank holding companies must have a minimum Tier 1 Leverage ratio of three percent and are not subject to a FRB directive to maintain higher capital levels. National banks must maintain a Tier 1 Leverage ratio of at least five percent to be classified as "well-capitalized."

Net unrealized gains (losses) on AFS debt securities, net unrealized gains on AFS marketable equity securities, net unrealized gains (losses) on derivatives, and employee benefit plan adjustments in shareholders' equity at December 31, 2007 and 2006, are excluded from the calculations of Tier 1 Capital and Leverage ratios. The Total Capital ratio excludes all of the above with the exception of up to 45 percent of net unrealized pre-tax gains on AFS marketable equity securities.

### Regulatory Capital Developments

In June 2004, Basel II was published with the intent of more closely aligning regulatory capital requirements with underlying risks. Similar to economic capital measures, Basel II seeks to address credit risk, market risk, and operational risk. On December 7, 2007, U.S. regulatory agencies published the final Basel II rules (Basel II Rules) providing detailed capital requirements for credit and operational risk under Pillar 1, supervisory requirements under Pillar 2 and disclosure requirements under Pillar 3. The Corporation is still awaiting final rules for market risk requirements under Basel II.

The Basel II Rules' effective date is April 1, 2008, which allows U.S. financial institutions to begin parallel reporting as early as 2008. The Corporation continues execution efforts to ensure preparedness with all Basel II requirements. The goal is to achieve full compliance by the end of the three-year implementation period in 2011. Further, internationally Basel II was implemented in several countries during the second half of 2007, while others will begin implementation in 2008 and 2009.

**Regulatory Capital**

| (Dollars in millions) | December 31 2007 Actual Ratio | 2007 Actual Amount | 2007 Minimum Required [1] | 2006 Actual Ratio | 2006 Actual Amount | 2006 Minimum Required [1] |
|---|---|---|---|---|---|---|
| **Risk-based capital** | | | | | | |
| **Tier 1** | | | | | | |
| *Bank of America Corporation* | **6.87%** | **$ 83,372** | **$ 48,516** | 8.64% | $ 91,064 | $ 42,181 |
| Bank of America, N.A. | **8.23** | **75,395** | **36,661** | 8.89 | 76,174 | 34,264 |
| FIA Card Services, N.A. | **14.29** | **21,625** | **6,053** | 14.08 | 19,562 | 5,558 |
| LaSalle Bank, N.A. [2] | **9.91** | **6,838** | **2,759** | – | – | – |
| **Total** | | | | | | |
| *Bank of America Corporation* | **11.02** | **133,720** | **97,032** | 11.88 | 125,226 | 84,363 |
| Bank of America, N.A. | **11.01** | **100,891** | **73,322** | 11.19 | 95,867 | 68,529 |
| FIA Card Services, N.A. | **16.82** | **25,453** | **12,105** | 17.02 | 23,648 | 11,117 |
| LaSalle Bank, N.A. [2] | **11.02** | **7,605** | **5,518** | – | – | – |
| **Tier 1 Leverage** | | | | | | |
| *Bank of America Corporation* | **5.04** | **83,372** | **49,595** | 6.36 | 91,064 | 42,935 |
| Bank of America, N.A. | **5.94** | **75,395** | **38,092** | 6.63 | 76,174 | 34,487 |
| FIA Card Services, N.A. | **16.37** | **21,625** | **3,963** | 16.88 | 19,562 | 3,478 |
| LaSalle Bank, N.A. [2] | **9.21** | **6,838** | **2,226** | – | – | – |

[1] Dollar amount required to meet guidelines for adequately capitalized institutions.
[2] LaSalle Bank, N.A. is presented for periods subsequent to October 1, 2007.

## Note 16 – Employee Benefit Plans

### Pension and Postretirement Plans

The Corporation sponsors noncontributory trusteed qualified pension plans that cover substantially all officers and employees. The plans provide defined benefits based on an employee's compensation and years of service. The Bank of America Pension Plan (the Pension Plan) provides participants with compensation credits, generally based on years of service. For account balances based on compensation credits prior to January 1, 2008, the Pension Plan allows participants to select from various earnings measures, which are based on the returns of certain funds or common stock of the Corporation. The participant-selected earnings measures determine the earnings rate on the individual participant account balances in the Pension Plan. Participants may elect to modify earnings measure allocations on a periodic basis subject to the provisions of the Pension Plan. For account balances based on compensation credits subsequent to December 31, 2007, the account balance earnings rate is based on a benchmark rate. For eligible employees in the Pension Plan on or after January 1, 2008, the benefits become vested upon completion of three years of service. It is the policy of the Corporation to fund not less than the minimum funding amount required by ERISA.

The Pension Plan has a balance guarantee feature for account balances with participant-selected earnings, applied at the time a benefit payment is made from the plan that protects participant balances transferred and certain compensation credits from future market downturns. The Corporation is responsible for funding any shortfall on the guarantee feature.

As a result of recent mergers, the Corporation assumed the obligations related to the pension plans of former FleetBoston, MBNA, U.S. Trust Corporation and LaSalle. These plans together with the Pension Plan, are referred to as the Qualified Pension Plans. The Bank of America Pension Plan for Legacy Fleet (the FleetBoston Pension Plan) and the Bank of America Pension Plan for Legacy U.S. Trust Corporation (the U.S. Trust Pension Plan) are substantially similar to the Pension Plan discussed above; however, these plans do not allow participants to select various earnings measures; rather the earnings rate is based on a benchmark rate; in addition, both plans include participants with benefits determined under formulas based on average or career compensation and years of service rather than by reference to a pension account. The Bank of America Pension Plan for Legacy MBNA (the MBNA Pension Plan) and The Bank of America Pension Plan for Legacy LaSalle (the LaSalle Pension Plan) provide retirement benefits based on the number of years of benefit service and a percentage of the participant's average annual compensation during the five highest paid consecutive years of their last ten years of employment.

The Corporation sponsors a number of noncontributory, nonqualified pension plans (the Nonqualified Pension Plans). As a result of mergers, the Corporation assumed the obligations related to the noncontributory, nonqualified pension plans of former FleetBoston, MBNA, U.S. Trust Corporation, and LaSalle. These plans, which are unfunded, provide defined pension benefits to certain employees.

In addition to retirement pension benefits, full-time, salaried employees and certain part-time employees may become eligible to continue participation as retirees in health care and/or life insurance plans sponsored by the Corporation. Based on the other provisions of the individual plans, certain retirees may also have the cost of these benefits partially paid by the Corporation. The obligations assumed as a result of the mergers are substantially similar to the Corporation's Postretirement Health and Life Plans.

The tables within this Note include the information related to the MBNA plans described above beginning January 1, 2006, the U.S. Trust Corporation plans beginning July 1, 2007 and the LaSalle plans beginning October 1, 2007.

On December 31, 2006, the Corporation adopted SFAS 158 which requires the recognition of a plan's over-funded or under-funded status as an asset or liability with an offsetting adjustment to accumulated OCI. SFAS 158 requires the determination of the fair values of a plan's assets at a company's year end and recognition of actuarial gains and losses, prior service costs or credits, and transition assets or obligations as a component of accumulated OCI. These amounts were previously netted against the plans' funded status in the Corporation's Consolidated Balance Sheet pursuant to the provisions of SFAS 87. These amounts will be subsequently recognized as components of net periodic benefit costs. Further, actuarial gains and losses that arise in subsequent periods that

are not initially recognized as a component of net periodic benefit cost will be recognized as a component of accumulated OCI. Those amounts will subsequently be recognized as a component of net periodic benefit cost as they are amortized during future periods.

The incremental effects of adopting the provisions of SFAS 158 on the Corporation's Consolidated Balance Sheet at December 31, 2006 are presented in the table below. The adoption of SFAS 158 had no effect on the Corporation's Consolidated Statement of Income for 2006, or for any year presented.

The table on page 130 summarizes the changes in the fair value of plan assets, changes in the projected benefit obligation (PBO), the funded status of both the accumulated benefit obligation (ABO) and the PBO, and the weighted average assumptions used to determine benefit obligations for the pension plans and postretirement plans at December 31, 2007 and 2006. Amounts recognized at December 31, 2007 and 2006 are reflected in other assets, and accrued expenses and other liabilities on the Consolidated Balance Sheet. The discount rate assumption is based on a cash flow matching technique and is subject to change each year. This technique utilizes a yield curve based upon Aa-rated corporate bonds with cash flows that match estimated benefit payments to produce the discount rate assumption. For the Qualified Pension Plans, the Nonqualified Pension Plans and the Postretirement Health and Life Plans, the discount rate at December 31, 2007, was 6.00 percent. For both the Qualified Pension Plans and the Postretirement Health and Life Plans, the expected long-term return on plan assets is 8.00 percent for 2008. The expected return on plan assets is determined using the calculated market-related value for the Qualified Pension Plans and the fair value for the Postretirement Health and Life Plans. The asset valuation method for the Qualified Pension Plans recognizes 60 percent of the market gains or losses in the first year, with the remaining 40 percent spread equally over the next four years.

| (Dollars in millions) | December 31, 2006 Balance Sheet Before Application of SFAS 158 | SFAS 158 Adoption Adjustments | December 31, 2006 Balance Sheet After Application of SFAS 158 |
|---|---|---|---|
| Other assets [1] | $ 121,649 | $ (1,966) | $ 119,683 |
| Total assets | 1,461,703 | (1,966) | 1,459,737 |
| Accrued expenses and other liabilities [2] | 42,790 | (658) | 42,132 |
| Total liabilities | 1,325,123 | (658) | 1,324,465 |
| Accumulated OCI [3] | (6,403) | (1,308) | (7,711) |
| Total shareholders' equity | 136,580 | (1,308) | 135,272 |
| Total liabilities and shareholders' equity | 1,461,703 | (1,966) | 1,459,737 |

(1)Amounts represent adjustments to plans in an asset position of $(2.0) billion.
(2)Adjustments to plans in a liability position of $301 million, the reversal of the additional minimum liability adjustment of $(190) million and an adjustment to deferred tax liabilities of $(769) million.
(3)Includes employee benefit plan adjustments of $(1.4) billion, net-of-tax, and the reversal of the additional minimum liability adjustment of $120 million, net-of-tax.

| (Dollars in millions) | Qualified Pension Plans [1] 2007 | Qualified Pension Plans [1] 2006 | Nonqualified Pension Plans [1] 2007 | Nonqualified Pension Plans [1] 2006 | Postretirement Health and Life Plans [1] 2007 | Postretirement Health and Life Plans [1] 2006 |
|---|---|---|---|---|---|---|
| **Change in fair value of plan assets** | | | | | | |
| **Fair value, January 1** | **$16,793** | $13,097 | **$ –** | $ 1 | **$ 90** | $ 126 |
| MBNA balance, January 1, 2006 | **–** | 555 | **–** | – | **–** | – |
| U.S. Trust Corporation balance, July 1, 2007 | **437** | – | **–** | – | **–** | – |
| LaSalle balance, October 1, 2007 | **1,400** | – | **–** | – | **85** | – |
| Actual return on plan assets | **1,043** | 1,829 | **–** | – | **7** | 15 |
| Company contributions [2] | **–** | 2,200 | **159** | 321 | **84** | 52 |
| Plan participant contributions | **–** | – | **–** | – | **109** | 98 |
| Benefits paid | **(953)** | (888) | **(157)** | (322) | **(225)** | (213) |
| Federal subsidy on benefits paid | **n/a** | n/a | **n/a** | n/a | **15** | 12 |
| **Fair value, December 31** | **$18,720** | $16,793 | **$ 2** | $ – | **$ 165** | $ 90 |
| **Change in projected benefit obligation** | | | | | | |
| **Projected benefit obligation, January 1** | **$12,680** | $11,690 | **$ 1,345** | $ 1,108 | **$ 1,549** | $ 1,420 |
| MBNA balance, January 1, 2006 | **–** | 695 | **–** | 486 | **–** | 278 |
| U.S. Trust Corporation balance, July 1, 2007 | **363** | – | **6** | – | **9** | – |
| LaSalle balance, October 1, 2007 | **1,133** | – | **108** | – | **120** | – |
| Service cost | **316** | 306 | **9** | 13 | **16** | 13 |
| Interest cost | **761** | 676 | **71** | 78 | **84** | 86 |
| Plan participant contributions | **–** | – | **–** | – | **109** | 98 |
| Plan amendments | **3** | 33 | **(1)** | – | **–** | – |
| Actuarial (gains) losses | **(103)** | 168 | **(74)** | (18) | **(101)** | (145) |
| Benefits paid | **(953)** | (888) | **(157)** | (322) | **(225)** | (213) |
| Federal subsidy on benefits paid | **n/a** | n/a | **n/a** | n/a | **15** | 12 |
| **Projected benefit obligation, December 31** | **$14,200** | $12,680 | **$ 1,307** | $ 1,345 | **$ 1,576** | $ 1,549 |
| **Amount recognized, December 31** | **$ 4,520** | $ 4,113 | **$(1,305)** | $(1,345) | **$(1,411)** | $(1,459) |
| **Funded status, December 31** | | | | | | |
| Accumulated benefit obligation | **$13,540** | $12,151 | **$ 1,284** | $ 1,345 | **n/a** | n/a |
| Overfunded (unfunded) status of ABO | **5,180** | 4,642 | **(1,282)** | (1,345) | **n/a** | n/a |
| Provision for future salaries | **660** | 529 | **23** | – | **n/a** | n/a |
| Projected benefit obligation | **14,200** | 12,680 | **1,307** | 1,345 | **$ 1,576** | $ 1,549 |
| **Weighted average assumptions, December 31** | | | | | | |
| Discount rate | **6.00%** | 5.75% | **6.00%** | 5.75% | **6.00%** | 5.75% |
| Expected return on plan assets | **8.00** | 8.00 | **n/a** | n/a | **8.00** | 8.00 |
| Rate of compensation increase | **4.00** | 4.00 | **4.00** | 4.00 | **n/a** | n/a |

(1) The measurement date for the Qualified Pension Plans, Nonqualified Pension Plans, and Postretirement Health and Life Plans was December 31 of each year reported.
(2) The Corporation's best estimate of its contributions to be made to the Qualified Pension Plans, Nonqualified Pension Plans, and Postretirement Health and Life Plans in 2008 is $0, $105 and $101 million.
n/a = not applicable

Amounts recognized in the Consolidated Financial Statements at December 31, 2007 and 2006 were as follows:

| (Dollars in millions) | Qualified Pension Plans 2007 | Qualified Pension Plans 2006 | Nonqualified Pension Plans 2007 | Nonqualified Pension Plans 2006 | Postretirement Health and Life Plans 2007 | Postretirement Health and Life Plans 2006 |
|---|---|---|---|---|---|---|
| Other assets | **$4,520** | $4,113 | **$ –** | $ – | **$ –** | $ – |
| Accrued expenses and other liabilities | **–** | – | **(1,305)** | (1,345) | **(1,411)** | (1,459) |
| **Net amount recognized at December 31** | **$4,520** | $4,113 | **$(1,305)** | $(1,345) | **$(1,411)** | $(1,459) |

Net periodic benefit cost (income) for 2007, 2006 and 2005 included the following components:

| (Dollars in millions) | Qualified Pension Plans | | | Nonqualified Pension Plans | | | Postretirement Health and Life Plans | | |
|---|---|---|---|---|---|---|---|---|---|
| | **2007** | 2006 | 2005 | **2007** | 2006 | 2005 | **2007** | 2006 | 2005 |
| **Components of net periodic benefit cost (income)** | | | | | | | | | |
| Service cost | **$ 316** | $ 306 | $ 261 | **$ 9** | $ 13 | $ 11 | **$ 16** | $ 13 | $ 11 |
| Interest cost | **761** | 676 | 643 | **71** | 78 | 61 | **84** | 86 | 78 |
| Expected return on plan assets | **(1,312)** | (1,034) | (983) | **–** | – | – | **(8)** | (10) | (14) |
| Amortization of transition obligation | **–** | – | – | **–** | – | – | **32** | 31 | 31 |
| Amortization of prior service cost (credits) | **47** | 41 | 44 | **(7)** | (8) | (8) | **–** | – | – |
| Recognized net actuarial (gain) loss | **156** | 229 | 182 | **17** | 20 | 24 | **(60)** | 12 | 80 |
| Recognized loss (gain) due to settlements and curtailments | **–** | – | – | **14** | – | 9 | **(2)** | – | – |
| **Net periodic benefit cost (income)** | **$ (32)** | $ 218 | $ 147 | **$ 104** | $ 103 | $ 97 | **$ 62** | $ 132 | $ 186 |
| **Weighted average assumptions used to determine net cost for years ended December 31** | | | | | | | | | |
| Discount rate [1] | **5.75%** | 5.50% | 5.75% | **5.75%** | 5.50% | 5.75% | **5.75%** | 5.50% | 5.75% |
| Expected return on plan assets | **8.00** | 8.00 | 8.50 | **n/a** | n/a | n/a | **8.00** | 8.00 | 8.50 |
| Rate of compensation increase | **4.00** | 4.00 | 4.00 | **4.00** | 4.00 | 4.00 | **n/a** | n/a | n/a |

(1) In connection with the U.S. Trust Corporation and LaSalle mergers, those plans were remeasured on July 1, 2007 and October 1, 2007, using a discount rate of 6.15 percent and 6.50 percent.
n/a = not applicable

Net periodic postretirement health and life expense was determined using the "projected unit credit" actuarial method. Gains and losses for all benefits except postretirement health care are recognized in accordance with the standard amortization provisions of the applicable accounting standards. For the Postretirement Health Care Plans, 50 percent of the unrecognized gain or loss at the beginning of the fiscal year (or at subsequent remeasurement) is recognized on a level basis during the year.

Assumed health care cost trend rates affect the postretirement benefit obligation and benefit cost reported for the Postretirement Health Care Plans. The assumed health care cost trend rate used to measure the expected cost of benefits covered by the Postretirement Health Care Plans was 9.0 percent for 2008, reducing in steps to 5.0 percent in 2013 and later years. A one-percentage-point increase in assumed health care cost trend rates would have increased the service and interest costs and the benefit obligation by $5 million and $64 million in 2007, and $3 million and $51 million in both 2006 and 2005. A one-percentage-point decrease in assumed health care cost trend rates would have lowered the service and interest costs and the benefit obligation by $4 million and $54 million in 2007, $3 million and $44 million in 2006, and $3 million and $43 million in 2005.

Pre-tax amounts included in accumulated OCI at December 31, 2007 and 2006 were as follows:

| (Dollars in millions) | Qualified Pension Plans | | Nonqualified Pension Plans | | Postretirement Health and Life Plans | | Total | |
|---|---|---|---|---|---|---|---|---|
| | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 | **2007** | 2006 |
| Net actuarial (gain) loss | **$1,776** | $ 1,765 | **$ 119** | $ 224 | **$ (106)** | $ (68) | **$1,789** | $1,921 |
| Transition obligation | **–** | – | **–** | – | **157** | 189 | **157** | 189 |
| Prior service cost (credits) | **157** | 201 | **(38)** | (44) | **–** | – | **119** | 157 |
| **Amounts recognized in accumulated OCI** | **$1,933** | $ 1,966 | **$ 81** | $ 180 | **$ 51** | $ 121 | **$2,065** | $2,267 |

Pre-tax amounts recognized in OCI for 2007 included the following components:

| (Dollars in millions) | Qualified Pension Plans | Nonqualified Pension Plans | Postretirement Health and Life Plans | Total |
|---|---|---|---|---|
| **Other changes in plan assets and benefit obligations recognized in OCI** | | | | |
| Settlements and curtailments | $ – | $ (14) | $ 2 | $ (12) |
| Current year actuarial (gain) loss | 167 | (74) | (100) | (7) |
| Amortization of actuarial gain (loss) | (156) | (17) | 60 | (113) |
| Current year prior service (credit) cost | 3 | (1) | – | 2 |
| Amortization of prior service credit (cost) | (47) | 7 | – | (40) |
| Amortization of transition asset (obligation) | – | – | (32) | (32) |
| **Total recognized in OCI** | $ (33) | $ (99) | $ (70) | $(202) |

The estimated net actuarial (gain) loss and prior service cost (credit) for the Qualified Pension Plans that will be amortized from accumulated OCI into net periodic benefit cost (income) during 2008 are pre-tax amounts of $64 million and $47 million. The estimated net actuarial (gain) loss and prior service cost (credit) for the Nonqualified Pension Plans that will be amortized from accumulated OCI into net periodic benefit cost (income) during 2008 are pre-tax amounts of $11 million and $(8) million. The estimated net actuarial (gain) loss and transition obligation for the Postretirement Health and Life Plans that will be amortized from accumulated OCI into net periodic benefit cost (income) during 2008 are pre-tax amounts of $(32) million and $31 million.

## Plan Assets

The Qualified Pension Plans have been established as retirement vehicles for participants, and trusts have been established to secure benefits promised under the Qualified Pension Plans. The Corporation's policy is to invest the trust assets in a prudent manner for the exclusive purpose of providing benefits to participants and defraying reasonable expenses of administration. The Corporation's investment strategy is designed to provide a total return that, over the long-term, increases the ratio of assets to liabilities. The strategy attempts to maximize the investment return on assets at a level of risk deemed appropriate by the Corporation while complying with ERISA and any applicable regulations and laws. The investment strategy utilizes asset allocation as a principal determinant for establishing the risk/reward profile of the assets. Asset allocation ranges are established, periodically reviewed, and adjusted as funding levels and liability characteristics change. Active and passive investment managers are employed to help enhance the risk/return profile of the assets. An additional aspect of the investment strategy used to minimize risk (part of the asset allocation plan) includes matching the equity exposure of participant-selected earnings measures. For example, the common stock of the Corporation held in the trust is maintained as an offset to the exposure related to participants who selected to receive an earnings measure based on the return performance of common stock of the Corporation. No plan assets are expected to be returned to the Corporation during 2008.

The Expected Return on Asset Assumption (EROA assumption) was developed through analysis of historical market returns, historical asset class volatility and correlations, current market conditions, anticipated future asset allocations, the funds' past experience, and expectations on potential future market returns. The EROA assumption represents a long-term average view of the performance of the Qualified Pension Plans and Postretirement Health and Life Plan assets, a return that may or may not be achieved during any one calendar year. In a simplistic analysis of the EROA assumption, the building blocks used to arrive at the long-term return assumption would include an implied return from equity securities of 8.75 percent, debt securities of 5.75 percent, and real estate of 7.00 percent for all pension plans and postretirement health and life plans.

The Qualified Pension Plans' and Postretirement Health and Life Plans' asset allocations at December 31, 2007 and 2006 and target allocations for 2008 by asset category are presented in the table below.

Equity securities for the Qualified Pension Plans include common stock of the Corporation in the amounts of $667 million (3.56 percent of total plan assets) and $882 million (5.25 percent of total plan assets) at December 31, 2007 and 2006.

The Bank of America, MBNA, U.S. Trust Corporation, and LaSalle Postretirement Health and Life Plans had no investment in the common stock of the Corporation at December 31, 2007 or 2006. The FleetBoston Postretirement Health and Life Plans included common stock of the Corporation in the amount of $0.3 million (0.20 percent of total plan assets) and $0.4 million (0.46 percent of total plan assets) at December 31, 2007 and 2006.

**Asset Category**

| | Qualified Pension Plans | | | Postretirement Health and Life Plans | | |
|---|---|---|---|---|---|---|
| | 2008 Target Allocation | Percentage of Plan Assets at December 31 | | 2008 Target Allocation | Percentage of Plan Assets at December 31 | |
| | | 2007 | 2006 | | 2007 | 2006 |
| Equity securities | 60 – 80% | **70%** | 68% | 50 – 75% | **67%** | 61% |
| Debt securities | 20 – 40 | **27** | 30 | 25 – 45 | **30** | 36 |
| Real estate | 0 – 5 | **3** | 2 | 0 – 5 | **3** | 3 |
| **Total** | | **100%** | 100% | | **100%** | 100% |

### Projected Benefit Payments

Benefit payments projected to be made from the Qualified Pension Plans, the Nonqualified Pension Plans and the Postretirement Health and Life Plans are as follows:

| | | | Postretirement Health and Life Plans | |
|---|---|---|---|---|
| (Dollars in millions) | Qualified Pension Plans [1] | Nonqualified Pension Plans [2] | Net Payments [3] | Medicare Subsidy |
| 2008 | $ 1,057 | $ 105 | $ 150 | $ (15) |
| 2009 | 1,068 | 104 | 150 | (15) |
| 2010 | 1,059 | 103 | 152 | (16) |
| 2011 | 1,110 | 105 | 153 | (16) |
| 2012 | 1,105 | 103 | 152 | (17) |
| 2013 – 2017 | 5,324 | 479 | 735 | (82) |

(1)Benefit payments expected to be made from the plans' assets.
(2)Benefit payments expected to be made from the Corporation's assets.
(3)Benefit payments (net of retiree contributions) expected to be made from a combination of the plans' and the Corporation's assets.

### Defined Contribution Plans

The Corporation maintains qualified defined contribution retirement plans and nonqualified defined contribution retirement plans.

The Corporation contributed approximately $420 million, $328 million and $274 million for 2007, 2006 and 2005, in cash, respectively. At December 31, 2007 and 2006, an aggregate of 93 million shares and 99 million shares of the Corporation's common stock were held by the 401(k) Plans. Payments to the 401(k) plans for dividends on common stock were $228 million, $216 million and $207 million during 2007, 2006 and 2005, respectively.

In addition, certain non-U.S. employees within the Corporation are covered under defined contribution pension plans that are separately administered in accordance with local laws.

## Note 17 – Stock-Based Compensation Plans

On January 1, 2006, the Corporation adopted SFAS 123R under the modified-prospective application.

The compensation cost recognized in income for the plans described below was $1.2 billion, $1.0 billion and $805 million in 2007, 2006 and 2005, respectively. The related income tax benefit recognized in income was $438 million, $382 million and $294 million for 2007, 2006 and 2005, respectively.

Prior to the adoption of SFAS 123R, awards granted to retirement-eligible employees were expensed over the stated vesting period. SFAS 123R requires that the Corporation recognize stock compensation cost immediately for any awards granted to retirement-eligible employees, or over the vesting period or the period from the grant date to the date retirement eligibility is achieved, whichever is shorter.

Prior to the adoption of SFAS 123R, the Corporation presented tax benefits of deductions resulting from the exercise of stock options as operating cash flows in the Consolidated Statement of Cash Flows. SFAS 123R requires the cash flows resulting from the tax benefits due to tax deductions in excess of the compensation cost recognized for those options (excess tax benefits) to be classified as financing cash flows. The Corporation classified $254 million and $477 million in excess tax benefits as a financing cash inflow for 2007 and 2006.

Prior to January 1, 2006, the Corporation estimated the fair value of stock options granted on the date of grant using the Black-Scholes option-pricing model. On January 1, 2006, the Corporation began using a lattice option-pricing model to estimate the grant date fair value of stock options granted. The following table presents the assumptions used to estimate the fair value of stock options granted on the date of grant using the lattice option-pricing model for 2007 and 2006. Lattice option-pricing models incorporate ranges of assumptions for inputs and those ranges are disclosed in the table below. The risk-free rate for periods within the contractual life of the stock option is based on the U.S. Treasury yield curve in effect at the time of grant. Expected volatilities are based on implied volatilities from traded stock options on the Corporation's common stock, historical volatility of the Corporation's common stock, and other factors. The Corporation uses historical data to estimate stock option exercise and employee termination within the model. The expected term of stock options granted is derived from the output of the model and represents the period of time that stock options granted are expected to be outstanding. The table below also includes the assumptions used to estimate the fair value of stock options granted on the date of grant using the Black-Scholes option-pricing model for 2005. The estimates of fair value from these models are theoretical values for stock options and changes in the assumptions used in the models could result in materially different fair value estimates. The actual value of the stock options will depend on the market value of the Corporation's common stock when the stock options are exercised.

| | 2007 | 2006 | 2005 |
|---|---|---|---|
| Risk-free interest rate | **4.72 – 5.16%** | 4.59 – 4.70% | 3.94% |
| Dividend yield | **4.40** | 4.50 | 4.60 |
| Expected volatility | **16.00 – 27.00** | 17.00 – 27.00 | 20.53 |
| Weighted average volatility | **19.70** | 20.30 | n/a |
| Expected lives (years) | **6.5** | 6.5 | 6 |

n/a = not applicable

The Corporation has equity compensation plans that were approved by its shareholders. These plans are the Key Employee Stock Plan and the Key Associate Stock Plan. Descriptions of the material features of these plans follow.

### Key Employee Stock Plan

The Key Employee Stock Plan, as amended and restated, provided for different types of awards. These include stock options, restricted stock shares and restricted stock units. Under the Plan, ten-year options to purchase approximately 260 million shares of common stock were granted through December 31, 2002, to certain employees at the closing market price on the respective grant dates. Options granted under the Plan generally vest in three or four equal annual installments. At December 31, 2007, approximately 57 million options were outstanding under this Plan. No further awards may be granted.

### Key Associate Stock Plan

On April 24, 2002, the shareholders approved the Key Associate Stock Plan to be effective January 1, 2003. This approval authorized and reserved 200 million shares for grant in addition to the remaining amount under the Key Employee Stock Plan as of December 31, 2002, which was approximately 34 million shares plus any shares covered by awards under the Key Employee Stock Plan that terminate, expire, lapse or are cancelled after December 31, 2002. Upon the FleetBoston merger, the shareholders authorized an additional 102 million shares and on April 26, 2006, the shareholders authorized an additional 180 million shares for grant under the Key Associate Stock Plan. At December 31, 2007, approximately 151 million options were outstanding under this plan. Approximately 18 million shares of restricted stock and restricted stock units were granted in 2007. These shares of restricted stock generally vest in three equal annual installments beginning one year from the grant date.

The following table presents the status of all option plans at December 31, 2007, and changes during 2007:

**Employee stock options**

| | December 31, 2007 | |
|---|---|---|
| | Shares | Weighted Average Exercise Price |
| Outstanding at January 1, 2007 | 245,073,170 | $ 36.89 |
| Granted | 34,253,805 | 53.83 |
| Exercised | (45,434,338) | 35.56 |
| Forfeited | (5,232,588) | 46.09 |
| **Outstanding at December 31, 2007 (1)** | **228,660,049** | **39.49** |
| Options exercisable at December 31, 2007 | 168,956,467 | 35.86 |
| Options vested and expected to vest (2) | 227,941,654 | 39.45 |

(1) Includes 57 million options under the Key Employee Stock Plan, 151 million options under the Key Associate Stock Plan and 20 million options to employees of predecessor companies assumed in mergers.

(2) Includes vested shares and nonvested shares after a forfeiture rate is applied.

At December 31, 2007, the aggregate intrinsic value of options outstanding, exercisable, and vested and expected to vest was $1.1 billion. The weighted average remaining contractual term of options outstanding was 5.6 years, of options exercisable was 4.6 years, and of options vested and expected to vest was 5.6 years at December 31, 2007.

The weighted average grant-date fair value of options granted in 2007, 2006 and 2005 was $8.44, $6.90 and $6.48, respectively. The total intrinsic value of options exercised in 2007 was $717 million.

The following table presents the status of the restricted stock/unit awards at December 31, 2007, and changes during 2007:

**Restricted stock/unit awards**

| | December 31, 2007 | |
|---|---|---|
| | Shares | Weighted Average Grant Date Fair Value |
| Outstanding at January 1, 2007 | 31,589,342 | $ 43.85 |
| Granted | 18,213,053 | 53.82 |
| Vested | (15,499,957) | 44.53 |
| Cancelled | (2,480,714) | 49.26 |
| **Outstanding at December 31, 2007** | **31,821,724** | **48.80** |

At December 31, 2007, there was $696 million of total unrecognized compensation cost related to share-based compensation arrangements for all awards that is expected to be recognized over a weighted average period of 0.93 years. The total fair value of restricted stock vested in 2007 was $810 million.

## Note 18 – Income Taxes

The components of income tax expense for 2007, 2006 and 2005 were as follows:

| (Dollars in millions) | 2007 | 2006 | 2005 |
|---|---|---|---|
| **Current income tax expense** | | | |
| Federal | **$5,210** | $ 7,398 | $5,229 |
| State | **681** | 796 | 676 |
| Foreign | **804** | 796 | 415 |
| Total current expense | **6,695** | 8,990 | 6,320 |
| **Deferred income tax expense (benefit)** | | | |
| Federal | **(710)** | 1,807 | 1,577 |
| State | **(18)** | 45 | 85 |
| Foreign | **(25)** | (2) | 33 |
| Total deferred expense (benefit) | **(753)** | 1,850 | 1,695 |
| **Total income tax expense** [1] | **$5,942** | $10,840 | $8,015 |

(1) Does not reflect the deferred tax effects of unrealized gains and losses on AFS debt and marketable equity securities, foreign currency translation adjustments, derivatives, and employee benefit plan adjustments that are included in accumulated OCI. As a result of these tax effects, accumulated OCI decreased $5.0 billion in 2007 and increased $378 million and $2.9 billion in 2006 and 2005, respectively. Also, does not reflect tax benefits associated with the Corporation's employee stock plans which increased common stock and additional paid-in capital $251 million, $674 million and $416 million in 2007, 2006 and 2005, respectively. Goodwill was reduced $47 million, $195 million and $22 million in 2007, 2006 and 2005, respectively, reflecting certain tax benefits attributable to exercises of employee stock options issued by MBNA and FleetBoston which had vested prior to the merger dates.

Income tax expense for 2007, 2006 and 2005 varied from the amount computed by applying the statutory income tax rate to income before income taxes. A reconciliation between the expected federal income tax expense using the federal statutory tax rate of 35 percent to the Corporation's actual income tax expense and resulting effective tax rate for 2007, 2006 and 2005 are presented in the following table.

As a result of the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) and the American Jobs Creation Act of 2004 (the AJCA), the Corporation's non-U.S. based commercial aircraft leasing business no longer qualified for a reduced U.S. tax rate. Accounting for the change in law resulted in the discrete recognition of a $175 million charge to income tax expense during 2006. However, the AJCA modified the anti-deferral provisions associated with the active leasing of aircraft operated predominantly outside the U.S. The restructuring of the Corporation's non-U.S. based commercial aircraft leasing business in compliance with the provisions of the AJCA resulted in a one-time income tax benefit of $221 million in 2007.

| | 2007 | | 2006 | | 2005 | |
|---|---|---|---|---|---|---|
| (Dollars in millions) | **Amount** | **Percent** | Amount | Percent | Amount | Percent |
| Expected federal income tax expense | **$ 7,323** | **35.0%** | $11,191 | 35.0% | $ 8,568 | 35.0% |
| Increase (decrease) in taxes resulting from: | | | | | | |
| Tax-exempt income, including dividends | **(683)** | **(3.3)** | (630) | (2.0) | (605) | (2.5) |
| Low income housing credits/other credits | **(590)** | **(2.8)** | (537) | (1.7) | (423) | (1.7) |
| Foreign tax differential | **(485)** | **(2.3)** | (291) | (0.9) | (99) | (0.4) |
| State tax expense, net of federal benefit | **431** | **2.1** | 547 | 1.7 | 495 | 2.0 |
| Non-U.S. leasing – TIPRA/AJCA | **(221)** | **(1.1)** | 175 | 0.5 | – | – |
| Other | **167** | **0.8** | 385 | 1.3 | 79 | 0.3 |
| **Total income tax expense** | **$ 5,942** | **28.4%** | $10,840 | 33.9% | $ 8,015 | 32.7% |

The Corporation adopted the provisions of FIN 48 on January 1, 2007. FIN 48 clarifies the accounting and reporting for income taxes where interpretation of the tax law may be uncertain. As a result of the adoption of FIN 48, the Corporation recognized a $198 million increase in the UTB balance, reducing retained earnings by $146 million and increasing goodwill by $52 million. The beginning UTB balance of $2.7 billion reconciles to the December 31, 2007 balance in the following table.

**Reconciliation of the Change in Unrecognized Tax Benefits**

| (Dollars in millions) | |
|---|---|
| **Balance, January 1, 2007** | **$2,667** |
| Increases related to positions taken during prior years | **67** |
| Increases related to positions taken during the current year | **456** |
| Positions acquired or assumed in business combinations | **328** |
| Decreases related to positions taken during prior years | **(227)** |
| Settlements | **(108)** |
| Expiration of statute of limitations | **(88)** |
| **Balance, December 31, 2007** | **$3,095** |

As of December 31, 2007 and January 1, 2007, the balance of the Corporation's UTBs which would, if recognized, affect the Corporation's effective tax rate was $1.8 billion and $1.5 billion. Included in the UTB balance are some items the recognition of which would not affect the effective tax rate, such as the tax effect of certain temporary differences, the portion of gross state UTBs that would be offset by the tax benefit of the associated federal deduction and UTBs related to acquired entities that will impact goodwill if recognized. Once SFAS 141R is effective, beginning January 1, 2009, any change in the UTBs related to acquired entities that occurs beyond the measurement period will not impact good-will but will instead be recognized in earnings. The portion of the December 31, 2007 UTB balance that, if recognized after the adoption of SFAS 141R, would impact the effective tax rate was $577 million.

During 2007, the IRS completed the examination phase of the audit of the Corporation's federal income tax returns for the years 2000 through 2002 and issued Revenue Agent's Reports (RAR) to the Corporation. Included in these RARs were proposed adjustments to disallow certain foreign tax credits and to recharacterize certain leveraged leases referred to by the IRS as "SILOs." The Corporation filed protests of these proposed adjustments as well as certain other of the RAR adjustments with the Appeals office of the IRS. The Corporation believes the crediting of the Corporation's foreign taxes against U.S. income taxes was appropriate. Further, the Corporation believes the tax treatment of the SILO position as true leases for U.S. income tax purposes is supported by the relevant facts and tax authorities. However, final determination of the audit or changes in the Corporation's estimate may result in future income tax expense or benefit. The Corporation's federal income tax returns for the years 2003 and 2004 remain under examination by the IRS. In addition, the federal income tax returns of FleetBoston are currently under examination for the years 1997 through March 31, 2004. Upon the final determination of each of the above audits, the UTB balance will decrease, since resolved items would be removed from the balance whether their resolution resulted in payment or recognition. The Corporation does not expect these matters to be concluded within the next twelve months.

The federal income tax returns of LaSalle are currently under examination for the years 2003 through 2005. The Corporation anticipates that it is reasonably possible that the final determination of these audits will occur during 2008 and does not anticipate that such resolution would result in a material change to the Corporation's financial position.

Finally, the audit of the federal income tax returns of MBNA for the tax years 2001 through 2004 was completed during 2007.

All tax years subsequent to the above years remain open to examination.

The Corporation files income tax returns in more than 100 state and foreign jurisdictions each year and is under continuous examination by various state and foreign taxing authorities. While many of these examinations are resolved every year, the Corporation does not anticipate that resolutions occurring within the next twelve months would result in a material change to the Corporation's financial position.

During 2007, the Corporation recognized $161 million, net of taxes, of interest and penalties within income tax expense. As of December 31, 2007 and January 1, 2007, the Corporation's accrual for interest and penalties that related to income taxes, net of taxes and remittances, including applicable interest on certain leveraged lease positions, was $573 million and $769 million. The decrease during 2007 primarily resulted from remittances to the IRS to stop the potential accrual of interest on certain items relating to the above examinations.

Significant components of the Corporation's net deferred tax liability at December 31, 2007 and 2006 are presented in the following table.

| | December 31 | |
|---|---|---|
| (Dollars in millions) | **2007** | 2006 |
| **Deferred tax liabilities** | | |
| Equipment lease financing | **$ 6,875** | $ 6,895 |
| Available-for-sale securities | **3,836** | – |
| Intangibles | **2,015** | 1,198 |
| Fee income | **1,445** | 1,065 |
| Mortgage servicing rights | **859** | 787 |
| State income taxes | **347** | 353 |
| Foreign currency | **47** | 659 |
| Other | **1,620** | 1,232 |
| Gross deferred tax liabilities | **17,044** | 12,189 |
| **Deferred tax assets** | | |
| Allowance for credit losses | **4,056** | 3,054 |
| Security valuations | **3,673** | 2,703 |
| Employee compensation and retirement benefits | **1,541** | 1,273 |
| Accrued expenses | **1,307** | 1,283 |
| Available-for-sale securities | **–** | 1,632 |
| Foreign tax credit carryforward | **–** | 117 |
| Other | **73** | 198 |
| Gross deferred tax assets | **10,650** | 10,260 |
| Valuation allowance [1] | **(148)** | (122) |
| Total deferred tax assets, net of valuation allowance | **10,502** | 10,138 |
| **Net deferred tax liabilities [2]** | **$ 6,542** | $ 2,051 |

(1) At December 31, 2007 and 2006, $37 million and $43 million of the valuation allowance related to gross deferred tax assets was attributable to the U.S. Trust Corporation, MBNA and FleetBoston mergers. Future recognition, if occurring prior to the adoption of SFAS 141R, of the tax attributes associated with these gross deferred tax assets would result in tax benefits being allocated to reduce goodwill.

(2) The Corporation's net deferred tax liabilities were adjusted during 2007 and 2006 to include $226 million and $565 million of net deferred tax liabilities related to business combinations.

The valuation allowance at December 31, 2007 and 2006 is attributable to deferred tax assets generated in certain state and foreign jurisdictions for which management believes it is more likely than not that realization of these assets will not occur. The change in the valuation allowance primarily resulted from current year losses in foreign jurisdictions offset by the remeasurement of certain state temporary differences against which valuation allowances had been recorded.

At December 31, 2007 and 2006, federal income taxes had not been provided on $5.8 billion and $4.4 billion of undistributed earnings of foreign subsidiaries, earned prior to 1987 and after 1997 that have been reinvested for an indefinite period of time. If the earnings were distributed, an additional $925 million and $573 million of tax expense, net of credits for foreign taxes paid on such earnings and for the related foreign withholding taxes, would have resulted as of December 31, 2007 and 2006.

## Note 19 – Fair Value Disclosures

Effective January 1, 2007, the Corporation adopted SFAS 157, which provides a framework for measuring fair value under GAAP. SFAS 157 also eliminated the deferral of gains and losses at inception of certain derivative contracts whose fair value was not evidenced by market observable data. SFAS 157 requires that the impact of this change in accounting for derivative contracts be recorded as an adjustment to beginning retained earnings in the period of adoption.

The Corporation also adopted SFAS 159 on January 1, 2007. SFAS 159 allows an entity the irrevocable option to elect fair value for the initial and subsequent measurement for certain financial assets and liabilities on a contract-by-contract basis. The Corporation elected to adopt the fair value option for certain financial instruments on the adoption date. SFAS 159 requires that the difference between the carrying value before election of the fair value option and the fair value of these instruments be recorded as an adjustment to beginning retained earnings in the period of adoption.

The following table summarizes the impact of the change in accounting for derivative contracts described above and the impact of adopting the fair value option for certain financial instruments on January 1, 2007. Amounts shown represent the carrying value of the affected instruments before and after the changes in accounting resulting from the adoption of SFAS 157 and SFAS 159.

**Transition Impact**

| (Dollars in millions) | Ending Balance Sheet December 31, 2006 | Adoption Net Gain/(Loss) | Opening Balance Sheet January 1, 2007 |
|---|---|---|---|
| Impact of adopting SFAS 157 | | | |
| Net derivative assets and liabilities [1] | $ 7,100 | $ 22 | $ 7,122 |
| Impact of electing the fair value option under SFAS 159 | | | |
| Loans and leases [2] | 3,968 | (21) | 3,947 |
| Accrued expenses and other liabilities [3] | (28) | (321) | (349) |
| Other assets [4] | 8,778 | – | 8,778 |
| Available-for-sale debt securities [5] | 3,692 | – | 3,692 |
| Federal funds sold and securities purchased under agreements to resell [6] | 1,401 | (1) | 1,400 |
| Interest-bearing deposit liabilities in domestic offices [7] | (548) | 1 | (547) |
| **Cumulative-effect adjustment, pre-tax** | | (320) | |
| Tax impact | | 112 | |
| **Cumulative-effect adjustment, net-of-tax, decrease to retained earnings** | | $ (208) | |

(1) The transition adjustment reflects the impact of recognizing previously deferred gains and losses as a result of the rescission of certain requirements of EITF 02-3 in accordance with SFAS 157.
(2) Includes loans to certain large corporate clients. The ending balance at December 31, 2006 and the transition adjustment were net of a $32 million reduction in the allowance for loan and lease losses.
(3) The January 1, 2007 balance after adoption represents the fair value of certain unfunded commercial loan commitments. The December 31, 2006 balance prior to adoption represents the reserve for unfunded lending commitments associated with these commitments.
(4) Other assets include loans held-for-sale. No transition adjustment was recorded for the loans held-for-sale because they were already recorded at fair value pursuant to lower of cost or market accounting.
(5) Changes in fair value of these AFS debt securities resulting from foreign currency exposure, which is the primary driver of fair value for these securities, had previously been hedged by derivatives that qualified for fair value hedge accounting in accordance with SFAS 133. As a result, there was no transition adjustment. Following the election of the fair value option, these AFS debt securities have been transferred to trading account assets.
(6) Includes structured reverse repurchase agreements that were hedged with derivatives in accordance with SFAS 133.
(7) Includes long-term fixed rate deposits that were economically hedged with derivatives.

### Fair Value Option Elections

#### Corporate Loans and Loan Commitments

The Corporation elected to account for certain large corporate loans and loan commitments which exceeded the Corporation's single name credit risk concentration guidelines at fair value in accordance with SFAS 159. Lending commitments, both funded and unfunded, are actively managed and monitored, and, as appropriate, credit risk for these lending relationships may be mitigated through the use of credit derivatives, with the Corporation's credit view and market perspectives determining the size and timing of the hedging activity. These credit derivatives do not meet the requirements for hedge accounting under SFAS 133 and are therefore carried at fair value with changes in fair value recorded in other income. Electing the fair value option allows the Corporation to account for these loans and loan commitments at fair value, which is more consistent with management's view of the underlying economics and the manner in which they are managed. In addition, accounting for these loans and loan commitments at fair value reduces the accounting asymmetry that would otherwise result from carrying the loans at historical cost and the credit derivatives at fair value.

Fair values for the loans and loan commitments are based on market prices, where available, or discounted cash flows using market-based credit spreads of comparable debt instruments or credit derivatives of the specific borrower or comparable borrowers. Results of discounted cash flow calculations may be adjusted, as appropriate, to reflect other market conditions or the perceived credit risk of the borrower.

At December 31, 2007, funded loans which the Corporation has elected to fair value had an aggregate fair value of $4.59 billion recorded in loans and leases and an aggregate outstanding principal balance of $4.82 billion. At December 31, 2007, unfunded loan commitments that the Corporation has elected to fair value had an aggregate fair value of $660 million recorded in accrued expenses and other liabilities and an aggregate committed exposure of $20.9 billion. Interest income on these loans is recorded in interest and fees on loans and leases. At December 31, 2007, none of these loans were 90 days or more past due and still accruing interest or had been placed on nonaccrual status. Net losses resulting from changes in fair value of these loans and loan commitments of $413 million were recorded in other income during 2007. These losses were significantly attributable to changes in instrument-specific credit risk. Following adoption of SFAS 159, approximately $5 million of direct loan origination fees and costs related to items for which the fair value option was elected were recognized in earnings during 2007. Previously, these items would have been capitalized and amortized to earnings over the life of the loans.

**Loans Held-for-Sale**

The Corporation also elected to account for certain loans held-for-sale at fair value. Electing to use fair value allows a better offset of the changes in fair values of the loans and the derivative instruments used to economically hedge them without the burden of complying with the requirements for hedge accounting under SFAS 133. The Corporation has not elected to fair value other loans held-for-sale primarily because these loans are floating rate loans that are not economically hedged using derivative instruments. Fair values for loans held-for-sale are based on quoted market prices, where available, or are determined by discounting estimated cash flows using interest rates approximating the Corporation's current origination rates for similar loans and adjusted to reflect the inherent credit risk. At December 31, 2007, residential mortgage loans, commercial mortgage loans, and other loans held-for-sale for which the fair value option was elected had an aggregate fair value of $15.77 billion and an aggregate outstanding principal balance of $16.72 billion and were recorded in other assets. Interest income on these loans is recorded in other interest income. Net gains (losses) resulting from changes in fair value of these loans, including realized gains (losses) on sale, of $333 million were recorded in mortgage banking income, $(348) million were recorded in trading account profits (losses), and $(58) million were recorded in other income during 2007. These changes in fair value are mostly offset by hedging activities. An immaterial portion of these amounts was attributable to changes in instrument-specific credit risk. The adoption of SFAS 159 resulted in an increase of $256 million in mortgage banking income, and in an increase of $212 million in noninterest expense for 2007. Subsequent to the adoption of SFAS 159, mortgage loan origination costs are recognized in noninterest expense when incurred. Previously, mortgage loan origination costs would have been capitalized as part of the carrying amount of the loans and recognized as a reduction of mortgage banking income upon the sale of such loans.

**Debt Securities**

Effective January 1, 2007, the Corporation elected to fair value $3.7 billion of AFS debt securities through earnings. Changes in fair value resulting from foreign currency exposure, which was the primary driver of fair value for these securities, had previously been hedged by derivatives that qualified for fair value hedge accounting in accordance with SFAS 133. Electing the fair value option allows the Corporation to eliminate the burden of complying with the requirements for hedge accounting under SFAS 133 without introducing accounting volatility. Following election of the fair value option, these securities were reclassified to trading account assets.

The Corporation did not elect the fair value option for other AFS debt securities because they were not hedged by derivatives that qualified for hedge accounting in accordance with SFAS 133.

**Structured Reverse Repurchase Agreements**

The Corporation elected to fair value certain structured reverse repurchase agreements which were hedged with derivatives which qualified for fair value hedge accounting in accordance with SFAS 133. Election of the fair value option allows the Corporation to reduce the burden of complying with the requirements of hedge accounting under SFAS 133. At December 31, 2007, these instruments had an aggregate fair value of $2.58 billion and a principal balance of $2.54 billion recorded in federal funds sold and securities purchased under agreements to resell. Interest earned on these instruments continues to be recorded in interest income. Net gains resulting from changes in fair value of these instruments of $23 million were recorded in other income for 2007. The Corporation did not elect to fair value other financial instruments within the same balance sheet category because they were not economically hedged using derivatives.

**Long-term Deposits**

The Corporation elected to fair value certain long-term fixed rate deposits which are economically hedged with derivatives. At December 31, 2007, these instruments had an aggregate fair value of $2.00 billion and principal balance of $1.99 billion recorded in interest-bearing deposits. Interest paid on these instruments continues to be recorded in interest expense. Net losses resulting from changes in fair value of these instruments of $26 million were recorded in other income for 2007. Election of the fair value option will allow the Corporation to reduce the accounting volatility that would otherwise result from the accounting asymmetry created by accounting for the financial instruments at historical cost and the economic hedges at fair value. The Corporation did not elect to fair value other financial instruments within the same balance sheet category because they were not economically hedged using derivatives.

## Fair Value Measurement

SFAS 157 defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. For additional information on how the Corporation measures fair value, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

Assets and liabilities measured at fair value on a recurring basis, including financial instruments for which the Corporation has elected the fair value option, are summarized below:

| | December 31, 2007 | | | | |
|---|---|---|---|---|---|
| | Fair Value Measurements Using | | | | |
| (Dollars in millions) | Level 1 | Level 2 | Level 3 | Netting Adjustments [1] | Assets/Liabilities at Fair Value |
| **Assets** | | | | | |
| Federal funds sold and securities purchased under agreements to resell [2] | $ – | $ 2,578 | $ – | $ – | $ 2,578 |
| Trading account assets | 42,986 | 115,051 | 4,027 | – | 162,064 |
| Derivative assets | 516 | 442,471 | 8,972 | (417,297) | 34,662 |
| Available-for-sale debt securities | 2,089 | 205,734 | 5,507 | – | 213,330 |
| Loans and leases [2, 3] | – | – | 4,590 | – | 4,590 |
| Mortgage servicing rights | – | – | 3,053 | – | 3,053 |
| Other assets [4] | 19,796 | 15,971 | 5,321 | – | 41,088 |
| **Total assets** | **$65,387** | **$781,805** | **$31,470** | **$ (417,297)** | **$ 461,365** |
| **Liabilities** | | | | | |
| Interest-bearing deposits in domestic offices [2] | $ – | $ 2,000 | $ – | $ – | $ 2,000 |
| Trading account liabilities | 57,331 | 20,011 | – | – | 77,342 |
| Derivative liabilities | 534 | 426,223 | 10,175 | (414,509) | 22,423 |
| Accrued expenses and other liabilities [2] | – | – | 660 | – | 660 |
| **Total liabilities** | **$57,865** | **$448,234** | **$10,835** | **$ (414,509)** | **$ 102,425** |

(1) Amounts represent the impact of legally enforceable master netting agreements that allow the Corporation to settle positive and negative positions and also cash collateral held or placed with the same counterparties.
(2) Amounts represent items for which the Corporation has elected the fair value option under SFAS 159.
(3) Loans and leases at December 31, 2007 included $22.6 billion of leases that were not eligible for the fair value option as they were specifically excluded from fair value option election in accordance with SFAS 159.
(4) Other assets include equity investments held by Principal Investing, AFS equity investments and certain retained interests in securitization vehicles, including interest-only strips, all of which were carried at fair value prior to the adoption of SFAS 159; and loans held-for-sale for which the Corporation has elected the fair value option under SFAS 159. Substantially all of other assets are eligible for fair value accounting at December 31, 2007.

The table below presents a reconciliation for all assets and liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) during 2007. Level 3 loans and loan commitments are carried at fair value due to adoption of the fair value option, as described on page 137. Other Level 3 instruments presented in the table, including net derivatives, trading account assets, AFS debt securities, MSRs, certain equity investments and retained interests in securitizations, were carried at fair value prior to the adoption of SFAS 159. During 2007 certain financial instruments, including certain ABS issued by CDOs and portfolios of loans held-for-sale, were transferred from Level 2 to Level 3 due to the lack of current observable market activity. These instruments were valued using pricing models and discounted cash flow methodologies incorporating assumptions that, in management's judgment, reflect the assumptions a marketplace participant would use at December 31, 2007.

## Level 3 Instruments Only

| | Total Fair Value Measurements | | | | | | |
|---|---|---|---|---|---|---|---|
| (Dollars in millions) | Net Derivatives [1] | Trading Account Assets [2] | Available-for-Sale Debt Securities [2, 3] | Loans and Leases [4] | Mortgage Servicing Rights [2] | Other Assets [5] | Accrued Expenses and Other Liabilities [4] |
| **Balance, December 31, 2006** | **$ 766** | **$ 303** | **$ 1,133** | **$ 3,968** | **$ 2,869** | **$ 6,605** | **$ (28)** |
| Impact of SFAS 157 and SFAS 159 adoption | 22 | – | – | (21) | – | – | (321) |
| **Balance, January 1, 2007** | **$ 788** | **$ 303** | **$ 1,133** | **$ 3,947** | **$ 2,869** | **$ 6,605** | **$ (349)** |
| Total gains or losses (realized/unrealized): | | | | | | | |
| Included in earnings | (341) | (2,959) | (398) | (140) | 231 | 2,059 | (279) |
| Included in other comprehensive income | – | – | (206) | – | – | (79) | – |
| Purchases, issuances, and settlements | (333) | 708 | 4,588 | 783 | (47) | (5,897) | (32) |
| Transfers in to/out of Level 3 | (1,317) | 5,975 | 390 | – | – | 2,633 | – |
| **Balance, December 31, 2007** | **$ (1,203)** | **$ 4,027** | **$ 5,507** | **$ 4,590** | **$ 3,053** | **$ 5,321** | **$ (660)** |

(1) Net derivatives at December 31, 2007 included derivative assets of $8.97 billion and derivative liabilities of $10.18 billion. Amounts at January 1, 2007 were carried at fair value prior to the adoption of SFAS 159.
(2) Amounts represented items which were carried at fair value prior to the adoption of SFAS 159.
(3) Certain securities valued using internally developed pricing inputs had been classified as Level 2 measurements at January 1, 2007. The Corporation subsequently determined that these securities are more appropriately classified as Level 3 measurements which has been reflected as such in the beginning balance. This change in classification did not impact the recorded fair value of the securities.
(4) Amounts represented items for which the Corporation had elected the fair value option under SFAS 159 including commercial loan commitments recorded in accrued expenses and other liabilities.
(5) Other assets included equity investments held by Principal Investing and certain retained interests in securitization vehicles, including interest-only strips, all of which were carried at fair value prior to the adoption of SFAS 159, and certain portfolios of loans held-for-sale, principally reverse mortgages, for which the Corporation had elected the fair value option under SFAS 159.

**Level 3 Valuation Techniques**

Financial instruments are considered Level 3 when their values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation. For more information on Level 3 financial instruments, see *Note 1 – Summary of Significant Accounting Policies* to the Consolidated Financial Statements. A brief description of the valuation techniques used for Level 3 assets and liabilities is provided below.

**Derivatives**

The fair values of Level 3 derivative instruments are estimated using proprietary valuation models that utilize both market observable and unobservable parameters. Level 3 derivative instruments have primary risk characteristics that relate to unobservable pricing parameters such as private name credit spreads, credit correlations, long dated equity or interest rate volatility skews and forward spreads.

**Trading Account Assets and Available-for-Sale Debt Securities**

Level 3 trading account assets and available-for-sale debt securities include CDO positions and other ABS. At December 31, 2007, the majority of these instruments were valued using a net asset value approach, which considers the value of the underlying securities. Underlying assets are valued using external pricing services, where available, or matrix pricing based on the vintages and ratings, where applicable, of the assets. In some situations when other market information was not available, securities are valued using projected cash flows, similar to the valuation of an interest-only strip, based on estimated average life, seniority level and vintage of underlying assets.

**Loans and Leases**

Certain large corporate loans including loan commitments, which the Corporation has elected to account for at fair value and for which observable market prices are not available, are considered Level 3. This is normally the result of illiquidity due to the customer, the size of the loan or the particular loan terms. In these cases, fair value is estimated using discounted cash flow models with market-based credit spreads of comparable debt instruments or credit derivatives of the specific borrower or comparable borrowers.

**Mortgage Servicing Rights**

The fair value of MSRs is determined using models which depend on estimates of prepayment rates and resultant weighted average lives of the MSRs and the option adjusted spread levels (OAS). For more information on Level 3 MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

**Other Assets**

Level 3 other assets consist primarily of non-public equity investments, certain held-for-sale loans and retained residual interests in securitizations. Non-public equity investments are initially valued at transaction price and subsequently, adjusted when evidence is available to support such adjustments. Such evidence includes changes in value as a result of IPOs, market comparables, market liquidity, the investees' financial results, sales restrictions, or other changes in value. Mortgages are valued based on instruments or portfolios with similar loan terms, collateral type and credit quality. Retained residual interests in securitizations are based on certain observable inputs such as interest rates and credit spreads, as well as unobservable inputs such as estimated net charge-off and payment rates.

The table below summarizes gains and losses due to changes in fair value, including both realized and unrealized gains and losses, recorded in earnings for Level 3 assets and liabilities during 2007. These amounts include gains and losses generated by loans, loans held-for-sale and loan commitments for which the fair value option was elected and by other instruments, including certain derivative contracts, trading account assets, AFS debt securities, MSRs, equity investments and retained interests in securitizations, which were carried at fair value prior to the adoption of SFAS 159.

## Level 3 Instruments Only

| | Total Gains and Losses | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| (Dollars in millions) | Net Derivatives [1] | Trading Account Assets [1] | Available-for-Sale Debt Securities [1, 5] | Loans and Leases [2] | Mortgage Servicing Rights [1] | Other Assets [3] | Accrued Expenses and Other Liabilities [2] | Total |
| **Classification of gains and losses (realized/unrealized) included in earnings for 2007:** | | | | | | | | |
| Card income | $ – | $ – | $ – | $ – | $ – | $ 103 | $ – | $ 103 |
| Equity investment income [4] | – | – | – | – | – | 1,971 | – | 1,971 |
| Trading account losses | (515) | (2,959) | – | (1) | – | (61) | (5) | (3,541) |
| Mortgage banking income (loss) | 174 | – | – | – | 231 | (29) | – | 376 |
| Other income | – | – | (398) | (139) | – | 75 | (274) | (736) |
| **Total** | **$ (341)** | **$ (2,959)** | **$ (398)** | **$ (140)** | **$ 231** | **$ 2,059** | **$ (279)** | **$(1,827)** |

(1) Amounts represented items which were carried at fair value prior to the adoption of SFAS 159.
(2) Amounts represented items for which the Corporation had elected the fair value option under SFAS 159.
(3) Amounts represented items which were carried at fair value prior to the adoption of SFAS 159 and certain portfolios of loans held-for-sale for which the Corporation had elected the fair value option under SFAS 159.
(4) During 2007, more than 90 percent of equity investment income's Level 3 net gains were received in cash.
(5) Amount represents writedowns on certain securities that were deemed to be other-than-temporarily impaired during 2007.

The table below summarizes changes in unrealized gains or losses recorded in earnings during 2007 for Level 3 assets and liabilities that are still held at December 31, 2007. These amounts include changes in fair value of loans, loans held-for-sale and loan commitments for which the fair value option was elected and changes in fair value for other instruments, including certain derivative contracts, trading account assets, AFS debt securities, MSRs, equity investments and retained interests in securitizations, which were carried at fair value prior to the adoption of SFAS 159.

## Level 3 Instruments Only

| | Changes in Unrealized Gains or Losses | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| (Dollars in millions) | Net Derivatives [1] | Trading Account Assets [1] | Available-for-Sale Debt Securities [1] | Loans and Leases [2] | Mortgage Servicing Rights [1] | Other Assets [3] | Accrued Expenses and Other Liabilities [3] | Total |
| **Changes in unrealized gains or losses relating to assets still held at reporting date for 2007:** | | | | | | | | |
| Card income | $ – | $ – | $ – | $ – | $ – | $ (136) | $ – | $ (136) |
| Equity investment income | – | – | – | – | – | (65) | – | (65) |
| Trading account losses | (196) | (2,857) | – | – | – | (58) | (1) | (3,112) |
| Mortgage banking income (loss) | 139 | – | – | – | (43) | (22) | – | 74 |
| Other income | – | – | (398) | (167) | – | – | (395) | (960) |
| **Total** | **$ (57)** | **$ (2,857)** | **$ (398)** | **$ (167)** | **$ (43)** | **$ (281)** | **$ (396)** | **$(4,199)** |

[1] Amounts represented items which were carried at fair value prior to the adoption of SFAS 159.
[2] Amounts represented items for which the Corporation had elected the fair value option under SFAS 159.
[3] Amounts represented items which were carried at fair value prior to the adoption of SFAS 159 and certain portfolios of loans held-for-sale for which the Corporation had elected the fair value option under SFAS 159.

Certain assets and liabilities are measured at fair value on a non-recurring basis (e.g., loans held-for-sale, unfunded loan commitments held-for-sale, and commercial and residential reverse mortgage MSRs all of which are carried at the lower of cost or market). At December 31, 2007, loans held-for-sale for which the Corporation had not elected the fair value option which had an aggregate cost of $14.70 billion had been written down to fair value of $14.50 billion (of which $1.20 billion and $13.30 billion were measured using Level 2 and Level 3 inputs within the fair value hierarchy). In addition, unfunded loan commitments held-for-sale and the Corporation's share of the forward calendar were written down by $142 million and were recorded in accrued expenses and other liabilities at December 31, 2007, all of which were measured using Level 3 inputs within the fair value hierarchy. During 2007, losses of $172 million were recorded in other income (primarily leveraged loans and loan commitments held-for-sale), losses of $2 million were recorded in mortgage banking income (primarily consumer mortgage loans held-for-sale), and losses of $145 million were recorded in trading account profits (losses) (primarily commercial mortgage loans and loan commitments held-for-sale).

## Note 20 – Fair Value of Financial Instruments (SFAS 107 Disclosure)

SFAS No. 107, "Disclosures About Fair Value of Financial Instruments" (SFAS 107), requires the disclosure of the estimated fair value of financial instruments including those financial instruments for which the Corporation did not elect the fair value option. The fair values of such instruments have been derived, in part, by management's assumptions, the estimated amount and timing of future cash flows and estimated discount rates. Different assumptions could significantly affect these estimated fair values. Accordingly, the net realizable values could be materially different from the estimates presented below. In addition, the estimates are only indicative of the value of individual financial instruments and should not be considered an indication of the fair value of the Corporation.

The provisions of SFAS 107 do not require the disclosure of the fair value of lease financing arrangements and nonfinancial instruments, including goodwill and intangible assets such as purchased credit card, affinity and trust relationships.

The following disclosures represent financial instruments in which the ending balance at December 31, 2007 are not carried at fair value in its entirety on the Corporation's Consolidated Balance Sheet.

### Short-term Financial Instruments

The carrying value of short-term financial instruments, including cash and cash equivalents, time deposits placed, federal funds sold and purchased, resale and certain repurchase agreements, commercial paper and other short-term investments and borrowings, approximates the fair value of these instruments. These financial instruments generally expose the Corporation to limited credit risk and have no stated maturities or have short-term maturities and carry interest rates that approximate market. In accordance with SFAS 159, the Corporation elected to fair value certain structured reverse repurchase agreements. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional information on these structured reverse repurchase agreements.

### Loans

Fair values were estimated for certain groups of similar loans based upon type of loan and maturity. The fair value of these loans was determined by discounting estimated cash flows using interest rates approximating the Corporation's current origination rates for similar loans and adjusted to reflect the inherent credit risk. Where quoted market prices were available, primarily for certain residential mortgage loans and commercial loans, such market prices were utilized as estimates for fair values. In accordance with SFAS 159, the Corporation elected to fair value certain large corporate loans which exceeded the Corporation's single name credit risk concentration guidelines. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional information on loans for which the Corporation adopted the fair value option.

Substantially all of the foreign loans reprice within relatively short timeframes. Accordingly, for foreign loans, the net carrying values were assumed to approximate their fair values.

### Deposits

The fair value for certain deposits with stated maturities was calculated by discounting contractual cash flows using current market rates for instruments with similar maturities. The carrying value of foreign time deposits approximates fair value. For deposits with no stated maturities, the carrying amount was considered to approximate fair value and does not take into account the significant value of the cost advantage and stability of the Corporation's long-term relationships with depositors. In accordance with SFAS 159, the Corporation elected to fair value certain long-term fixed rate deposits which are economically hedged with derivatives. See *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional information on these long-term fixed rate deposits.

### Long-term Debt

The Corporation uses quoted market prices for its long-term debt when available. When quoted market prices are not available, fair value is estimated based on current market interest rates for debt with similar maturities.

The book and fair values of certain financial instruments at December 31, 2007 and 2006 are presented in the table below.

| | December 31 | | | |
|---|---|---|---|---|
| | **2007** | | 2006 | |
| (Dollars in millions) | **Book Value** | **Fair Value** | Book Value | Fair Value |
| **Financial assets** | | | | |
| Loans [1] | **$ 842,392** | **$ 847,405** | $ 675,544 | $ 679,738 |
| **Financial liabilities** | | | | |
| Deposits | **805,177** | **806,511** | 693,497 | 693,041 |
| Long-term debt | **197,508** | **195,835** | 146,000 | 148,120 |

(1) Presented net of allowance for loan losses.

## Note 21 – Mortgage Servicing Rights

The Corporation accounts for residential first mortgage MSRs at fair value with changes in fair value recorded in the Consolidated Statement of Income in mortgage banking income. The Corporation economically hedges these MSRs with certain derivatives such as options and interest rate swaps.

The following table presents activity for residential first mortgage MSRs for 2007 and 2006.

| (Dollars in millions) | **2007** | 2006 |
|---|---|---|
| **Balance, January 1** | **$2,869** | $2,658 |
| MBNA balance, January 1, 2006 | **–** | 9 |
| Additions | **792** | 572 |
| Sales of MSRs | **–** | (71) |
| Impact of customer payments | **(766)** | (713) |
| Other changes in MSR market value | **158** | 414 |
| **Balance, December 31** | **$3,053** | $2,869 |

In 2007, other changes in MSR market value of $158 million reflect the change in discount rates and prepayment speed assumptions, mostly due to changes in interest rates. The amount does not include $73 million resulting from the actual cash received exceeding expected prepayments. The total amount of $231 million is included in the line "mortgage banking income (loss)" in the table "Total Gains and Losses" in *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

The key economic assumptions used in valuations of MSRs include modeled prepayment rates and resultant weighted average lives of the MSRs and the OAS levels. Commercial and residential reverse mortgage MSRs are accounted for using the amortization method (i.e., lower of cost or market). Commercial and residential reverse mortgage MSRs totaled $294 million at December 31, 2007, and commercial MSRs totaled $176 million at December 31, 2006 and are not included in the preceding table.

As of December 31, 2007, the fair value of residential first mortgage MSRs was $3.1 billion, and the modeled weighted average lives of MSRs related to fixed and adjustable rate loans (including hybrid adjustable rate mortgages) were 4.80 years and 2.75 years. The table below presents the sensitivity of the weighted average lives and fair value of MSRs to changes in modeled assumptions.

| | **December 31, 2007** | | |
|---|---|---|---|
| | **Change in Weighted Average Lives** | | |
| (Dollars in millions) | **Fixed** | **Adjustable** | **Change in Fair Value** |
| **Prepayment rates** | | | |
| Impact of 10% decrease | 0.33 years | 0.25 years | $ 169 |
| Impact of 20% decrease | 0.72 | 0.56 | 362 |
| Impact of 10% increase | (0.29) | (0.21) | (149) |
| Impact of 20% increase | (0.55) | (0.39) | (280) |
| **OAS level** | | | |
| Impact of 100 bps decrease | n/a | n/a | $ 128 |
| Impact of 200 bps decrease | n/a | n/a | 267 |
| Impact of 100 bps increase | n/a | n/a | (118) |
| Impact of 200 bps increase | n/a | n/a | (226) |

n/a = not applicable

## Note 22 – Business Segment Information

The Corporation reports the results of its operations through three business segments: *Global Consumer and Small Business Banking (GCSBB), Global Corporate and Investment Banking (GCIB) and Global Wealth and Investment Management (GWIM)*. The Corporation may periodically reclassify business segment results based on modifications to its management reporting methodologies and changes in organizational alignment.

### Global Consumer and Small Business Banking

*GCSBB* provides a diversified range of products and services to individuals and small businesses. The Corporation reports *GCSBB's* results, specifically credit card, business card and certain unsecured lending portfolios, on a managed basis. This basis of presentation excludes the Corporation's securitized mortgage and home equity portfolios for which the Corporation retains servicing. Reporting on a managed basis is consistent with the way that management evaluates the results of *GCSBB*. Managed basis assumes that securitized loans were not sold and presents earnings on these loans in a manner similar to the way loans that have not been sold (i.e., held loans) are presented. Loan securitization is an alternative funding process that is used by the Corporation to diversify funding sources. Loan securitization removes loans from the Consolidated Balance Sheet through the sale of loans to an off-balance sheet QSPE which is excluded from the Corporation's Consolidated Financial Statements in accordance with GAAP.

The performance of the managed portfolio is important in understanding *GCSBB's* results as it demonstrates the results of the entire portfolio serviced by the business. Securitized loans continue to be serviced by the business and are subject to the same underwriting standards and ongoing monitoring as held loans. In addition, retained excess servicing income is exposed to similar credit risk and repricing of interest rates as held loans. *GCSBB's* managed income statement line items differ from a held basis as follows:

- Managed net interest income includes *GCSBB's* net interest income on held loans and interest income on the securitized loans less the internal funds transfer pricing allocation related to securitized loans.
- Managed noninterest income includes *GCSBB's* noninterest income on a held basis less the reclassification of certain components of card income (e.g., excess servicing income) to record managed net interest income and provision for credit losses. Noninterest income, both on a held and managed basis, also includes the impact of adjustments to the interest-only strip that are recorded in card income as management continues to manage this impact within *GCSBB*.
- Provision for credit losses represents the provision for credit losses on held loans combined with realized credit losses associated with the securitized loan portfolio.

### Global Corporate and Investment Banking

*GCIB* provides a wide range of financial services to both the Corporation's issuer and investor clients that range from business banking clients to large international corporate and institutional investor clients using a strategy to deliver value-added financial products and advisory solutions.

### Global Wealth and Investment Management

*GWIM* offers investment and brokerage services, estate management, financial planning services, fiduciary management, credit and banking expertise, and diversified asset management products to institutional clients, as well as affluent and high net-worth individuals. *GWIM* also includes the impact of migrated qualifying affluent customers, including their related deposit balances, from *GCSBB*. After migration, the associated net interest income, service charges and noninterest expense on the deposit balances are recorded in *GWIM.*

### All Other

*All Other* consists of equity investment activities including Principal Investing, Corporate Investments and Strategic Investments, the residual impact of the allowance for credit losses and the cost allocation processes, merger and restructuring charges, intersegment eliminations, and the results of certain businesses that are expected to be or have been sold or are in the process of being liquidated (e.g., the Corporation's Brazilian operations, Asia Commercial Banking business and operations in Chile and Uruguay). *All Other* also includes certain amounts associated with ALM activities, including the residual impact of funds transfer pricing allocation methodologies, amounts associated with the change in the value of derivatives used as economic hedges of interest rate and foreign exchange rate fluctuations that did not qualify for SFAS 133 hedge accounting treatment, foreign exchange rate fluctuations related to SFAS 52 revaluation of foreign-denominated debt issuances, certain gains (losses) on sales of whole mortgage loans, and gains (losses) on sales of debt securities. *All Other* also includes adjustments to noninterest income and income tax expense to remove the FTE impact of items (primarily low-income housing tax credits) that have been grossed up within noninterest income to a FTE amount in the business segments. In addition, *GCSBB* is reported on a managed basis which includes a "securitization impact" adjustment which has the effect of assuming that loans that have been securitized were not sold and presenting these loans in a manner similar to the way loans that have not been sold are presented. *All Other's* results include a corresponding "securitization offset" which removes the impact of these securitized loans in order to present the consolidated results of the Corporation on a GAAP basis (i.e., held basis).

### Basis of Presentation

Total revenue, net of interest expense, includes net interest income on a FTE basis and noninterest income. The adjustment of net interest income to a FTE basis results in a corresponding increase in income tax expense. The net interest income of the businesses includes the results of a funds transfer pricing process that matches assets and liabilities with similar interest rate sensitivity and maturity characteristics. Net interest income of the business segments also includes an allocation of net interest income generated by the Corporation's ALM activities.

Certain expenses not directly attributable to a specific business segment are allocated to the segments based on predetermined means. The most significant of these expenses include data processing costs, item processing costs and certain centralized or shared functions. Data processing costs are allocated to the segments based on equipment usage. Item processing costs are allocated to the segments based on the volume of items processed for each segment. The costs of certain centralized or shared functions are allocated based on methodologies which reflect utilization.

The following tables present total revenue, net of interest expense, on a FTE basis and net income for 2007, 2006 and 2005, and total assets at December 31, 2007 and 2006 for each business segment, as well as *All Other*.

| Business Segments<br>At and for the Year Ended December 31<br>(Dollars in millions) | Total Corporation [1]<br>2007 | 2006 | 2005 | Global Consumer and Small Business Banking [2, 3]<br>2007 | 2006 | 2005 |
|---|---|---|---|---|---|---|
| Net interest income [4] | **$ 36,182** | $ 35,815 | $ 31,569 | **$ 28,809** | $ 28,197 | $ 17,571 |
| Noninterest income | **31,886** | 37,989 | 26,438 | **18,873** | 16,729 | 10,848 |
| Total revenue, net of interest expense | **68,068** | 73,804 | 58,007 | **47,682** | 44,926 | 28,419 |
| Provision for credit losses [5] | **8,385** | 5,010 | 4,014 | **12,929** | 8,534 | 4,706 |
| Amortization of intangibles | **1,676** | 1,755 | 809 | **1,336** | 1,452 | 480 |
| Other noninterest expense | **35,334** | 33,842 | 27,872 | **18,724** | 16,923 | 12,277 |
| Income before income taxes | **22,673** | 33,197 | 25,312 | **14,693** | 18,017 | 10,956 |
| Income tax expense [4] | **7,691** | 12,064 | 8,847 | **5,263** | 6,639 | 3,934 |
| **Net income** | **$ 14,982** | $ 21,133 | $ 16,465 | **$ 9,430** | $ 11,378 | $ 7,022 |
| **Period-end total assets** | **$ 1,715,746** | $ 1,459,737 | | **$ 442,987** | $ 399,373 | |

| (Dollars in millions) | Global Corporate and Investment Banking [2]<br>2007 | 2006 | 2005 | Global Wealth and Investment Management [2]<br>2007 | 2006 | 2005 |
|---|---|---|---|---|---|---|
| Net interest income [4] | **$ 11,217** | $ 9,877 | $ 10,337 | **$ 3,857** | $ 3,671 | $ 3,554 |
| Noninterest income | **2,200** | 11,284 | 9,530 | **4,066** | 3,686 | 3,320 |
| Total revenue, net of interest expense | **13,417** | 21,161 | 19,867 | **7,923** | 7,357 | 6,874 |
| Provision for credit losses | **652** | 9 | 44 | **14** | (39) | (5) |
| Amortization of intangibles | **178** | 218 | 239 | **150** | 72 | 74 |
| Other noninterest expense | **11,747** | 11,360 | 10,217 | **4,485** | 3,795 | 3,667 |
| Income before income taxes | **840** | 9,574 | 9,367 | **3,274** | 3,529 | 3,138 |
| Income tax expense [4] | **302** | 3,542 | 3,413 | **1,179** | 1,306 | 1,126 |
| **Net income** | **$ 538** | $ 6,032 | $ 5,954 | **$ 2,095** | $ 2,223 | $ 2,012 |
| **Period-end total assets** | **$ 776,107** | $ 685,935 | | **$ 157,157** | $ 125,287 | |

| (Dollars in millions) | All Other [2, 3]<br>2007 | 2006 | 2005 |
|---|---|---|---|
| Net interest income [4] | **$ (7,701)** | $ (5,930) | $ 107 |
| Noninterest income | **6,747** | 6,290 | 2,740 |
| Total revenue, net of interest expense | **(954)** | 360 | 2,847 |
| Provision for credit losses [5] | **(5,210)** | (3,494) | (731) |
| Amortization of intangibles | **12** | 13 | 16 |
| Other noninterest expense | **378** | 1,764 | 1,711 |
| Income before income taxes | **3,866** | 2,077 | 1,851 |
| Income tax expense [4] | **947** | 577 | 374 |
| **Net income** | **$ 2,919** | $ 1,500 | $ 1,477 |
| **Period-end total assets** | **$ 339,495** | $ 249,142 | |

(1) There were no material intersegment revenues among the segments.
(2) Total assets include asset allocations to match liabilities (i.e., deposits).
(3) *GCSBB* is presented on a managed basis with a corresponding offset recorded in *All Other*.
(4) FTE basis
(5) Provision for credit losses represents: For *GCSBB* – Provision for credit losses on held loans combined with realized credit losses associated with the securitized loan portfolio and for *All Other* – Provision for credit losses combined with the *GCSBB* securitization offset.

*GCSBB* is reported on a managed basis which includes a "securitization impact" adjustment which has the effect of presenting securitized loans in a manner similar to the way loans that have not been sold are presented. *All Other's* results include a corresponding "securitization offset" which removes the impact of these securitized loans in order to present the consolidated results of the Corporation on a held basis. The tables below reconcile *GCSBB* and *All Other* to a held basis by reclassifying net interest income, all other income and realized credit losses associated with the securitized loans to card income.

**Global Consumer and Small Business Banking – Reconciliation**

| | 2007 | | | 2006 | | | 2005 | | |
|---|---|---|---|---|---|---|---|---|---|
| (Dollars in millions) | Managed Basis [1] | Securitization Impact [2] | Held Basis | Managed Basis [1] | Securitization Impact [2] | Held Basis | Managed Basis [1] | Securitization Impact [2] | Held Basis |
| Net interest income [3] | $ 28,809 | $ (8,027) | $20,782 | $ 28,197 | $ (7,593) | $20,604 | $ 17,571 | $ (503) | $17,068 |
| Noninterest income: | | | | | | | | | |
| Card income | 10,189 | 3,356 | 13,545 | 9,374 | 4,566 | 13,940 | 4,512 | 69 | 4,581 |
| Service charges | 6,008 | – | 6,008 | 5,342 | – | 5,342 | 4,994 | – | 4,994 |
| Mortgage banking income | 1,333 | – | 1,333 | 877 | – | 877 | 1,012 | – | 1,012 |
| All other income | 1,343 | (288) | 1,055 | 1,136 | (335) | 801 | 330 | – | 330 |
| Total noninterest income | 18,873 | 3,068 | 21,941 | 16,729 | 4,231 | 20,960 | 10,848 | 69 | 10,917 |
| Total revenue, net of interest expense | 47,682 | (4,959) | 42,723 | 44,926 | (3,362) | 41,564 | 28,419 | (434) | 27,985 |
| Provision for credit losses | 12,929 | (4,959) | 7,970 | 8,534 | (3,362) | 5,172 | 4,706 | (434) | 4,272 |
| Noninterest expense | 20,060 | – | 20,060 | 18,375 | – | 18,375 | 12,757 | – | 12,757 |
| Income before income taxes | 14,693 | – | 14,693 | 18,017 | – | 18,017 | 10,956 | – | 10,956 |
| Income tax expense [3] | 5,263 | – | 5,263 | 6,639 | – | 6,639 | 3,934 | – | 3,934 |
| **Net income** | $ 9,430 | $ – | $ 9,430 | $ 11,378 | $ – | $11,378 | $ 7,022 | $ – | $ 7,022 |

(1)Provision for credit losses represents provision for credit losses on held loans combined with realized credit losses associated with the securitized loan portfolio.
(2)The securitization impact on net interest income is on a funds transfer pricing methodology consistent with the way funding costs are allocated to the businesses.
(3)FTE basis

**All Other – Reconciliation**

| | 2007 | | | 2006 | | | 2005 | | |
|---|---|---|---|---|---|---|---|---|---|
| (Dollars in millions) | Reported Basis [1] | Securitization Offset [2] | As Adjusted | Reported Basis [1] | Securitization Offset [2] | As Adjusted | Reported Basis [1] | Securitization Offset [2] | As Adjusted |
| Net interest income [3] | $ (7,701) | $ 8,027 | $ 326 | $ (5,930) | $ 7,593 | $ 1,663 | $ 107 | $ 503 | $ 610 |
| Noninterest income: | | | | | | | | | |
| Card income | 2,816 | (3,356) | (540) | 3,795 | (4,566) | (771) | 166 | (69) | 97 |
| Equity investment income | 3,745 | – | 3,745 | 2,872 | – | 2,872 | 2,033 | – | 2,033 |
| Gains (losses) on sales of debt securities | 180 | – | 180 | (475) | – | (475) | 969 | – | 969 |
| All other income | 6 | 288 | 294 | 98 | 335 | 433 | (428) | – | (428) |
| Total noninterest income | 6,747 | (3,068) | 3,679 | 6,290 | (4,231) | 2,059 | 2,740 | (69) | 2,671 |
| Total revenue, net of interest expense | (954) | 4,959 | 4,005 | 360 | 3,362 | 3,722 | 2,847 | 434 | 3,281 |
| Provision for credit losses | (5,210) | 4,959 | (251) | (3,494) | 3,362 | (132) | (731) | 434 | (297) |
| Merger and restructuring charges | 410 | – | 410 | 805 | – | 805 | 412 | – | 412 |
| All other noninterest expense | (20) | – | (20) | 972 | – | 972 | 1,315 | – | 1,315 |
| Income before income taxes | 3,866 | – | 3,866 | 2,077 | – | 2,077 | 1,851 | – | 1,851 |
| Income tax expense [3] | 947 | – | 947 | 577 | – | 577 | 374 | – | 374 |
| **Net income** | $ 2,919 | $ – | $ 2,919 | $ 1,500 | $ – | $ 1,500 | $ 1,477 | $ – | $ 1,477 |

(1)Provision for credit losses represents provision for credit losses in *All Other* combined with the *GCSBB* securitization offset.
(2)The securitization offset on net interest income is on a funds transfer pricing methodology consistent with the way funding costs are allocated to the businesses.
(3)FTE basis

The following tables present reconciliations of the three business segments' ( *GCSBB, GCIB* and *GWIM*) total revenue, net of interest expense, on a FTE basis and net income to the Consolidated Statement of Income, and total assets to the Consolidated Balance Sheet. The adjustments presented in the table below include consolidated income and expense amounts not specifically allocated to individual business segments.

| | Year Ended December 31 | | |
|---|---|---|---|
| (Dollars in millions) | **2007** | 2006 | 2005 |
| Segments' total revenue, net of interest expense [1] | **$69,022** | $73,444 | $55,160 |
| Adjustments: | | | |
| ALM activities [2] | **66** | (936) | 319 |
| Equity investment income | **3,745** | 2,872 | 2,033 |
| Liquidating businesses | **628** | 2,670 | 1,937 |
| FTE basis adjustment | **(1,749)** | (1,224) | (832) |
| Managed securitization impact to total revenue, net of interest expense | **(4,959)** | (3,362) | (434) |
| Other | **(434)** | (884) | (1,008) |
| Consolidated revenue, net of interest expense | **$66,319** | $72,580 | $57,175 |
| Segments' net income | **$12,063** | $19,633 | $14,988 |
| Adjustments, net of taxes: | | | |
| ALM activities [2, 3] | **(241)** | (816) | 52 |
| Equity investment income | **2,359** | 1,809 | 1,281 |
| Liquidating businesses | **416** | 1,138 | 856 |
| Merger and restructuring charges | **258** | 507 | 275 |
| Other | **127** | (1,138) | (987) |
| **Consolidated net income** | **$14,982** | $21,133 | $16,465 |

(1)FTE basis
(2)Includes revenue associated with derivative instruments which did not qualify for SFAS 133 hedge accounting treatment of $(675) million in 2005.
(3)Includes net income associated with derivative instruments which did not qualify for SFAS 133 hedge accounting treatment of $(421) million in 2005.

| | December 31 | |
|---|---|---|
| (Dollars in millions) | **2007** | 2006 |
| Segments' total assets | **$ 1,376,251** | $ 1,210,595 |
| Adjustments: | | |
| ALM activities, including securities portfolio | **452,626** | 384,459 |
| Equity investments | **31,306** | 15,639 |
| Liquidating businesses | **5,340** | 10,224 |
| Elimination of segment excess asset allocations to match liabilities | **(72,611)** | (79,926) |
| Elimination of managed securitized loans [1] | **(102,967)** | (101,865) |
| Other | **25,801** | 20,611 |
| **Consolidated total assets** | **$ 1,715,746** | $ 1,459,737 |

(1)Represents *GCSBB*'s securitized loans.

## Note 23 – Parent Company Information

The following tables present the Parent Company Only financial information:

**Condensed Statement of Income**

| | Year Ended December 31 | | |
|---|---|---|---|
| (Dollars in millions) | **2007** | 2006 | 2005 |
| **Income** | | | |
| Dividends from subsidiaries: | | | |
| Bank holding companies and related subsidiaries | **$20,615** | $15,950 | $10,400 |
| Nonbank companies and related subsidiaries | **181** | 111 | 63 |
| Interest from subsidiaries | **4,939** | 3,944 | 2,581 |
| Other income | **3,319** | 2,346 | 1,719 |
| **Total income** | **29,054** | 22,351 | 14,763 |
| **Expense** | | | |
| Interest on borrowed funds | **7,834** | 5,799 | 3,843 |
| Noninterest expense | **3,127** | 3,019 | 2,636 |
| **Total expense** | **10,961** | 8,818 | 6,479 |
| Income before income taxes and equity in undistributed earnings of subsidiaries | **18,093** | 13,533 | 8,284 |
| Income tax benefit | **1,136** | 1,002 | 791 |
| Income before equity in undistributed earnings of subsidiaries | **19,229** | 14,535 | 9,075 |
| Equity in undistributed earnings (losses) of subsidiaries: | | | |
| Bank holding companies and related subsidiaries | **(4,497)** | 5,613 | 6,518 |
| Nonbank companies and related subsidiaries | **250** | 985 | 872 |
| **Total equity in undistributed earnings (losses) of subsidiaries** | **(4,247)** | 6,598 | 7,390 |
| **Net income** | **$14,982** | $21,133 | $16,465 |
| **Net income available to common shareholders** | **$14,800** | $21,111 | $16,447 |

**Condensed Balance Sheet**

| (Dollars in millions) | December 31 2007 | 2006 |
|---|---|---|
| **Assets** | | |
| Cash held at bank subsidiaries | **$ 51,953** | $ 54,989 |
| Debt securities | **3,198** | 2,932 |
| Receivables from subsidiaries: | | |
| Bank holding companies and related subsidiaries | **30,032** | 17,063 |
| Nonbank companies and related subsidiaries | **33,637** | 20,661 |
| Investments in subsidiaries: | | |
| Bank holding companies and related subsidiaries | **181,248** | 162,291 |
| Nonbank companies and related subsidiaries | **6,935** | 6,488 |
| Other assets | **30,919** | 19,118 |
| **Total assets** | **$ 337,922** | $ 283,542 |
| **Liabilities and shareholders' equity** | | |
| Commercial paper and other short-term borrowings | **$ 40,667** | $ 31,852 |
| Accrued expenses and other liabilities | **13,226** | 9,929 |
| Payables to subsidiaries: | | |
| Bank holding companies and related subsidiaries | **1,464** | 857 |
| Nonbank companies and related subsidiaries | **–** | 76 |
| Long-term debt | **135,762** | 105,556 |
| Shareholders' equity | **146,803** | 135,272 |
| **Total liabilities and shareholders' equity** | **$ 337,922** | $ 283,542 |

**Condensed Statement of Cash Flows**

| (Dollars in millions) | Year Ended December 31 2007 | 2006 | 2005 |
|---|---|---|---|
| **Operating activities** | | | |
| Net income | **$ 14,982** | $ 21,133 | $ 16,465 |
| Reconciliation of net income to net cash provided by operating activities: | | | |
| Equity in undistributed (earnings) losses of subsidiaries | **4,247** | (6,598) | (7,390) |
| Other operating activities, net | **(276)** | 2,159 | (1,035) |
| Net cash provided by operating activities | **18,953** | 16,694 | 8,040 |
| **Investing activities** | | | |
| Net (purchases) sales of securities | **(839)** | (705) | 403 |
| Net payments to subsidiaries | **(44,457)** | (13,673) | (3,145) |
| Other investing activities, net | **(824)** | (1,300) | (3,001) |
| Net cash used in investing activities | **(46,120)** | (15,678) | (5,743) |
| **Financing activities** | | | |
| Net increase (decrease) in commercial paper and other short-term borrowings | **8,873** | 12,519 | (292) |
| Proceeds from issuance of long-term debt | **38,730** | 28,412 | 20,477 |
| Retirement of long-term debt | **(12,056)** | (15,506) | (11,053) |
| Proceeds from issuance of preferred stock | **1,558** | 2,850 | – |
| Redemption of preferred stock | **–** | (270) | – |
| Proceeds from issuance of common stock | **1,118** | 3,117 | 2,846 |
| Common stock repurchased | **(3,790)** | (14,359) | (5,765) |
| Cash dividends paid | **(10,878)** | (9,661) | (7,683) |
| Other financing activities, net | **576** | (2,799) | 1,705 |
| Net cash provided by financing activities | **24,131** | 4,303 | 235 |
| Net increase (decrease) in cash held at bank subsidiaries | **(3,036)** | 5,319 | 2,532 |
| Cash held at bank subsidiaries at January 1 | **54,989** | 49,670 | 47,138 |
| **Cash held at bank subsidiaries at December 31** | **$ 51,953** | $ 54,989 | $ 49,670 |

## Note 24 – Performance by Geographical Area

Since the Corporation's operations are highly integrated, certain asset, liability, income and expense amounts must be allocated to arrive at total assets, total revenue, net of interest expense, income before income taxes and net income by geographic area. The Corporation identifies its geographic performance based upon the business unit structure used to manage the capital or expense deployed in the region as applicable. This requires certain judgments related to the allocation of revenue so that revenue can be appropriately matched with the related expense or capital deployed in the region.

| | | At December 31 | Year Ended December 31 | | |
|---|---|---|---|---|---|
| (Dollars in millions) | Year | Total Assets [1] | Total Revenue, Net of Interest Expense [2] | Income Before Income Taxes | Net Income |
| Domestic [3] | **2007** | **$ 1,529,899** | **$ 59,731** | **$ 18,039** | **$ 13,137** |
| | 2006 | 1,312,912 | 64,381 | 28,041 | 18,605 |
| | 2005 | | 52,944 | 21,880 | 14,778 |
| Asia | **2007** | **46,359** | **1,613** | **1,146** | **721** |
| | 2006 | 32,886 | 1,117 | 637 | 420 |
| | 2005 | | 909 | 521 | 344 |
| Europe, Middle East and Africa | **2007** | **129,303** | **4,097** | **894** | **592** |
| | 2006 | 100,928 | 4,835 | 1,843 | 1,193 |
| | 2005 | | 1,783 | 920 | 603 |
| Latin America and the Caribbean | **2007** | **10,185** | **878** | **845** | **532** |
| | 2006 | 13,011 | 2,247 | 1,452 | 915 |
| | 2005 | | 1,539 | 1,159 | 740 |
| Total Foreign | **2007** | **185,847** | **6,588** | **2,885** | **1,845** |
| | 2006 | 146,825 | 8,199 | 3,932 | 2,528 |
| | 2005 | | 4,231 | 2,600 | 1,687 |
| **Total Consolidated** | **2007** | **$ 1,715,746** | **$ 66,319** | **$ 20,924** | **$ 14,982** |
| | 2006 | 1,459,737 | 72,580 | 31,973 | 21,133 |
| | 2005 | | 57,175 | 24,480 | 16,465 |

(1) Total assets include long-lived assets, which are primarily located in the U.S.
(2) There were no material intercompany revenues between geographic regions for any of the periods presented.
(3) Includes the Corporation's Canadian operations, which had total assets of $10.9 billion and $6.8 billion at December 31, 2007 and 2006; total revenue, net of interest expense of $770 million, $636 million and $118 million; income before income taxes of $292 million, $269 million and $73 million; and net income of $195 million, $182 million and $61 million for the years ended December 31, 2007, 2006 and 2005, respectively.

## Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

There were no changes in or disagreements with accountants on accounting and financial disclosure.

## Item 9A. Controls And Procedures

As of the end of the period covered by this report and pursuant to Rule 13a-15 of the Securities Exchange Act of 1934 (the "Exchange Act"), Bank of America's management, including the Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness and design of our disclosure controls and procedures (as that term is defined in Rule 13a-15(e) of the Exchange Act). Based upon that evaluation, Bank of America's Chief Executive Officer and Chief Financial Officer concluded, as of the end of the period covered by this report, that Bank of America's disclosure controls and procedures were effective in recording, processing, summarizing and reporting information required to be disclosed, within the time periods specified in the Securities and Exchange Commission's rules and forms.

The Report of Management on Internal Control over Financial Reporting is set forth on page 87 and incorporated herein by reference. The Report of Independent Registered Public Accounting Firm with respect to management's assessment of internal control is set forth on page 88 and incorporated herein by reference.

In addition, and as of the end of the period covered by this report, there have been no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) during the quarter ended December 31, 2007, that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## Item 9B. Other Information

None

# Part III

**Bank of America Corporation and Subsidiaries**

## Item 10. Directors, Executive Officers and Corporate Governance

Information included under the following captions in the Corporation's proxy statement relating to its 2008 annual meeting of stockholders (the "2008 Proxy Statement") is incorporated herein by reference:

- "The Nominees";
- "Section 16(a) Beneficial Ownership Reporting Compliance";
- Corporate Governance – Corporate Governance Principles, Committee Charters and Code of Ethics;
- "Corporate Governance – Code of Ethics";
- Corporate Governance – 2007/2008 Bank of America Committee Composition; and
- "Corporate Governance – Audit Committee."

Additional information required by Item 10 with respect to executive officers is set forth in Part I, Item 4A hereof. Information regarding the Corporation's directors is set forth in the 2008 Proxy Statement on pages 15 through 17 under "The Nominees."

## Item 11. Executive Compensation

Information included under the following captions in the 2008 Proxy Statement is incorporated herein by reference:

- "Compensation Discussion and Analysis";
- "Executive Compensation";
- "Corporate Governance – Director Compensation";
- "Compensation and Benefits Committee Report"; and
- "Compensation and Benefits Committee Interlocks and Insider Participation."

## Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

Information included under the following caption in the 2008 Proxy Statement is incorporated herein by reference:

- "Stock Ownership."

The following table presents information on equity compensation plans at December 31, 2007:

| | Number of Shares to be Issued [1, 3] | | Weighted Average Exercise Price of Outstanding Option [2] | Number of Shares Remaining for Future Issuance Under Equity Compensation Plans |
|---|---|---|---|---|
| Plans approved by shareholders | 224,912,652 | $ | 40.21 | 258,520,053 |
| Plan not approved by shareholders | – | | – | – |
| **Total equity compensation plans** | **224,912,652** | **$** | **40.21** | **258,520,053** |

(1) Includes 16,193,802 unvested restricted stock units.
(2) Does not take into account unvested restricted stock units.
(3) In addition to the securities presented in the table above, there were outstanding options to purchase 19,941,199 shares of the Corporation's common stock granted to employees of predecessor companies assumed in mergers. The weighted average option price of the assumed options was $31.91 at December 31, 2007.

For additional information on Bank of America's equity compensation plans see *Note 17 – Stock-Based Compensation Plans* of the Notes on page 133 which is incorporated herein by reference.

## Item 13. Certain Relationships and Related Transactions, and Director Independence

Information included under the following captions in the 2008 Proxy Statement is incorporated herein by reference:

- "Certain Transactions"; and
- "Corporate Governance – Director Independence."

## Item 14. Principal Accountant Fees and Services

Information included under the following caption in the 2008 Proxy Statement is incorporated herein by reference:

- "Item 2: Ratification of the Independent Registered Public Accounting Firm."

# Part IV

**Bank of America Corporation and Subsidiaries**

## Item 15. Exhibits, Financial Statement Schedules

The following documents are filed as part of this report:

(1) Financial Statements:
- Report of Independent Registered Public Accounting Firm
- Consolidated Statement of Income for the years ended December 31, 2007, 2006 and 2005
- Consolidated Balance Sheet at December 31, 2007 and 2006
- Consolidated Statement of Changes in Shareholders' Equity for the years ended December 31, 2007, 2006 and 2005
- Consolidated Statement of Cash Flows for the years ended December 31, 2007, 2006 and 2005
- Notes to Consolidated Financial Statements

(2) Schedules:
- None

(3) The exhibits filed as part of this report and exhibits incorporated herein by reference to other documents are listed in the Index to Exhibits to this Annual Report on Form 10-K (pages E-1 through E-7, including executive compensation plans and arrangements which are listed under Exhibit Nos. 10(a) through 10(nn)).

With the exception of the information expressly incorporated herein by reference, the 2008 Proxy Statement is not to be deemed filed as part of this Annual Report on Form 10-K.

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## SIGNATURES

Pursuant to the requirements of Section 13 of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: February 28, 2008

**Bank of America Corporation**

By: */s/ Kenneth D. Lewis
Kenneth D. Lewis
Chairman, Chief Executive Officer and President

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

| Signature | Title | Date |
|---|---|---|
| */s/ Kenneth D. Lewis<br>Kenneth D. Lewis | Chairman, Chief Executive Officer and President and Director (Principal Executive Officer) | February 28, 2008 |
| */s/ Joe L. Price<br>Joe L. Price | Chief Financial Officer (Principal Financial Officer) | February 28, 2008 |
| */s/ Neil A. Cotty<br>Neil A. Cotty | Senior Vice President and Chief Accounting Officer (Principal Accounting Officer) | February 28, 2008 |
| */s/ William Barnet, III<br>William Barnet, III | Director | February 28, 2008 |
| */s/ Frank P. Bramble, Sr.<br>Frank P. Bramble, Sr. | Director | February 28, 2008 |
| */s/ John T. Collins<br>John T. Collins | Director | February 28, 2008 |
| */s/ Gary L. Countryman<br>Gary L. Countryman | Director | February 28, 2008 |
| */s/ Tommy R. Franks<br>Tommy R. Franks | Director | February 28, 2008 |
| */s/ Charles K. Gifford<br>Charles K. Gifford | Director | February 28, 2008 |
| */s/ W. Steven Jones<br>W. Steven Jones | Director | February 28, 2008 |
| */s/ Monica C. Lozano<br>Monica C. Lozano | Director | February 28, 2008 |

| Signature | Title | Date |
|---|---|---|
| */s/ Walter E. Massey<br>Walter E. Massey | Director | February 28, 2008 |
| */s/ Thomas J. May<br>Thomas J. May | Director | February 28, 2008 |
| */s/ Patricia E. Mitchell<br>Patricia E. Mitchell | Director | February 28, 2008 |
| */s/ Thomas M. Ryan<br>Thomas M. Ryan | Director | February 28, 2008 |
| */s/ O. Temple Sloan, Jr.<br>O. Temple Sloan, Jr. | Director | February 28, 2008 |
| */s/ Meredith R. Spangler<br>Meredith R. Spangler | Director | February 28, 2008 |
| */s/ Robert L. Tillman<br>Robert L. Tillman | Director | February 28, 2008 |
| */s/ Jackie M. Ward<br>Jackie M. Ward | Director | February 28, 2008 |

*By: /s/ Teresa M. Brenner
Teresa M. Brenner
Attorney-in-Fact

# INDEX TO EXHIBITS

| Exhibit No. | Description |
|---|---|
| 3(a) | Amended and Restated Certificate of Incorporation of registrant, as in effect on the date hereof. |
| (b) | Amended and Restated Bylaws of registrant, as in effect on the date hereof, incorporated by reference to Exhibit 3.1 of registrant's Current Report on Form 8-K filed January 24, 2007. |
| 4(a) | Indenture dated as of September 1, 1989 between registrant (successor to NationsBank Corporation, formerly known as NCNB Corporation) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which registrant issued its 9 3/8% Subordinated Notes, due 2009, and its 10.20% Subordinated Notes, due 2015, incorporated by reference to Exhibit 4.1 of registrant's Registration Statement on Form S-3 (Registration No. 33-30717); and First Supplemental Indenture thereto dated as of August 28, 1998, incorporated by reference to Exhibit 4(f) of the registrant's 1998 Annual Report on Form 10-K (the "1998 10-K"). |
| (b) | Indenture dated as of January 1, 1995 between registrant (successor to NationsBank Corporation) and U.S. Bank Trust National Association (successor to BankAmerica National Trust Company), pursuant to which registrant issued its 5 7/8% Senior Notes, due 2009; its 6 1/4% Senior Notes, due 2012; its 4 7/8% Senior Notes due 2012; its 5 1/8% Senior Notes, due 2014; its 3 7/8% Senior Notes, due 2008; its 4 7/8% Senior Notes, due 2013; its 3 5/8% Senior Notes, due 2008; its 3 1/4% Senior Notes, due 2008; its 4¼% Senior Notes, due 2010; its 4 3/8% Senior Notes, due 2010; its 3 3/8% Senior Notes, due 2009; its 4 5/8% Senior Notes, due 2014; its 5 3/8% Senior Notes, due June 2014; its 4¼% Senior Notes, due October 2010; its 4% Senior Notes, due 2015; its Floating Rate Senior Notes, due 2010; its 4 3/4% Senior Notes, due 2015; its 4 1/2% Senior Notes, due 2010; its One-Month LIBOR Floating Rate Senior Notes, due November 2008; its Three-Month LIBOR Floating Rate Notes, due March 2009; its 5.38% Senior Notes, due August 2011; its Three-Month LIBOR Floating Rate Notes, due August 2011; its Three-Month PRIME Floating Rate Notes, due September 2009; its Three-Month LIBOR Floating Rate Notes, due September 2009; its 5.63% Senior Notes, due October 2016; its Three-Month LIBOR Floating Rate Notes, due November 2009; its Three-Month LIBOR Floating Rate Senior Notes, due August 2010; its 6.00% Senior Notes, due September 2017; its 5.375% Senior Notes due September 2012; its Floating Rate Senior Notes, due September 2012; its 5.75% Senior Notes, due December 2017; its Floating Rate Callable Senior Notes, due February 2010; its Floating Rate Callable Senior Notes, due May 2010; its Floating Rate Callable Senior Notes, due December 2010; and its Senior Medium-Term Notes, Series F, G, H, I, J and K, incorporated by reference to Exhibit 4.1 of registrant's Registration Statement on Form S-3 (Registration No. 33-57533); First Supplemental Indenture thereto dated as of September 18, 1998, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K filed November 18, 1998; Second Supplemental Indenture thereto dated as of May 7, 2001 between registrant, U.S. Bank Trust National Association, as Prior Trustee, and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), as Successor Trustee, incorporated by reference to Exhibit 4.4 of registrant's Current Report on Form 8-K dated June 5, 2001; Third Supplemental Indenture thereto dated as of July 28, 2004, between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4.2 of registrant's Current Report on Form 8-K filed August 27, 2004; and Fourth Supplemental Indenture thereto dated as of April 28, 2006 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4.6 of registrant's Registration Statement on Form S-3 (Registration No. 333-133852). |
| (c) | Indenture dated as of January 1, 1995 between registrant (successor to NationsBank Corporation) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which registrant issued its 7 3/4% Subordinated Notes, due 2015; its 7 1/ 4% Subordinated Notes, due 2025; its 7.80% Subordinated Notes, due 2016; its 6.80% Subordinated Notes, due 2028; its 6.60% Subordinated Notes, due 2010; its 7.80% Subordinated Notes due 2010; its 7.40% Subordinated Notes, due 2011; its 4 3/4% Subordinated Notes, due 2013; its 5 1/4% Subordinated Notes, due 2015; its 4 3/4% Fixed/Floating Rate Callable Subordinated Notes, due 2019; its 5.75% Subordinated Notes, due August 2016; its Three-month LIBOR Floating Rate Notes, due August 2016; its 5.15% Subordinated Notes, due May 2017; its 6.50% Subordinated Notes, due September 2037; and its Subordinated Medium-Term Notes, Series F, incorporated by reference to Exhibit 4.8 of registrant's Registration Statement on Form S-3 (Registration No. 33-57533); First Supplemental Indenture thereto dated as of August 28, 1998, incorporated by reference to Exhibit 4.8 of registrant's Current Report on Form 8-K filed November 18, 1998; and Second Supplemental Indenture thereto dated as of January 25, 2007, incorporated by reference to Exhibit 4.3 of registrant's Registration Statement on Form S-4 (Registration No. 333-141361). |
| (d) | Amended and Restated Agency Agreement dated as of August 21, 2006 among registrant and JPMorgan Chase Bank, N.A., London Branch, incorporated by reference to Exhibit 4(d) of the registrant's 2006 Annual Report on Form 10-K (the "2006 10-K"). |
| (e) | Supplemental Agreement dated as of July 26, 2007 to the Amended and Restated Agency Agreement dated as of August 21, 2006, between the registrant and The Bank of New York, successor to JPMorgan Chase Bank, N.A., London Branch. |
| (f) | Issuing and Paying Agency Agreement dated as of May 23, 2006, between Bank of America, N.A. and Deutsche Bank Trust Company Americas, incorporated by reference to Exhibit 4(e) of the 2006 10-K. |
| (g) | Letter Agreement dated April 26, 2007, amending the Issuing and Paying Agency Agreement dated as of May 23, 2006 between Bank of America, N.A. and Deutsche Bank Trust Company Americas. |
| (h) | Indenture dated as of November 27, 1996 between registrant (successor to NationsBank Corporation) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4.10 of registrant's Registration Statement on Form S-3 (Registration No. 333-15375). |
| (i) | Second Supplemental Indenture dated as of December 17, 1996 to the Indenture dated as of November 27, 1996 between registrant (successor to NationsBank Corporation) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 7.83% Junior Subordinated Deferrable Interest Notes due 2026, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated December 10, 1996. |

| Exhibit No. | Description |
|---|---|
| (j) | Third Supplemental Indenture dated as of February 3, 1997 to the Indenture dated as of November 27, 1996 between registrant (successor to NationsBank Corporation) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its Floating Rate Junior Subordinated Deferrable Interest Notes due 2027, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated January 22, 1997. |
| (k) | Fourth Supplemental Indenture dated as of April 22, 1997 to the Indenture dated as of November 27, 1996 between registrant (successor to NationsBank Corporation) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 8 1/4% Junior Subordinated Deferrable Interest Notes, due 2027, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated April 15, 1997. |
| (l) | Fifth Supplemental Indenture dated as of August 28, 1998 to the Indenture dated as of November 27, 1996 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4(t) of the 1998 10-K. |
| (m) | Indenture dated as of November 1, 1991 between the former BankAmerica Corporation and J.P. Morgan Trust Company, National Association, as successor trustee to the former Manufacturers Hanover Trust Company of California, pursuant to which the former BankAmerica Corporation issued its 7 1/8% Subordinated Notes due 2009; its 7 1/8% Subordinated Notes due 2011; and its 6 1/4% Subordinated Notes due 2008; First Supplemental Indenture thereto dated as of September 8, 1992; and Second Supplemental Indenture thereto dated as of September 15, 1998, incorporated by reference to Exhibit 4(w) of the 1998 10-K. |
| (n) | Junior Subordinated Indenture dated as of November 27, 1996 between the former BankAmerica Corporation and Deutsche Bank Trust Company Americas, as successor trustee to Bankers Trust Company, pursuant to which the former BankAmerica Corporation issued its 8.07% Junior Subordinated Debentures Series A due 2026, and its 7.70% Junior Subordinated Debentures Series B due 2026; and First Supplemental Indenture thereto dated as of September 15, 1998, incorporated by reference to Exhibit 4(z) of the 1998 10-K. |
| (o) | Junior Subordinated Indenture dated as of December 20, 1996 between the former BankAmerica Corporation and Deutsche Bank Trust Company Americas, as successor trustee to Bankers Trust Company, pursuant to which the former BankAmerica Corporation issued its 8.00% Junior Subordinated Deferrable Interest Debentures, Series 2 due 2026 and its Floating Rate Junior Subordinated Deferrable Interest Debentures, Series 3 due 2027; and First Supplemental Indenture thereto dated as of September 15, 1998, incorporated by reference to Exhibit 4(aa) of the 1998 10-K. |
| (p) | Restated Senior Indenture dated as of January 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which registrant issued its Senior InterNotes[SM], incorporated by reference to Exhibit 4.1 of registrant's Registration Statement on Form S-3 (Registration No. 333-47222). |
| (q) | Restated Subordinated Indenture dated as of January 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which registrant issued its Subordinated InterNotes[SM], incorporated by reference to Exhibit 4.2 of registrant's Registration Statement on Form S-3 (Registration No. 333-47222). |
| (r) | Amended and Restated Senior Indenture dated as of July 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which registrant issued its Senior InterNotes[SM], incorporated by reference to Exhibit 4.1 of registrant's Registration No. 333-65750. |
| (s) | Amended and Restated Subordinated Indenture dated as of July 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which registrant issued its Subordinated InterNotes[SM], incorporated by reference to Exhibit 4.2 of registrant's Registration No. 333-65750. |
| (t) | Restated Indenture dated as of November 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4.10 of registrant's Registration Statement on Form S-3 (Registration No. 333-70984). |
| (u) | First Supplemental Indenture dated as of December 14, 2001 to the Restated Indenture dated as of November 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 7% Junior Subordinated Notes due 2031, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated December 6, 2001. |
| (v) | Second Supplemental Indenture dated as of January 31, 2002 to the Restated Indenture dated as of November 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 7% Junior Subordinated Notes due 2032, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated January 24, 2002. |
| (w) | Third Supplemental Indenture dated as of August 9, 2002 to the Restated Indenture dated as of November 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 7% Junior Subordinated Notes due 2032, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated August 2, 2002. |
| (x) | Fourth Supplemental Indenture dated as of April 30, 2003 to the Restated Indenture dated as of November 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 5 7/8% Junior Subordinated Notes due 2033, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated April 23, 2003. |
| (y) | Fifth Supplemental Indenture dated as of November 3, 2004 to the Restated Indenture dated as of November 1, 2001 between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 6% Junior Subordinated Notes due 2034, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated October 21, 2004. |

| Exhibit No. | Description |
|---|---|
| (z) | Sixth Supplemental Indenture dated as of March 8, 2005 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 5 5/8% Junior Subordinated Notes due 2035, incorporated by reference to Exhibit 4.3 of registrant's Current Report on Form 8-K dated February 24, 2005. |
| (aa) | Seventh Supplemental Indenture dated as of August 9, 2005 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 5 1/4% Junior Subordinated Notes due 2035, incorporated by reference to Exhibit 4.3 of the Current Report on Form 8-K dated August 4, 2005. |
| (bb) | Eighth Supplemental Indenture dated as of August 25, 2005 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 6% Junior Subordinated Notes due 2035, incorporated by reference to Exhibit 4.3 of the Current Report on Form 8-K dated August 17, 2005. |
| (cc) | Tenth Supplemental Indenture dated as of March 28, 2006 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 6 1/4% Junior Subordinated Notes due 2055, incorporated by reference to Exhibit 4(bb) of the 2006 10-K. |
| (dd) | Eleventh Supplemental Indenture dated as of May 23, 2006 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 6 5/8% Junior Subordinated Notes due 2036, incorporated by reference to Exhibit 4(cc) of the 2006 10-K. |
| (ee) | Twelfth Supplemental Indenture dated as of August 2, 2006 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its 6 7/8% Junior Subordinated Notes due 2055, incorporated by reference to Exhibit 4(dd) of the 2006 10-K. |
| (ff) | Thirteenth Supplemental Indenture dated as of February 16, 2007 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its Remarketable Floating Rate Junior Subordinated Notes due 2043, incorporated by reference to Exhibit 4.6 of registrant's Current Report on Form 8-K dated February 16, 2007. |
| (gg) | Fourteenth Supplement Indenture dated as of February 16, 2007 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its Remarketable Fixed Rate Junior Subordinated Notes due 2043, incorporated by reference to Exhibit 4.7 of registrant's Current Report on Form 8-K dated February 16, 2007. |
| (hh) | Fifteenth Supplemental Indenture dated as of May 31, 2007 to the Restated Indenture dated as of November 1, 2001 between the registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which registrant issued its Floating Rate Junior Subordinated Notes due 2056, incorporated by reference to Exhibit 4.4 of registrant's Current Report on Form 8-K dated June 1, 2007. |
| (ii) | Indenture dated as of June 4, 1997 between BankBoston Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), as Trustee, pursuant to which BankBoston Corporation issued its Floating Rate Junior Subordinated Deferrable Interest Debentures due 2027, incorporated by reference to Exhibit 4.1 to BankBoston Corporation's Registration Statement on Form S-3 (File No. 333-27229); and First Supplemental Indenture thereto dated as of October 1, 1999 and Second Supplemental Indenture thereto dated as of March 18, 2004, incorporated by reference to Exhibit 4(jj) of the registrant's 2004 Annual Report on Form 10-K (the "2004 10-K"). |
| (jj) | Indenture dated as of December 11, 1996 between Fleet Financial Group, Inc. (predecessor to registrant) and The First National Bank of Chicago (predecessor to Bank One), as Trustee, incorporated by reference to Exhibit 4(b) of Fleet Financial Group, Inc.'s Current Report on Form 8-K (File No. 1-6366) dated December 20, 1996; First Supplemental Indenture thereto dated as of December 11, 1996 pursuant to which Fleet Financial Group issued its 7.92% Junior Subordinated Deferrable Interest Debentures due 2026, incorporated by reference to Exhibit 4(c) of Fleet Financial Group, Inc.'s Current Report on Form 8-K (File No. 1-6366) dated December 20, 1996; and Third Supplemental Indenture thereto dated as of March 18, 2004, incorporated by reference to Exhibit 4(kk) of the 2004 10-K. |
| (kk) | Indenture dated as of December 18, 1998 between Fleet Financial Group, Inc. (predecessor to registrant) and The First National Bank of Chicago (predecessor to Bank One), as Trustee, incorporated by reference to Exhibit 4(b) of Fleet Financial Group, Inc.'s Current Report on Form 8-K (File No. 1-6366) dated December 18, 1998; First Supplemental Indenture thereto dated as of December 18, 1998 pursuant to which Fleet Financial Group issued its Floating Rate Junior Subordinated Deferrable Interest Debentures due 2028, incorporated by reference to Exhibit 4(c) to Fleet Financial Group, Inc.'s Current Report on Form 8-K (File No. 1-6366) dated December 18, 1998; and Second Supplemental Indenture thereto dated as of March 18, 2004, incorporated by reference to Exhibit 4(ll) of the 2004 10-K. |
| (ll) | Indenture dated as of June 30, 2000 between FleetBoston Financial Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), as Trustee, incorporated by reference to Exhibit 4(b) of FleetBoston Financial Corporation's Current Report on Form 8-K (File No. 1-6366) dated June 30, 2000. |
| (mm) | Second Supplemental Indenture dated as of September 17, 2001 to the Indenture dated as of June 30, 2000 between FleetBoston Financial Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which FleetBoston Financial Corporation issued its 7.20% Junior Subordinated Deferrable Interest Debentures due 2031, incorporated by reference to Exhibit 2.6 to FleetBoston Financial Corporation's Registration Statement on Form 8-A (File No. 1-6366) filed on September 21, 2001. |

| Exhibit No. | Description |
|---|---|
| (nn) | Third Supplemental Indenture dated as of March 8, 2002 to the Indenture dated as of June 30, 2000 between FleetBoston Financial Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which FleetBoston Financial Corporation issued its 7.20% Junior Subordinated Deferrable Interest Debentures due 2032, incorporated by reference to Exhibit 2.7 to FleetBoston Financial Corporation's Registration Statement on Form 8-A (File No. 1-6366) filed on March 8, 2002. |
| (oo) | Fourth Supplemental Indenture dated as of July 31, 2003 to the Indenture dated as of June 30, 2000 between FleetBoston Financial Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) pursuant to which FleetBoston Financial Corporation issued its 6.00% Junior Subordinated Deferrable Interest Debentures due 2033, incorporated by reference to Exhibit 2.8 to FleetBoston Financial Corporation's Registration Statement on Form 8-A (Registration No. 1-6366) filed on July 31, 2003. |
| (pp) | Fifth Supplemental Indenture dated as of March 18, 2004 among registrant, FleetBoston Financial Corporation and The Bank of New York Trust Company, N.A. (successor to The Bank of New York) to the Indenture dated as of June 30, 2000 between FleetBoston Financial Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4(rr) of the 2004 10-K. |
| (qq) | Indenture dated December 6, 1999 between Fleet Boston Corporation (predecessor to registrant) and the Bank of New York Trust Company, N.A. (successor to The Bank of New York), as Trustee, pursuant to which Fleet Boston Corporation issued its 3.85% Senior Notes, due 2008; and its Senior Medium-Term Notes, Series T, incorporated by reference to Exhibit 4(a) to Fleet Boston Corporation's Registration Statement on Form S-3 (File No. 333-86829); and First Supplemental Indenture thereto dated as of March 18, 2004, incorporated by reference to Exhibit 4.61 of registrant's Registration Statement on Form S-3/A (Registration No. 333-112708). |
| (rr) | Indenture dated October 1, 1992 between Fleet Financial Group, Inc. (predecessor to registrant) and The First National Bank of Chicago (predecessor to J.P. Morgan Trust Company, N.A.), as Trustee, incorporated by reference to Exhibit 4(d) to Fleet Financial Group, Inc.'s Registration Statement on Form S-3/A (Registration No. 33-50216), pursuant to which Fleet Financial Group, Inc. issued its 6 7/8% Subordinated Notes, due 2028; its 6½% Subordinated Notes, due 2008; its 6 3/8% Subordinated Notes, due 2008; its 6.70% Subordinated Notes, due 2028; and its 7 3/8% Subordinated Notes, due 2009; First Supplemental Indenture thereto dated as of November 30, 1992, incorporated by reference to Exhibit 4 of Fleet Financial Group, Inc.'s Current Report on Form 8-K (File No. 1-06366) filed December 2, 1992; and Second Supplemental Indenture thereto dated as of March 18, 2004, incorporated by reference to Exhibit 4.59 of registrant's Registration Statement on Form S-3/A (Registration No. 333-112708). |
| (ss) | Indenture dated as of September 29, 1992 between MBNA Corporation (predecessor to registrant) and Bankers Trust Company, pursuant to which MBNA issued its Senior Medium-Term Notes, Series F, incorporated by reference to Exhibit 4(a) to MBNA's Registration Statement on Form S-3 (Registration No. 33-95600); and First Supplemental Indenture thereto dated as of December 21, 2005 between the registrant and Deutsche Bank Trust Company Americas (successor to Bankers Trust Company), incorporated by reference to Exhibit 4.32 to registrant's Registration Statement on Form S-3 (Registration No. 333-130821). |
| (tt) | Indenture dated as of December 18, 1996 between MBNA Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which MBNA issued its 8.278% Junior Subordinated Deferrable Interest Debentures, Series A, and its Floating Rate Junior Subordinated Deferrable Interest Debentures, Series B, incorporated by reference to Exhibit 4(c) to MBNA's Registration Statement on Form S-4/A (Registration No. 333-21181). |
| (uu) | First Supplemental Indenture dated as of June 27, 2002 to the Indenture dated as of December 18, 1996 between MBNA Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which MBNA issued its 8.125% Junior Subordinated Debentures, Series D, incorporated by reference to Exhibit 4.2 to MBNA's Current Report on Form 8-K (File No. 1-10683) filed June 26, 2002. |
| (vv) | Second Supplemental Indenture dated as of November 27, 2002 to the Indenture dated as of December 18, 1996 between MBNA Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), pursuant to which MBNA issued its 8.10% Junior Subordinated Debentures, Series E, incorporated by reference to Exhibit 4.2 to MBNA's Current Report on Form 8-K (File No. 1-10683) filed November 26, 2002. |
| (ww) | Third Supplemental Indenture dated as of December 21, 2005 among the registrant, MBNA Corporation (predecessor to registrant) and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), to the Indenture dated as of December 18, 1996 between MBNA Corporation and The Bank of New York Trust Company, N.A., incorporated by reference to Exhibit 4(uu) of the 2006 10-K. |
| (xx) | Agency Agreement dated as of July 17, 1997, between MBNA America Bank, N.A. (predecessor to Bank of America, N.A.), The First National Bank of Chicago (predecessor to Bank One Trust Company, N.A.), as Global Agent, and others, incorporated by reference to Exhibit 4.12 to MBNA Corporation's 1999 Annual Report on Form 10-K (File No. 1-10683), as amended by Amendment No. 1 thereto dated as of April 10, 2001, incorporated by reference to Exhibit 4.12 to MBNA Corporation's 2001 Annual Report on Form 10-K (File No. 1-10683) and Amendment No. 2 thereto dated as April 10, 2002, incorporated by reference to Exhibit 4.15 of MBNA Corporation's 2002 Annual Report on Form 10-K (File No. 1-10683). |
| (yy) | Agency Agreement dated as of August 27, 2003 among MBNA Canada Bank, JPMorgan Chase Bank, as Global Agent, and others, incorporated by reference to Exhibit 4(ww) of the 2006 10-K. |
| (zz) | Agency Agreement dated as of September 15, 2004 among MBNA Europe Funding PLC, Deutsche Bank Trust Company Americas, as Global Agent, and others, incorporated by reference to Exhibit 4(xx) of the 2006 10-K. |

| Exhibit No. | Description |
|---|---|
| (aaa) | Fifth Supplemental Trust Deed dated as of September 24, 2004 between MBNA Europe Funding PLC, MBNA America Bank, N.A. (predecessor to Bank of America, N.A.), and Deutsche Trustee Company Limited, incorporated by reference to Exhibit 4 to MBNA Corporation's Current Report on Form 8-K (File No. 1-10683) filed September 30, 2004. |
| (bbb) | Australian MTN Deed Poll dated as of May 18, 2006 granted by registrant, incorporated by reference to Exhibit 4(zz) of the 2006 10-K. |
| (ccc) | Australian and New Zealand Medium Term Note Program Deed Poll dated July 12, 2007 granted by the registrant. |
| (ddd) | Agreement of Appointment and Acceptance dated as of December 29, 2006 between registrant and The Bank of New York Trust Company, N.A., incorporated by reference to Exhibit 4(aaa) of the 2006 10-K. |
| (eee) | Agency Agreement dated as of January 16, 2007 among the registrant, B of A Issuance, B.V., The Bank of New York and The Bank of New York (Luxembourg), S.A., incorporated by reference to Exhibit 4(d) of registrant's Quarterly Report on Form 10-Q, filed May 9, 2007. |
| (fff) | Global Agency Agreement dated as of July 25, 2007 among Bank of America, N.A., Deutsche Bank Trust Company Americas, Deutsche Bank AG, London Branch, and Deutsche Bank Luxembourg S.A. |
| (ggg) | Agency Agreement dated September 7, 2007 among BofA Issuance B.V., the registrant, The Bank of New York, The Bank of New York, Frankfurt, and The Bank of New York (Luxembourg) S.A. |
| (hhh) | Senior Indenture dated as of September 15, 2006 among LaSalle Funding LLC, ABN AMRO Holding N.V., ABN AMRO Bank N.V. and The Bank of New York Trust Company, N.A., as supplemented by the First Supplemental Indenture dated as of November 1, 2007 among LaSalle Funding LLC, ABN AMRO Holding N.V., ABN AMRO Bank N.V., the registrant and The Bank of New York Trust Company, N.A., pursuant to which LaSalle Funding LLC has issued its LaSalle*Notes*®. |
| (iii) | Indenture dated as of June 15, 2003 among LaSalle Funding LLC, ABN AMRO Bank N.V. and BNY Midwest Trust Company, as supplemented by the First Supplemental Indenture dated as of September 22, 2003 among LaSalle Funding LLC, ABN AMRO Holding N.V., ABN AMRO Bank N.V. and BNY Midwest Trust Company, and the Second Supplemental Indenture dated as of November 1, 2007 among LaSalle Funding LLC, ABN AMRO Holding N.V., ABN AMRO Bank N.V., the registrant and BNY Midwest Trust Company, pursuant to which LaSalle Funding LLC has issued its LaSalle*Notes*®. |
| (jjj) | Indenture dated as of April 1, 2002 among LaSalle Funding LLC, ABN AMRO Bank N.V. and BNY Midwest Trust Company, as supplemented by the First Supplemental Indenture dated as of November 1, 2007 among LaSalle Funding LLC, ABN AMRO Bank N.V., the registrant and BNY Midwest Trust Company, pursuant to which LaSalle Funding LLC has issued its LaSalle*Notes*®. |
| | The registrant has other long-term debt agreements, but these are not material in amount. Copies of these agreements will be furnished to the Commission on request. |
| 10(a) | NationsBank Corporation and Designated Subsidiaries Supplemental Executive Retirement Plan, incorporated by reference to Exhibit 10(j) of registrant's 1994 Annual Report on Form 10-K (the "1994 10-K"); Amendment thereto dated as of June 28, 1989, incorporated by reference to Exhibit 10(g) of registrant's 1989 Annual Report on Form 10-K (the "1989 10-K"); Amendment thereto dated as of June 27, 1990, incorporated by reference to Exhibit 10(g) of registrant's 1990 Annual Report on Form 10-K (the "1990 10-K"); Amendment thereto dated as of July 21, 1991, incorporated by reference to Exhibit 10(bb) of registrant's 1991 Annual Report on Form 10-K (the "1991 10-K"); Amendments thereto dated as of December 3, 1992 and December 15, 1992, incorporated by reference to Exhibit 10(l) of registrant's 1992 Annual Report on Form 10-K (the "1992 10-K"); Amendment thereto dated as of September 28, 1994, incorporated by reference to Exhibit 10(j) of registrant's 1994 10-K; Amendments thereto dated March 27, 1996 and June 25, 1997, incorporated by reference to Exhibit 10(c) of registrant's 1997 Annual Report on Form 10-K; Amendments thereto dated April 10, 1998, June 24, 1998 and October 1, 1998, incorporated by reference to Exhibit 10(b) of registrant's 1998 Annual Report on Form 10-K (the "1998 10-K"); Amendment thereto dated December 14, 1999, incorporated by reference to Exhibit 10(b) of registrant's 1999 Annual Report on Form 10-K; Amendment thereto dated as of March 28, 2001, incorporated by reference to Exhibit 10(b) of registrant's 2001 Annual Report on Form 10-K (the "2001 10-K"); and Amendment thereto dated December 10, 2002, incorporated by reference to Exhibit 10(b) of registrant's 2002 Annual Report on Form 10-K (the "2002 10-K"). |
| (b) | NationsBank Corporation and Designated Subsidiaries Deferred Compensation Plan for Key Employees, incorporated by reference to Exhibit 10(k) of the 1994 10-K; Amendment thereto dated as of June 28, 1989, incorporated by reference to Exhibit 10(h) of the 1989 10-K; Amendment thereto dated as of June 27, 1990, incorporated by reference to Exhibit 10(h) of the 1990 10-K; Amendment thereto dated as of July 21, 1991, incorporated by reference to Exhibit 10(bb) of the 1991 10-K; Amendment thereto dated as of December 3, 1992, incorporated by reference to Exhibit 10(m) of the 1992 10-K; and Amendments thereto dated April 10, 1998 and October 1, 1998, incorporated by reference to Exhibit 10(b) of the 1998 10-K. |
| (c) | Bank of America Pension Restoration Plan, as amended and restated effective January 1, 2005, incorporated by reference to Exhibit 10(c) of registrant's 2004 Annual Report on Form 10-K (the "2004 10-K"). |
| (d) | NationsBank Corporation Benefit Security Trust dated as of June 27, 1990, incorporated by reference to Exhibit 10(t) of the 1990 10-K; First Supplement thereto dated as of November 30, 1992, incorporated by reference to Exhibit 10(v) of the 1992 10-K; and Trustee Removal/Appointment Agreement dated as of December 19, 1995, incorporated by reference to Exhibit 10(o) of registrant's 1995 Annual Report on Form 10-K. |
| (e) | Bank of America 401(k) Restoration Plan, as amended and restated effective January 1, 2005, incorporated by reference to Exhibit 10(e) of the registrant's 2005 Annual Report on Form 10-K (the "2005 10-K"); and Amendment thereto dated December 15, 2006. |
| (f) | Bank of America Executive Incentive Compensation Plan, as amended and restated effective December 10, 2002, incorporated by reference to Exhibit 10(g) of the 2002 10-K. |

| Exhibit No. | Description |
|---|---|
| (g) | Bank of America Director Deferral Plan, as amended and restated effective January 1, 2005, incorporated by reference to Exhibit 10(g) of the registrant's 2006 Annual Report on Form 10-K (the "2006 10-K"). |
| (h) | Bank of America Corporation Directors' Stock Plan, as amended and restated effective January 1, 2002, incorporated by reference to Exhibit 10(j) of the 2001 10-K; Amendment thereto dated April 24, 2002, incorporated by reference to Exhibit 10(i) of the 2002 10-K; Bank of America Corporation Directors' Stock Plan, as amended and restated effective December 10, 2002, incorporated by reference to Exhibit 10(i) of the 2002 10-K; form of Restricted Stock Award agreement, incorporated by reference to Exhibit 10(h) of the 2004 10-K; and Bank of America Corporation Directors' Stock Plan as amended and restated effective April 26, 2006, incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed on December 14, 2005. |
| (i) | Bank of America Corporation 2003 Key Associate Stock Plan, effective January 1, 2003, as amended and restated effective April 1, 2004, incorporated by reference to Exhibit 10(f) of registrant's Registration Statement on Form S-4 (File No. 333-110924); Amendment thereto dated March 13, 2006 and form of Restricted Stock Units Award Agreement and form of Stock Option Award Agreement. |
| (j) | Split Dollar Life Insurance Agreement dated as of September 28, 1998 between registrant and J. Steele Alphin, as Trustee under that certain Irrevocable Trust Agreement dated June 23, 1998, by and between Kenneth D. Lewis, as Grantor, and J. Steele Alphin, as Trustee, incorporated by reference to Exhibit 10(ee) of the 1998 10-K; and Amendment thereto dated January 24, 2002, incorporated by reference to Exhibit 10(p) of the 2001 10-K. |
| (k) | Bank of America Corporation 2002 Associates Stock Option Plan, effective February 1, 2002, incorporated by reference to Exhibit 10(s) of the 2002 10-K. |
| (l) | Amendment to various plans in connection with FleetBoston Financial Corporation merger, incorporated by reference to Exhibit 10(v) of registrant's 2003 Annual Report on Form 10-K. |
| (m) | FleetBoston Supplemental Executive Retirement Plan, as amended by Amendment One thereto effective January 1, 1997, Amendment Two thereto effective October 15, 1997, Amendment Three thereto effective July 1, 1998, Amendment Four thereto effective August 15, 1999, Amendment Five thereto effective January 1, 2000, Amendment Six thereto effective October 10, 2001, Amendment Seven thereto effective February 19, 2002, Amendment Eight thereto effective October 15, 2002, Amendment Nine thereto effective January 1, 2003, Amendment Ten thereto effective October 21, 2003, and Amendment Eleven thereto effective December 31, 2004, incorporated by reference to Exhibit 10(r) of the 2004 10-K. |
| (n) | FleetBoston Amended and Restated 1992 Stock Option and Restricted Stock Plan, incorporated by reference to Exhibit 10(s) of the 2004 10-K. |
| (o) | FleetBoston Executive Deferred Compensation Plan No. 2, as amended by Amendment One thereto effective February 1, 1999, Amendment Two thereto effective January 1, 2000, Amendment Three thereto effective January 1, 2002, Amendment Four thereto effective October 15, 2002, Amendment Five thereto effective January 1, 2003, and Amendment Six thereto effective December 16, 2003, incorporated by reference to Exhibit 10(u) of the 2004 10-K. |
| (p) | FleetBoston Executive Supplemental Plan, as amended by Amendment One thereto effective January 1, 2000, Amendment Two thereto effective January 1, 2002, Amendment Three thereto effective January 1, 2003, Amendment Four thereto effective January 1, 2003, and Amendment Five thereto effective December 31, 2004, incorporated by reference to Exhibit 10(v) of the 2004 10-K. |
| (q) | FleetBoston Retirement Income Assurance Plan, as amended by Amendment One thereto effective January 1, 1997, Amendment Two thereto effective January 1, 2000, Amendment Three thereto effective November 1, 2001, Amendment Four thereto effective January 1, 2003, Amendment Five thereto effective December 16, 2003, and Amendment Six thereto effective December 31, 2004, incorporated by reference to Exhibit 10(w) of the 2004 10-K; and Amendment Seven thereto dated December 20, 2005, incorporated by reference to Exhibit 10(s) of the 2005 10-K. |
| (r) | Trust Agreement for the FleetBoston Executive Deferred Compensation Plans No. 1 and 2, incorporated by reference to Exhibit 10(x) of the 2004 10-K. |
| (s) | Trust Agreement for the FleetBoston Executive Supplemental Plan, incorporated by reference to Exhibit 10(y) of the 2004 10-K. |
| (t) | Trust Agreement for the FleetBoston Retirement Income Assurance Plan and the FleetBoston Supplemental Executive Retirement Plan, incorporated by reference to Exhibit 10(z) of the 2004 10-K. |
| (u) | FleetBoston Directors Deferred Compensation and Stock Unit Plan, as amended by an amendment thereto effective as of July 1, 2000, a Second Amendment thereto effective as of January 1, 2003, a Third Amendment thereto dated April 14, 2003, and a Fourth Amendment thereto effective January 1, 2004, incorporated by reference to Exhibit 10(aa) of the 2004 10-K. |
| (v) | FleetBoston 1996 Long-Term Incentive Plan, incorporated by reference to Exhibit 10(bb) of the 2004 10-K. |
| (w) | BankBoston Corporation and its Subsidiaries Deferred Compensation Plan, as amended by a First Amendment thereto, a Second Amendment thereto, a Third Amendment thereto, an Instrument thereto (providing for the cessation of accruals effective December 31, 2000) and an Amendment thereto dated December 24, 2001, incorporated by reference to Exhibit 10(cc) of the 2004 10-K. |
| (x) | BankBoston, N.A. Bonus Supplemental Employee Retirement Plan, as amended by a First Amendment, a Second Amendment, a Third Amendment and a Fourth Amendment thereto, incorporated by reference to Exhibit 10(dd) of the 2004 10-K. |
| (y) | Description of BankBoston Supplemental Life Insurance Plan, incorporated by reference to Exhibit 10(ee) of the 2004 10-K. |
| (z) | BankBoston, N.A. Excess Benefit Supplemental Employee Retirement Plan, as amended by a First Amendment, a Second Amendment, a Third Amendment thereto (assumed by FleetBoston on October 1, 1999) and an Instrument thereto, incorporated by reference to Exhibit 10(ff) of the 2004 10-K. |
| (aa) | Description of BankBoston Supplemental Long-Term Disability Plan, incorporated by reference to Exhibit 10(gg) of the 2004 10-K. |

| Exhibit No. | Description |
|---|---|
| (bb) | BankBoston Director Stock Award Plan, incorporated by reference to Exhibit 10(hh) of the 2004 10-K. |
| (cc) | BankBoston Directors Deferred Compensation Plan, as amended by a First Amendment and a Second Amendment thereto, incorporated by reference to Exhibit 10(ii) of the 2004 10-K. |
| (dd) | BankBoston, N.A. Directors' Deferred Compensation Plan, as amended by a First Amendment and a Second Amendment thereto, incorporated by reference to Exhibit 10(jj) of the 2004 10-K. |
| (ee) | BankBoston 1997 Stock Option Plan for Non-Employee Directors, as amended by an amendment thereto dated as of October 16, 2001, incorporated by reference to Exhibit 10(kk) of the 2004 10-K. |
| (ff) | Description of BankBoston Director Retirement Benefits Exchange Program, incorporated by reference to Exhibit 10(ll) of the 2004 10-K. |
| (gg) | Employment Agreement, dated as of March 14, 1999, between FleetBoston and Charles K. Gifford, as amended by an amendment thereto effective as of February 7, 2000, a Second Amendment thereto effective as of April 22, 2002, and a Third Amendment thereto effective as of October 1, 2002, incorporated by reference to Exhibit 10(mm) of the 2004 10-K. |
| (hh) | Form of Change in Control Agreement entered into with Charles K. Gifford, incorporated by reference to Exhibit 10(nn) of the 2004 10-K. |
| (ii) | Global amendment to definition of "change in control" or "change of control," together with a list of plans affected by such amendment, incorporated by reference to Exhibit 10(oo) of the 2004 10-K. |
| (jj) | Employment Agreement dated October 27, 2003 between Bank of America Corporation and Brian T. Moynihan, incorporated by reference to Exhibit 10(d) of registrant's Registration Statement on Form S-4 (Registration No. 333-110924). |
| (kk) | Retirement Agreement dated January 26, 2005 between Bank of America Corporation and Charles K. Gifford, incorporated by reference to Exhibit 10.1 to the registrant's Current Report on Form 8-K filed on January 26, 2005. |
| (ll) | Amendment to various FleetBoston stock option awards, dated March 25, 2004, incorporated by reference to Exhibit 10(ss) of the 2004 10-K. |
| (mm) | Cancellation Agreement dated October 26, 2005 between Bank of America Corporation and Brian T. Moynihan, incorporated by reference to Exhibit 10.1 of registrant's Current Report on Form 8-K filed October 26, 2005. |
| (nn) | Agreement Regarding Participation in the FleetBoston Supplemental Executive Retirement Plan dated October 26, 2005 between Bank of America Corporation and Brian T. Moynihan, incorporated by reference to Exhibit 10.2 of registrant's Current Report on Form 8-K filed October 26, 2005. |
| 12 | Ratio of Earnings to Fixed Charges.<br>Ratio of Earnings to Fixed Charges and Preferred Dividends. |
| 21 | List of Subsidiaries. |
| 23 | Consent of PricewaterhouseCoopers LLP. |
| 24(a) | Power of Attorney. |
| (b) | Corporate Resolution. |
| 31(a) | Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 |
| (b) | Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 |
| 32(a) | Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |
| (b) | Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |

**Exhibit 3(a)**

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
BANKAMERICA CORPORATION

BankAmerica Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies that (i) the Certificate of Incorporation of the Corporation was originally filed on July 31, 1998, (ii) the Corporation was originally incorporated under the name "NationsBank (DE) Corporation," which name was changed to "NationsBank Corporation" on September 25, 1998 and to "BankAmerica Corporation" on September 30, 1998, (iii) this Amended and Restated Certificate of Incorporation has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, and (iv) the Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated to read in its entirety as follows:

1. The name of the Corporation is Bank of America Corporation.

2. The purposes for which the Corporation is organized are to engage in any lawful act or activity for which corporations may be organized and incorporated under the General Corporation Law of the State of Delaware.

3. The number of shares, par value $.01 per share, the Corporation is authorized to issue is Five Billion One Hundred Million (5,100,000,000), divided into the following classes:

| Class | Number of Shares |
|---|---|
| Common | 5,000,000,000 |
| Preferred | 100,000,000 |

The class of common ("Common Stock") has unlimited voting rights and, after satisfaction of claims, if any, of the holders of preferred shares, is entitled to receive the net assets of the Corporation upon distribution.

The Board of Directors of the Corporation shall have full power and authority to establish one or more series within the class of preferred shares (the "Preferred Shares"), to define the designations, preferences, limitations and relative rights (including conversion rights) of shares within such class and to determine all variations between series.

The Board of Directors of the Corporation has

designated, established and authorized the following series of Preferred Shares:

(a) 7% Cumulative Redeemable Preferred Stock, Series B.

A. Designation.

The designation of this series is "7% Cumulative Redeemable Preferred Stock, Series B" (hereinafter referred to as the "Series B Preferred Stock") and the number of shares constituting such series is Thirty-Five Thousand Forty-Five (35,045). Shares of Series B Preferred Stock shall have a stated value of $100.00 per share.

B. Dividends.

The holders of record of the shares of the Series B Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors of the Corporation, out of any funds legally available for such purpose, cumulative cash dividends at an annual dividend rate per share of 7% of the stated value thereof, which amount is $7.00 per annum, per share, and no more. Such dividends shall be payable each calendar quarter at the rate of $1.75 per share on such dates as shall be fixed by resolution of the Board of Directors of the Corporation. The date from which dividends on such shares shall be cumulative shall be the first day after said shares are issued. Accumulations of dividends shall not bear interest. No cash dividend shall be declared, paid or set apart for any shares of Common Stock unless all dividends on all shares of the Series B Preferred Stock at the time outstanding for all past dividend periods and for the then current dividend shall have been paid, or shall have been declared and a sum sufficient for the payment thereof, shall have been set apart. Subject to the foregoing provisions of this paragraph B, cash dividends or other cash distributions as may be determined by the Board of Directors of the Corporation may be declared and paid upon the shares of the Common Stock of the Corporation from time to time out of funds legally available therefor, and the shares of the Series B Preferred Stock shall not be entitled to participate in any such cash dividend or other such cash distribution so declared and paid or made on such shares of Common Stock.

C. Redemption.

From and after October 31, 1988, any holder may, by written request, call upon the Corporation to redeem all or any part of said holder's shares of said Series B Preferred Stock at a redemption price of $100.00 per share plus accumulated unpaid dividends to the date said request for redemption is received by the Corporation and no more (the "Redemption Price"). Any such request for redemption shall be accompanied by the certificates for which redemption is requested, duly endorsed or with appropriate stock power attached, in either case with signature guaranteed. Upon receipt by the Corporation of any such request for redemption from any holder of the Series B Preferred Stock, the Corporation shall forthwith redeem said stock at the

Redemption Price, provided that: (i) full cumulative dividends have been paid or declared and set apart for payment upon all shares of any series of preferred stock ranking superior to the Series B Preferred Stock as to dividends or other distributions (collectively the "Superior Stock"); and (ii) the Corporation is not then in default or in arrears with respect to any sinking or analogous fund or call for tenders obligation or agreement for the purchase, redemption or retirement of any shares of Superior Stock. In the event that, upon receipt of a request for redemption, either or both of the conditions set forth in clauses (i) and (ii) above are not met, the Corporation shall forthwith return said request to the submitting shareholder along with a statement that the Corporation is unable to honor such request and explanation of the reasons therefor. From and after the receipt by the Corporation of a request for redemption from any holder of said Series B Preferred Stock, which request may be honored consistent with the foregoing provisions, all rights of such holder in the Series B Preferred Stock for which redemption is requested shall cease and terminate, except only the right to receive the Redemption Price thereof, but without interest.

D. Liquidation Preference.

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of the Series B Preferred Stock shall be entitled to receive, subject to the provisions of paragraph G and before any payment shall be made to the holders of the shares of Common Stock, the amount of $100.00 per share, plus accumulated dividends. After payment to the holders of the Series B Preferred Stock of the full amount as aforesaid, the holders of the Series B Preferred Stock as such shall have no right or claim to any of the remaining assets which shall be distributed ratably to the holders of the Common Stock. If, upon any such liquidation, dissolution or winding up, the assets available therefor are not sufficient to permit payments to the holders of Series B Preferred Stock of the full amount as aforesaid, then subject to the provisions of paragraph G, the holders of the Series B Preferred Stock then outstanding shall share ratably in the distribution of assets in accordance with the sums which would be payable if such holders were to receive the full amounts as aforesaid.

E. Sinking Fund.

There shall be no sinking fund applicable to the shares of Series B Preferred Stock.

F. Conversion.

The shares of Series B Preferred Stock shall not be convertible into any shares of Common Stock or any other class of shares, nor exchanged for any shares of Common Stock or any other class of shares.

G. Superior Stock.

The Corporation may issue stock with preferences superior or equal to the shares of the Series B Preferred Stock without the consent of the holders thereof.

H. Voting Rights.

Each share of the Series B Preferred Stock shall be entitled to equal voting rights, share for share, with each share of the Common Stock.

(b) ESOP Convertible Preferred Stock, Series C.

The shares of the ESOP Convertible Preferred Stock, Series C, of the Corporation shall be designated "ESOP Convertible Preferred Stock, Series C," and the number of shares constituting such series shall be 3,000,000. The ESOP Convertible Preferred Stock, Series C, shall hereinafter be referred to as the "ESOP Preferred Stock."

A. Special Purpose Restricted Transfer Issue.

Shares of ESOP Preferred Stock shall be issued only to a trustee acting on behalf of an employee stock ownership plan or other employee benefit plan of the Corporation or any subsidiary of the Corporation. In the event of any transfer of shares of ESOP Preferred Stock to any person other than any such plan trustee or the Corporation, the shares of ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Corporation or the holder, shall be automatically converted into shares of Common Stock on the terms otherwise provided for the conversion of shares of ESOP Preferred Stock into shares of Common Stock pursuant to paragraph E hereof and no such transferee shall have any of the voting powers, preferences and relative, participating, optional or special rights ascribed to shares of ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of ESOP Preferred Stock shall be so converted. Certificates representing shares of ESOP Preferred Stock shall be legended to reflect such restrictions on transfer. Notwithstanding the foregoing provisions of this paragraph A, shares of ESOP Preferred Stock (i) may be converted into shares of Common Stock as provided by paragraph E hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Corporation upon the terms and conditions provided by paragraphs F, G and H hereof.

B. Dividends and Distributions.

(1) Subject to the provisions for adjustment hereinafter set forth, the holders of shares of ESOP Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available therefor, cash dividends ("Preferred Dividends") in an amount equal to $3.30 per share per annum, and no more, payable semi-annually, one-half on the first day of January and one-half on the first day of July of each year (each a "Dividend Payment Date") to holders of record at the

start of business on such Dividend Payment Date. Preferred Dividends shall accrue on a daily basis whether or not the Corporation shall have earnings or surplus at the time, but Preferred Dividends on the shares of ESOP Preferred Stock for any period less than a full semi-annual period between Dividend Payment Dates shall be computed on the basis of a 360-day year of 30-day months. Accumulated but unpaid Preferred Dividends shall accumulate as of the Dividend Payment Date on which they first become payable, but no interest shall accrue on accumulated but unpaid Preferred Dividends.

(2) So long as any ESOP Preferred Stock shall be outstanding, no dividend shall be declared or paid or set apart for payment on any other series of stock ranking on a parity with the ESOP Preferred Stock as to dividends, unless there shall also be or have been declared and paid or set apart for payment on the ESOP Preferred Stock, like dividends for all dividend payment periods of the ESOP Preferred Stock ending on or before the dividend payment date of such parity stock, ratably in proportion to the respective amounts of dividends accumulated and unpaid through such dividend payment period on the ESOP Preferred Stock and accumulated and unpaid or payable on such parity stock through the dividend payment period on such parity stock next preceding such Dividend Payment Date. In the event that full cumulative dividends on the ESOP Preferred Stock have not been declared and paid or set apart for payment when due, the Corporation shall not declare or pay or set apart for payment any dividends or make any other distributions on, or make any payment on account of the purchase, redemption or other retirement of any other class of stock or series thereof of the Corporation ranking, as to dividends or as to distributions in the event of a liquidation, dissolution or winding-up of the Corporation, junior to the ESOP Preferred Stock until full cumulative dividends on the ESOP Preferred Stock shall have been paid or declared and provided for; provided, however, that the foregoing shall not apply to (i) any dividend payable solely in any shares of any stock ranking, as to dividends or as to distributions in the event of the liquidation, dissolution or winding-up of the Corporation, junior to the ESOP Preferred Stock, or (ii) the acquisition of shares of any stock ranking, as to dividends or as to distributions in the event of a liquidation, dissolution or winding-up of the Corporation, junior to the ESOP Preferred Stock either (A) pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted or (B) in exchange solely for shares of any other stock ranking junior to the ESOP Preferred Stock.

C. Voting Rights.

The holders of shares of ESOP Preferred Stock shall have the following voting rights:

(1) The holders of ESOP Preferred Stock shall be entitled to vote on all matters submitted to a vote of the holders of Common Stock of the Corporation, voting together with the holders of

Common Stock as one class. Each share of the ESOP Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such share of ESOP Preferred Stock could be converted on the record date for determining the shareholders entitled to vote, rounded to the nearest whole vote; it being understood that whenever the "Conversion Ratio" (as defined in paragraph E hereof) is adjusted as provided in paragraph I hereof, the voting rights of the ESOP Preferred Stock shall also be similarly adjusted.

(2) Except as otherwise required by the General Corporation Law of the State of Delaware or set forth in paragraph C(l), holders of ESOP Preferred Stock shall have no special voting rights and their consent shall not be required for the taking of any corporate action.

D. Liquidation, Dissolution or Winding-Up.

(1) Upon any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, the holders of ESOP Preferred Stock shall be entitled to receive out of the assets of the Corporation which remain after satisfaction in full of all valid claims of creditors of the Corporation and which are available for payment to shareholders and subject to the rights of the holders of any stock of the Corporation ranking senior to or on a parity with the ESOP Preferred Stock in respect of distributions upon liquidation, dissolution or winding-up of the Corporation, before any amount shall be paid or distributed among the holders of Common Stock or any other shares ranking junior to the ESOP Preferred Stock in respect of the distributions upon liquidation, dissolution or winding-up of the Corporation, liquidating distributions in the amount of $42.50 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for distribution, and no more. If upon any liquidation, dissolution or winding-up of the Corporation, the amounts payable with respect to the ESOP Preferred Stock and any other stock ranking as to any such distribution on a parity with the ESOP Preferred Stock are not paid in full, the holders of the ESOP Preferred Stock and such other stock shall share ratably in any distribution of assets in proportion to the full respective preferential amounts to which they are entitled. After payment of the full amount to which they are entitled as provided by the foregoing provisions of this paragraph D(l), the holders of shares of ESOP Preferred Stock shall not be entitled to any further right or claim to any of the remaining assets of the Corporation.

(2) Neither the merger or consolidation of the Corporation with or into any other corporation, nor the merger or consolidation of any other corporation with or into the Corporation, nor the sale, transfer or lease of all or any portion of the assets of the Corporation, shall be deemed to be a dissolution, liquidation or winding-up of the affairs of the Corporation for purposes of this paragraph D, but the holders of ESOP Preferred Stock shall nevertheless be entitled in the event of any such merger or consolidation to the rights provided by paragraph H hereof.

(3) Written notice of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, stating the payment date or dates when, and the place or places where, the amounts distributable to holders of ESOP Preferred Stock in such circumstances shall be payable, shall be given by first-class mail, postage prepaid, mailed not less than twenty (20) days prior to any payment date stated therein, to the holders of ESOP Preferred Stock, at the address shown on the books of the Corporation or any transfer agent for the ESOP Preferred Stock.

E. Conversion into Common Stock.

(1) A holder of shares of ESOP Preferred Stock shall be entitled, at any time prior to the close of business on the date fixed for redemption of such shares pursuant to paragraph F, G or H hereof, to cause any or all of such shares to be converted into shares of Common Stock at a conversion rate equal to the ratio of 1.0 share of ESOP Preferred Stock to 1.68 shares of Common Stock (as adjusted as hereinafter provided, the "Conversion Ratio"). The Conversion Ratio set forth above is subject to adjustment pursuant to this Certificate of Incorporation.

(2) Any holder of shares of ESOP Preferred Stock desiring to convert such shares into shares of Common Stock shall surrender the certificate or certificates representing the shares of ESOP Preferred Stock being converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto), at the principal executive office of the Corporation or the offices of the transfer agent for the ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the ESOP Preferred Stock by the Corporation or the transfer agent for the ESOP Preferred Stock, accompanied by written notice of conversion. Such notice of conversion shall specify (i) the number of shares of ESOP Preferred Stock to be converted and the name or names in which such holder wishes the certificate or certificates for Common Stock and for any shares of ESOP Preferred Stock not to be so converted to be issued, and (ii) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion.

(3) Upon surrender of a certificate representing a share or shares of ESOP Preferred Stock for conversion, the Corporation shall issue and send by hand delivery (with receipt to be acknowledged) or by first-class mail, postage prepaid, to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. In the event that there shall have been surrendered a certificate or certificates representing shares of ESOP Preferred Stock, only part of which are to be converted, the Corporation shall issue and deliver to such holder or such holder's designee a new certificate or certificates representing the number of shares of ESOP Preferred Stock which shall not have been converted.

(4) The issuance by the Corporation of shares of Common Stock upon a conversion of shares of ESOP Preferred Stock into shares of Common Stock made at the option of the holder thereof shall be effective as of the earlier of (i) the delivery to such holder or such holder's designee of the certificate or certificates representing the shares of Common Stock issued upon conversion thereof or (ii) the commencement of business on the second business day after the surrender of the certificate or certificates for the shares of ESOP Preferred Stock to be converted, duly assigned or endorsed for transfer to the corporation (or accompanied by duly executed stock powers relating thereto) as provided hereby. On and after the effective date of conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Corporation shall not be obligated to pay any dividends which shall have been declared and shall be payable to holders of shares of ESOP Preferred Stock on a Dividend Payment Date if such Dividend Payment Date for such dividend shall coincide with or be on or subsequent to the effective date of conversion of such shares.

(5) The Corporation shall not be obligated to deliver to holders of ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(6) The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all shares of ESOP Preferred Stock then outstanding. The Corporation shall prepare and shall use its best efforts to obtain and keep in force such governmental or regulatory permits or other authorizations as may be required by law, and shall comply with all requirements as to registration or qualification of the Common Stock, in order to enable the Corporation lawfully to issue and deliver to each holder of record of ESOP Preferred Stock such number of shares of its Common Stock as shall from time to time be sufficient to effect the conversion of all shares of ESOP Preferred Stock then outstanding and convertible into shares of Common Stock.

F. Redemption At the Option of the Corporation.

(1) The ESOP Preferred Stock shall be redeemable, in whole or in part, at the option of the Corporation at any time, at a redemption price per share (except as to redemption pursuant to paragraph F(3)) of $42.83 prior to July 1, 1999 and $42.50 thereafter, plus, in each case, an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption. Payment of the redemption price shall be made by the Corporation

in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph F(5). From and after the date fixed for redemption, dividends on shares of ESOP Preferred Stock called for redemption will cease to accrue, such shares will no longer be deemed to be outstanding and all rights in respect of such shares of the Corporation shall cease, except the right to receive the redemption price. If less than all of the outstanding shares of ESOP Preferred Stock are to be redeemed, the Corporation shall either redeem a portion of the shares of each holder determined pro rata based on the number of shares held by each holder or shall select the shares to be redeemed by lot, as may be determined by the Board of Directors of the Corporation.

(2) Unless otherwise required by law, notice of redemption will be sent to the holders of ESOP Preferred Stock at the address shown on the books of the Corporation or any transfer agent for the ESOP Preferred Stock by first-class mail, postage prepaid, mailed not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (v) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vi) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised, and the Conversion Ratio and number of shares of Common Stock issuable upon conversion of a share of ESOP Preferred Stock at the time. These notice provisions may be supplemented if necessary in order to comply with optional redemption provisions for preferred stock which may be required under the Internal Revenue Code of 1986, as amended, or the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Upon surrender of the certificates for any shares so called for redemption and not previously converted (properly endorsed or assigned for transfer, if the Board of Directors of the Corporation shall so require and the notice shall so state), such shares shall be redeemed by the Corporation at the date fixed for redemption and at the applicable redemption price set forth in this paragraph F.

(3) In the event of a change in the federal tax law of the United States of America which has the effect of precluding the Corporation from claiming any of the tax deductions for dividends paid on the ESOP Preferred Stock when such dividends are used as provided under Section 404(k)(2) of the Internal Revenue Code of 1986, as amended and in effect on the date shares of ESOP Preferred Stock are initially issued, the Corporation may, within 180 days following the effective date of such tax legislation and implementing regulations of the Internal Revenue Service, if any, in its sole discretion and notwithstanding anything to the contrary in paragraph F(l), elect to redeem any or all such shares for the amount payable in respect of the shares upon liquidation of the Corporation pursuant to paragraph D.

(4) In the event the C&S/Sovran Retirement Savings, ESOP and Profit Sharing Plan (as amended, together with any successor plan, the "Plan") is terminated, the Corporation shall, notwithstanding anything to the contrary in paragraph F(l), redeem all shares of ESOP Preferred Stock for the amount payable in respect of the shares upon redemption of the ESOP Preferred Stock pursuant to paragraph F(1) hereof.

(5) The Corporation, at its option, may make payment of the redemption price required upon redemption of shares of ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such shares and cash, any such shares to be valued for such purpose at their Fair Market Value (as defined in paragraph I(7) hereof).

G. Other Redemption Rights.

Shares of ESOP Preferred Stock shall be redeemed by the Corporation at a price which is the greater of the Conversion Value (as defined in paragraph I) of the ESOP Preferred Stock on the date fixed for redemption or a redemption price of $42.50 per share plus accrued and unpaid dividends thereon to the date fixed for redemption, for shares of Common Stock (any such shares of Common Stock to be valued for such purpose as provided by paragraph F(5) hereof), at the option of the holder, at any time and from time to time upon notice to the Corporation given not less than five (5) business days prior to the date fixed by the Corporation in such notice for such redemption, when and to the extent necessary (i) to provide for distributions required to be made under, or to satisfy an investment election provided to participants in accordance with, the Plan to participants in the Plan or (ii) to make payment of principal, interest or premium due and payable (whether as scheduled or upon acceleration) on any indebtedness incurred by the holder or Trustee under the Plan for the benefit of the Plan.

H. Consolidation, Merger, etc.

(1) In the event that the Corporation shall consummate any consolidation or merger or similar transaction, however named, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting company (including the Corporation and any company that directly or indirectly owns all of the outstanding capital stock of such successor or resulting company) that constitutes "qualifying employer securities" with respect to a holder of ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of ERISA, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of ESOP Preferred Stock of such holder shall be assumed by and shall become preferred stock of such successor or resulting company, having in respect of such company insofar as possible the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by paragraphs F, G and H hereof), and the qualifications,

limitations or restrictions thereon, that the ESOP Preferred Stock had immediately prior to such transaction, except that after such transaction each share of the ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by paragraph E hereof, into the qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election to receive any kind or amount of stock, securities, cash or other property (other than such qualifying employer securities and a cash payment, if applicable, in lieu of fractional shares) receivable upon such transaction (provided that, if the kind or amount of qualifying employer securities receivable upon such transaction is not the same for each non-electing share, then the kind and amount of qualifying employer securities receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non- electing shares). The rights of the ESOP Preferred Stock as preferred stock of such successor or resulting company shall successively be subject to adjustments pursuant to paragraph I hereof after any such transaction as nearly equivalent to the adjustments provided for by such paragraph prior to such transaction. The Corporation shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of the ESOP Preferred Stock shall be assumed and authorized by the successor or resulting company as aforesaid.

(2) In the event that the Corporation shall consummate any consolidation or merger or similar transaction, however named, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph H(l)) and cash payments, if applicable, in lieu of fractional shares, all outstanding shares of ESOP Preferred Stock shall, without any action on the part of the Corporation or any holder thereof (but subject to paragraph H(3)), be deemed converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of ESOP Preferred Stock could have been converted at such time, and each share of ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction (provided that, if the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock,

securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares).

(3) In the event the Corporation shall enter into any agreement providing for any consolidation or merger or similar transaction described in paragraph H(2), then the Corporation shall as soon as practicable thereafter (and in any event at least ten (10) business days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Corporation, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Corporation or the successor of the Corporation, in redemption and retirement of such ESOP Preferred Stock, a cash payment equal to the amount payable in respect of shares of ESOP Preferred Stock upon redemption pursuant to paragraph F(l) hereof. No such notice of redemption shall be effective unless given to the Corporation prior to the close of business on the second business day prior to consummation of such transaction, unless the Corporation or the successor of the Corporation shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Corporation prior to the close of business on the second business day prior to consummation of such transaction.

I. Anti-dilution Adjustments.

(1) In the event the Corporation shall, at any time or from time to time while any of the shares of the ESOP Preferred Stock are outstanding, (i) pay a dividend or make a distribution in respect of the Common Stock in shares of Common Stock, (ii) subdivide the outstanding shares of Common Stock, or (iii) combine the outstanding shares of Common Stock into a smaller number of shares, in each case whether by reclassification of shares, recapitalization of the Corporation (including a recapitalization effected by a merger or consolidation to which paragraph H hereof does not apply) or otherwise, the Conversion Ratio in effect immediately prior to such action shall be adjusted by multiplying such Conversion Ratio by the fraction the numerator of which is the number of shares of Common Stock outstanding immediately before such event and the denominator of which is the number of shares of Common Stock outstanding immediately after such event. An adjustment made pursuant to this paragraph I(1) shall be given effect, upon payment of such a dividend or distribution, as of the record date for the determination of shareholders entitled to receive such dividend or distribution (on a retroactive basis) and in the case of a subdivision or combination shall become effective immediately as of the effective date thereof.

(2) In the event that the Corporation shall, at any time or from time to time while any of the shares of ESOP Preferred Stock are outstanding, issue to holders of shares of Common Stock as a dividend or distribution, including by way of a reclassification of shares or a recapitalization of the Corporation, any right or

warrant to purchase shares of Common Stock (but not including as such a right or warrant any security convertible into or exchangeable for shares of Common Stock) at a purchase price per share less than the Fair Market Value (as hereinafter defined) of a share of Common Stock on the date of issuance of such right or warrant, then, subject to the provisions of paragraphs I(5) and I(6), the Conversion Ratio shall be adjusted by multiplying such Conversion Ratio by the fraction the numerator of which shall be the number of shares of Common Stock outstanding immediately before such issuance of rights or warrants plus the number of shares of Common Stock which could be purchased at the Fair Market Value of a share of Common Stock at the time of such issuance for the maximum aggregate consideration payable upon exercise in full of all such rights or warrants and the denominator of which shall be the number of shares of Common Stock outstanding immediately before such issuance of rights or warrants plus the maximum number of shares of Common Stock that could be acquired upon exercise in full of all such rights and warrants.

(3) In the event the Corporation shall, at any time and from time to time while any of the shares of ESOP Preferred Stock are outstanding, issue, sell or exchange shares of Common Stock (other than pursuant to any right or warrant to purchase or acquire shares of Common Stock (including as such a right or warrant any security convertible into or exchangeable for shares of Common Stock) and other than pursuant to any dividend reinvestment plan or employee or director incentive or benefit plan or arrangement, including any employment, severance or consulting agreement, of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted) for a consideration having a Fair Market Value on the date of such issuance, sale or exchange less than the Fair Market Value of such shares on the date of such issuance, sale or exchange, then, subject to the provisions of paragraphs I(5) and (6), the Conversion Ratio shall be adjusted by multiplying such Conversion Ratio by the fraction the numerator of which shall be the sum of (i) the Fair Market Value of all the shares of Common Stock outstanding on the day immediately preceding the first public announcement of such issuance, sale or exchange plus (ii) the Fair Market Value of the consideration received by the Corporation in respect of such issuance, sale or exchange of shares of Common Stock, and the denominator of which shall be the product of (i) the Fair Market Value of a share of Common Stock on the day immediately preceding the first public announcement of such issuance, sale or exchange multiplied by (ii) the sum of the number of shares of Common Stock outstanding on such day plus the number of shares of Common Stock so issued, sold or exchanged by the Corporation. In the event the Corporation shall, at any time or from time to time while any shares of ESOP Preferred Stock are outstanding, issue, sell or exchange any right or warrant to purchase or acquire shares of Common Stock (including as such a right or warrant any security convertible into or exchangeable for shares of Common Stock), other than any such issuance to holders of shares of Common Stock as a dividend or distribution (including by way of a reclassification of shares or a recapitalization of the Corporation) and other than pursuant to any dividend reinvestment

plan or employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted, for a consideration having a Fair Market Value on the date of such issuance, sale or exchange less than the Non-Dilutive Amount (as hereinafter defined), then, subject to the provisions of paragraphs I(5) and (6), the Conversion Ratio shall be adjusted by multiplying such Conversion Ratio by a fraction the numerator of which shall be the sum of (a) the Fair Market Value of all the shares of Common Stock outstanding on the day immediately preceding the first public announcement of such issuance, sale or exchange plus (b) the Fair Market Value of the consideration received by the Corporation in respect of such issuance, sale or exchange of such right or warrant plus (c) the Fair Market Value at the time of such issuance of the consideration which the Corporation would receive upon exercise in full of all such rights or warrants, and the denominator of which shall be the product of (a) the Fair Market Value of a share of Common Stock on the day immediately preceding the first public announcement of such issuance, sale or exchange multiplied by (b) the sum of the number of shares of Common Stock outstanding on such day plus the maximum number of shares of Common Stock which could be acquired pursuant to such right or warrant at the time of the issuance, sale or exchange of such right or warrant (assuming shares of Common Stock could be acquired pursuant to such right or warrant at such time).

(4) In the event the Corporation shall, at any time or from time to time while any of the shares of ESOP Preferred Stock are outstanding, make any Extraordinary Distribution (as hereinafter defined) in respect of the Common Stock, whether by dividend, distribution, reclassification of shares or recapitalization of the Corporation (including a recapitalization or reclassification effected by a merger or consolidation to which paragraph H hereof does not apply) or effect a Pro Rata Repurchase (as hereinafter defined) of Common Stock, the Conversion Ratio in effect immediately prior to such Extraordinary Distribution or Pro Rata Repurchase shall, subject to paragraphs I(5) and (6), be adjusted by multiplying such Conversion Ratio by a fraction the numerator of which shall be (a) the product of (i) the number of shares of Common Stock outstanding immediately before such Extraordinary Distribution or Pro Rata Repurchase multiplied by (ii) the Fair Market Value (as herein defined) of a share of Common Stock on the Valuation Date (as hereinafter defined) with respect to an Extraordinary Distribution, or on the applicable expiration date (including all extensions thereof) of any tender offer which is a Pro Rata Repurchase, or on the date of purchase with respect to any Pro Rata Repurchase which is not a tender offer, as the case may be, minus (b) the Fair Market Value of the Extraordinary Distribution or the aggregate purchase price of the Pro Rata Repurchase, as the case may be, and the denominator of which shall be the product of (i) the number of shares of Common Stock outstanding immediately before such Extraordinary Distribution or Pro Rata Repurchase minus, in the case of a Pro Rata Repurchase, the number of shares of Common Stock repurchased by the Corporation multiplied by (ii) the Fair Market Value of a share of Common Stock on the record date with respect to an

Extraordinary Distribution or on the applicable expiration date (including all extensions thereof) of any tender offer which is a Pro Rata Repurchase or on the date of purchase with respect to any Pro Rata Repurchase which is not a tender offer, as the case may be. The Corporation shall send each holder of ESOP Preferred Stock (x) notice of its intent to make any Extraordinary Distribution and (y) notice of any offer by the Corporation to make a Pro Rata Repurchase, in each case at the same time as, or as soon as practicable after, such offer is first communicated (including by announcement of a record date in accordance with the rules of any stock exchange on which the Common Stock is listed or admitted to trading) to holders of Common Stock. Such notice shall indicate the intended record date and the amount and nature of such dividend or distribution, or the number of shares subject to such offer for a Pro Rata Repurchase and the purchase price payable by the Corporation pursuant to such offer, as well as the Conversion Ratio and the number of shares of Common Stock into which a share of ESOP Preferred Stock may be converted at such time.

(5) Notwithstanding any other provisions of this paragraph I, the Corporation shall not be required to make any adjustment of the Conversion Ratio unless such adjustment would require an increase or decrease of at least one percent (1%) in the Conversion Ratio. Any lesser adjustment shall be carried forward and shall be made no later than the time of, and together with, the next subsequent adjustment which, together with any adjustment or adjustments so carried forward, shall amount to an increase or decrease of at least one percent (1%) in the Conversion Ratio.

(6) If the Corporation shall make any dividend or distribution on the Common Stock or issue any Common Stock, other capital stock or other security of the Corporation or any rights or warrants to purchase or acquire any such security, which transaction does not result in an adjustment to the Conversion Ratio pursuant to the foregoing provisions of this paragraph I, the Board of Directors of the Corporation shall consider whether such action is of such a nature that an adjustment to the Conversion Ratio should equitably be made in respect of such transaction. If in such case the Board of Directors of the Corporation determines that the adjustment to the Conversion Ratio should be made, an adjustment shall be made effective as of such date, as determined by the Board of Directors of the Corporation. The determination of the Board of Directors of the Corporation as to whether an adjustment to the Conversion Ratio should be made pursuant to the foregoing provisions of this paragraph I(6), and, if so, as to what adjustment should be made and when, shall be final and binding on the Corporation and all shareholders of the Corporation. The Corporation shall be entitled to make such additional adjustments in the Conversion Ratio, in addition to those required by the foregoing provisions of this paragraph I, as shall be necessary in order that any dividend or distribution in shares of capital stock of the Corporation, subdivision, reclassification or combination of shares of stock of the Corporation or any recapitalization of the Corporation shall not be taxable to holders of the Common Stock.

(7) For purposes of this paragraph I, the following definitions shall apply:

"Conversion Value" shall mean the Fair Market Value of the aggregate number of shares of Common Stock into which a share of ESOP Preferred Stock is convertible.

"Extraordinary Distribution" shall mean any dividend or other distribution (effected while any of the shares of ESOP Preferred Stock are outstanding) (a) of cash, where the aggregate amount of such cash dividend and distribution together with the amount of all cash dividends and distributions made during the preceding period of 12 months, when combined with the aggregate amount of all Pro Rata Repurchases (for this purpose, including only that portion of the aggregate purchase price of such Pro Rata Repurchase which is in excess of the Fair Market Value of the Common Stock repurchased as determined on the applicable expiration date (including all extensions thereof) of any tender offer or exchange offer which is a Pro Rata Repurchase, or the date of purchase with respect to any other Pro Rata Repurchase which is not a tender offer or exchange offer made during such period), exceeds Twelve and One- Half percent (12.5%) of the aggregate Fair Market Value of all shares of Common Stock outstanding on the record date for determining the shareholders entitled to receive such Extraordinary Distribution and (b) any shares of capital stock of the Corporation (other than shares of Common Stock), other securities of the Corporation (other than securities of the type referred to in paragraph I(2)), evidence of indebtedness of the Corporation or any other person or any other property (including shares of any subsidiary of the Corporation), or any combination thereof. The Fair Market Value of an Extraordinary Distribution for purposes of paragraph I(4) shall be the sum of the Fair Market Value of such Extraordinary Distribution plus the amount of any cash dividends which are not Extraordinary Distributions made during such twelve- month period and not previously included in the calculation of an adjustment pursuant to paragraph I(4).

"Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Corporation or any other issuer which are publicly traded, the average of the Current Market Prices (as hereinafter defined) of such shares or securities for each day of the Adjustment Period (as hereinafter defined). "Current Market Price" of publicly traded shares of Common Stock or any other class of capital stock or other security of the Corporation or any other issuer for a day shall mean the last reported sales price, regular way, or, in case

no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange Composite Tape or, if such security is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which such security is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on The Nasdaq National Market or, if such security is not quoted on Nasdaq, the average of the closing bid and asked prices on each such day in the over-the-counter market as reported by Nasdaq or, if bid and asked prices for such security on each such day shall not have been reported through Nasdaq, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm selected for such purpose by the Board of Directors of the Corporation or a committee thereof on each trading day during the Adjustment Period. "Adjustment Period" shall mean the period of five (5) consecutive trading days preceding the date as of which the Fair Market Value of a security is to be determined. The "Fair Market Value" of any security which is not publicly traded or of any other property shall mean the fair value thereof as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board of Directors of the Corporation or a committee thereof, or, if no such investment banking or appraisal firm is in the good faith judgment of the Board of Directors or such committee available to make such determination, as determined in good faith by the Board of Directors of the Corporation or such committee.

"Non-Dilutive Amount" in respect of an issuance, sale or exchange by the Corporation of any right or warrant to purchase or acquire shares of Common Stock (including any security convertible into or exchangeable for shares of Common Stock) shall mean the remainder of (a) the product of the Fair Market Value of a share of Common Stock on the day preceding the first public announcement of such issuance, sale or exchange multiplied by the maximum number of shares of Common Stock which could be acquired on such date upon the exercise in full of such rights and warrants (including upon the conversion or exchange of all such convertible or exchangeable securities), whether or not exercisable (or convertible or exchangeable) at such date, minus (b) the aggregate amount payable pursuant to such right or warrant to purchase or acquire such maximum number of shares of Common Stock; provided, however, that in no event shall the Non- Dilutive Amount be less than zero. For purposes of the foregoing sentence, in the case of a security convertible into or exchangeable for shares of Common Stock, the amount payable pursuant to a right or

warrant to purchase or acquire shares of Common Stock shall be the Fair Market Value of such security on the date of the issuance, sale or exchange of such security by the Corporation.

"Pro Rata Repurchase" shall mean any purchase of shares of Common Stock by the Corporation or any subsidiary thereof, whether for cash, shares of capital stock of the Corporation, other securities of the Corporation, evidences of indebtedness of the Corporation or any other person or any other property (including shares of a subsidiary of the Corporation), or any combination thereof, effected while any of the shares of ESOP Preferred Stock are outstanding, pursuant to any tender offer or exchange offer subject to Section 13(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or any successor provision of law, or pursuant to any other offer available to substantially all holders of Common Stock; provided, however, that no purchase of shares by the Corporation or any subsidiary thereof made in open market transactions shall be deemed a Pro Rata Repurchase. For purposes of this paragraph I(7), shares shall be deemed to have been purchased by the Corporation or any subsidiary thereof "in open market transactions" if they have been purchased substantially in accordance with the requirements of Rule 10b-18 as in effect under the Exchange Act, on the date shares of ESOP Preferred Stock are initially issued by the Corporation or on such other terms and conditions as the Board of Directors of the Corporation or a committee thereof shall have determined are reasonably designed to prevent such purchases from having a material effect on the trading market for the Common Stock.

"Valuation Date" with respect to an Extraordinary Distribution shall mean the date that is five (5) business days prior to the record date for such Extraordinary Distribution.

(8) Whenever an adjustment to the Conversion Ratio is required pursuant hereto, the Corporation shall forthwith place on file with the transfer agent for the Common Stock and the ESOP Preferred Stock if there be one, and with the Secretary of the Corporation, a statement signed by two officers of the Corporation, stating the adjusted Conversion Ratio determined as provided herein and the voting rights (as appropriately adjusted) of the ESOP Preferred Stock. Such statement shall set forth in reasonable detail such facts as shall be necessary to show the reason and the manner of computing such adjustment, including any determination of Fair Market Value involved in such computation. Promptly after each adjustment to the Conversion Ratio and the related voting rights of the ESOP Preferred Stock, the Corporation shall mail a notice thereof to each holder of shares of the ESOP Preferred Stock.

J. Ranking; Retirement of Shares.

(1) The ESOP Preferred Stock shall rank (a) senior to the Common Stock as to the payment of dividends and the distribution of assets on liquidation, dissolution and winding-up of the Corporation and (b) unless otherwise provided in the Articles of Incorporation of the Corporation or an amendment to such Articles of Incorporation relating to a subsequent series of Preferred Shares, junior to all other series of Preferred Shares as to the payment of dividends and the distribution of assets on liquidation, dissolution or winding-up.

(2) Any shares of ESOP Preferred Stock acquired by the Corporation by reason of the conversion or redemption of such shares as provided hereby, or otherwise so acquired, shall be retired as shares of ESOP Preferred Stock and restored to the status of authorized but unissued shares of Preferred Shares, undesignated as to series, and may thereafter be reissued as part of a new series of such Preferred Shares as permitted by law.

K. Miscellaneous.

(1) All notices referred to herein shall be in writing, and all notices hereunder shall be deemed to have been given upon the earlier of receipt thereof or three (3) business days after the mailing thereof if sent by registered mail (unless first-class mail shall be specifically permitted for such notice under the terms hereof) with postage prepaid, addressed: (a) if to the Corporation, to its office at Bank of America Corporate Center, Charlotte, North Carolina 28255 (Attention: Treasurer) or to the transfer agent for the ESOP Preferred Stock, or other agent of the Corporation designated as permitted hereby or (b) if to any holder of the ESOP Preferred Stock or Common Stock, as the case may be, to such holder at the address of such holder as listed in the stock record books of the Corporation (which may include the records of any transfer agent for the ESOP Preferred Stock or Common Stock, as the case may be) or (c) to such other address as the Corporation or any such holder, as the case may be, shall have designated by notice similarly given.

(2) The term “Common Stock” as used herein means the Corporation’s Common Stock, as the same existed at the date of filing of the Amendment to the Corporation’s Articles of Incorporation relating to the ESOP Preferred Stock or any other class of stock resulting from successive changes or reclassification of such Common Stock consisting solely of changes in par value, or from par value to no par value. In the event that, at any time as a result of an adjustment made pursuant to paragraph I hereof, the holder of any share of the ESOP Preferred Stock upon thereafter surrendering such shares for conversion shall become entitled to receive any shares or other securities of the Corporation other than shares of Common Stock, the Conversion Ratio in respect of such other shares or securities so receivable upon conversion of shares of ESOP Preferred Stock shall thereafter be adjusted, and shall be subject to further adjustment from time to time, in a manner and on terms as nearly equivalent as practicable to the provisions

with respect to Common Stock contained in paragraph I hereof, and the provisions of paragraphs A through H, J, and K hereof with respect to the Common Stock shall apply on like or similar terms to any such other shares or securities.

(3) The Corporation shall pay any and all stock transfer and documentary stamp taxes that may be payable in respect of any issuance or delivery of shares of ESOP Preferred Stock or shares of Common Stock or other securities issued on account of ESOP Preferred Stock pursuant hereto or certificates representing such shares or securities. The Corporation shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issuance or delivery of shares of ESOP Preferred Stock or Common Stock or other securities in a name other than that in which the shares of ESOP Preferred Stock with respect to which such shares or other securities are issued or delivered were registered, or in respect of any payment to any person with respect to any such shares or securities other than a payment to the registered holder thereof, and shall not be required to make any such issuance, delivery or payment unless and until the person otherwise entitled to such issuance, delivery or payment has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid or is not payable.

(4) In the event that a holder of shares of ESOP Preferred Stock shall not by written notice designate the name in which shares of Common Stock to be issued upon conversion of such shares should be registered or to whom payment upon redemption of shares of ESOP Preferred Stock should be made or the address to which the certificate or certificates representing such shares, or such payment, should be sent, the Corporation shall be entitled to register such shares, and make such payment, in the name of the holder of such ESOP Preferred Stock as shown on the records of the Corporation and to send the certificate or certificates representing such shares, or such payment, to the address of such holder shown on the records of the Corporation.

(5) The Corporation may appoint, and from time to time discharge and change, a transfer agent for the ESOP Preferred Stock. Upon any such appointment or discharge of a transfer agent, the Corporation shall send notice thereof by first-class mail, postage prepaid, to each holder of record of ESOP Preferred Stock.

(c) $2.50 Cumulative Convertible Preferred Stock, Series BB.

A. Designation.

The designation of this series is “$2.50 Cumulative Convertible Preferred Stock, Series BB” (hereinafter referred to as the “Series BB Preferred Stock”), and the initial number of shares constituting such series shall be 20,000,000, which number may be increased or decreased (but not below the number of shares then outstanding) from time to time by the Board of Directors. The Series BB Preferred Stock shall rank prior to each of the Common Stock, the Series B Preferred Stock and the ESOP Preferred

Stock with respect to the payment of dividends and the distribution of assets.

B. Dividend Rights.

(1) The holders of shares of Series BB Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors, out of funds legally available therefor, cumulative preferential cash dividends, accruing from January 1, 1998, at the annual rate of $2.50 per share, and no more, payable quarterly on the first day of January, April, July and October of each year (each of the quarterly periods ending on the last day of March, June, September and December being hereinafter referred to as a "dividend period"). Dividends on the Series BB Preferred Stock shall first become payable on the first day of January, April, July or October, as the case may be, next following the date of issuance; provided, however, that if the first dividend period ends within 20 days of the date of issuance, such initial dividend shall be payable at the completion of the first full dividend period.

(2) Dividends on shares of Series BB Preferred Stock shall be cumulative from January 1, 1998, whether or not there shall be funds legally available for the payment thereof. Accumulations of dividends on the Series BB Preferred Stock shall not bear interest. The Corporation shall not (i) declare or pay or set apart for payment any dividends or distributions on any stock ranking as to dividends junior to the Series BB Preferred Stock (other than dividends paid in shares of such junior stock) or (ii) make any purchase or redemption of, or any sinking fund payment for the purchase or redemption of, any stock ranking as to dividends junior to the Series BB Preferred Stock (other than a purchase or redemption made by issue or delivery of such junior stock) unless all dividends payable on all outstanding shares of Series BB Preferred Stock for all past dividend periods shall have been paid in full or declared and a sufficient sum set apart for payment thereof; provided, however, that any moneys theretofore deposited in any sinking fund with respect to any preferred stock of the Corporation in compliance with the provisions of such sinking fund may thereafter be applied to the purchase or redemption of such preferred stock in accordance with the terms of such sinking fund regardless of whether at the time of such application all dividends payable on all outstanding shares of Series BB Preferred Stock for all past dividend periods shall have been paid in full or declared and a sufficient sum set apart for payment thereof.

(3) All dividends declared on shares of Series BB Preferred Stock and any other class of preferred stock or series thereof ranking on a parity as to dividends with the Series BB Preferred Stock shall be declared pro rata, so that the amounts of dividends declared on the Series BB Preferred Stock and such other preferred stock for the same dividend period, or for the dividend period of the Series BB Preferred Stock ending within the dividend period of such other stock, shall, in all cases, bear to each other the same ratio that accrued dividends on the shares of Series BB Preferred Stock and such other stock bear to

each other.

C. Liquidation Preference.

(1) In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the holders of Series BB Preferred Stock shall be entitled to receive out of the assets of the Corporation available for distribution to shareholders an amount equal to $25 per share plus an amount equal to accrued and unpaid dividends thereon to and including the date of such distribution, and no more, before any distribution shall be made to the holders of any class of stock of the Corporation ranking junior to the Series BB Preferred Stock as to the distribution of assets.

(2) In the event the assets of the Corporation available for distribution to shareholders upon any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to the Series BB Preferred Stock and any other shares of preferred stock of the Corporation ranking on a parity with the Series BB Preferred Stock as to the distribution of assets, the holders of Series BB Preferred Stock and the holders of such other preferred stock shall share ratably in any distribution of assets of the Corporation in proportion to the full respective preferential amounts to which they are entitled.

(3) The merger or consolidation of the Corporation into or with any other corporation, the merger or consolidation of any other corporation into or with the Corporation or the sale of the assets of the Corporation substantially as an entirety shall not be deemed a liquidation, dissolution or winding up of the affairs of the Corporation within the meaning of this paragraph C.

D. Redemption.

(1) The Corporation, at its option, may redeem all or any shares of the Series BB Preferred Stock at any time at a redemption price (the “Redemption Price”) consisting of the sum of (i) $25 per share and (ii) an amount equal to accrued and unpaid dividends thereon to and including the date of redemption.

(2) If less than all the outstanding shares of Series BB Preferred Stock are to be redeemed, the shares to be redeemed shall be selected pro rata as nearly as practicable or by lot, as the Board of Directors may determine.

(3) Notice of any redemption shall be given by first class mail, postage prepaid, mailed not less than 60 nor more than 90 days prior to the date fixed for redemption to the holders of record of the shares of Series BB Preferred Stock to be redeemed, at their respective addresses appearing on the books of the Corporation. Notice so mailed shall be conclusively presumed to have been duly given whether or not actually received. Such notice shall state: (1) the date fixed for redemption; (2) the Redemption Price; (3) the right of the holders of Series BB Preferred Stock to convert such stock into Common Stock until the

close of business on the 15th day prior to the redemption date (or the next succeeding business day, if the 15th day is not a business day); (4) if less than all the shares held by such holder are to be redeemed, the number of shares to be redeemed from such holder; and (5) the place(s) where certificates for such shares are to be surrendered for payment of the Redemption Price. If such notice is mailed as aforesaid, and if on or before the date fixed for redemption funds sufficient to redeem the shares called for redemption are set aside by the Corporation in trust for the account of the holders of the shares to be redeemed, notwithstanding the fact that any certificate for shares called for redemption shall not have been surrendered for cancellation, on and after the redemption date the shares represented thereby so called for redemption shall be deemed to be no longer outstanding, dividends thereon shall cease to accrue, and all rights of the holders of such shares as shareholders of the corporation shall cease, except the right to receive the Redemption Price, without interest, upon surrender of the certificate(s) representing such shares. Upon surrender in accordance with the aforesaid notice of the certificate(s) for any shares so redeemed (duly endorsed or accompanied by appropriate instruments of transfer, if so required by the Corporation in such notice), the holders of record of such shares shall be entitled to receive the Redemption Price, without interest.

(4) At the option of the Corporation, if notice of redemption is mailed as aforesaid, and if prior to the date fixed for redemption funds sufficient to pay in full the Redemption Price are deposited in trust, for the account of the holders of the shares to be redeemed, with a bank or trust company named in such notice doing business in the Borough of Manhattan, the City of New York, State of New York or the City of Charlotte, State of North Carolina and having capital, surplus and undivided profits of at least $3 million, which bank or trust company also may be the Transfer Agent and/or Paying Agent for the Series BB Preferred Stock, notwithstanding the fact that any certificate for shares called for redemption shall not have been surrendered for cancellation, on and after such date of deposit the shares represented thereby so called for redemption shall be deemed to be no longer outstanding, and all rights of the holders of such shares as shareholders of the Corporation shall cease, except the right of the holders thereof to convert such shares in accordance with the provisions of paragraph F at any time prior to the close of business on the 15th day prior to the redemption date (or the next succeeding business day, if the 15th day is not a business day), and the right of the holders thereof to receive out of the funds so deposited in trust the Redemption Price, without interest, upon surrender of the certificate(s) representing such shares. Any funds so deposited with such bank or trust company in respect of shares of Series BB Preferred Stock converted before the close of business on the 15th day prior to the redemption date (or the next succeeding business day, if the 15th day is not a business day) shall be returned to the Corporation upon such conversion. Any funds so deposited with such a bank or trust company which shall remain unclaimed by the holders of shares called for redemption at the end of six years after the

redemption date shall be repaid to the Corporation, on demand, and thereafter the holder of any such shares shall look only to the Corporation for the payment, without interest, of the Redemption Price.

(5) Any provisions of paragraph D or E to the contrary notwithstanding, in the event that any quarterly dividend payable on the Series BB Preferred Stock shall be in arrears and until all such dividends in arrears shall have been paid or declared and set apart for payment, the Corporation shall not redeem any shares of Series BB Preferred Stock unless all outstanding shares of Series BB Preferred Stock are simultaneously redeemed and shall not purchase or otherwise acquire any shares of Series BB Preferred Stock except in accordance with a purchase offer made by the Corporation on the same terms to all holders of record of Series BB Preferred Stock for the purchase of all outstanding shares thereof.

E. Purchase by the Corporation.

(1) Except as provided in paragraph D(5), the Corporation shall be obligated to purchase shares of Series BB Preferred Stock tendered by the holder thereof for purchase hereunder, at a purchase price consisting of the sum of (i) $25 per share and (ii) an amount equal to accrued and unpaid dividends thereon to and including the date of purchase. In order to exercise his right to require the Corporation to purchase his shares of Series BB Preferred Stock, the holder thereof shall surrender the Certificate(s) therefor duly endorsed if the Corporation shall so require or accompanied by appropriate instruments of transfer satisfactory to the Corporation, at the office of the Transfer Agent(s) for the Series BB Preferred Stock, or at such other office as may be designated by the Corporation, together with written notice that such holder irrevocably elects to sell such shares to the Corporation. Shares of Series BB Preferred Stock shall be deemed to have been purchased by the Corporation immediately prior to the close of business on the date such shares are tendered for sale to the Corporation and notice of election to sell the same is received by the Corporation in accordance with the foregoing provisions. As of such date the shares so tendered for sale shall be deemed to be no longer outstanding, dividends thereon shall cease to accrue and all rights of the holder of such shares as a shareholder of the Corporation shall cease, except the right to receive the purchase price.

F. Conversion Rights.

The holders of shares of Series BB Preferred Stock shall have the right, at their option, to convert such shares into shares of Common Stock on the following terms and conditions:

(1) Shares of Series BB Preferred Stock shall be convertible at any time into fully paid and nonassessable shares of Common Stock (calculated as to each conversion to the nearest 1/1,000 of a share) at the initial rate of 6.17215 shares of Common Stock for

each share of Series BB Preferred Stock surrendered for conversion (the "Conversion Rate"). The Conversion Rate shall be subject to adjustment from time to time as hereinafter provided. No payment or adjustment shall be made on account of any accrued and unpaid dividends on shares of Series BB Preferred Stock surrendered for conversion prior to the record date for the determination of shareholders entitled to such dividends or on account of any dividends on the Common Stock issued upon such conversion subsequent to the record date for the determination of shareholders entitled to such dividends. If any shares of Series BB Preferred Stock shall be called for redemption, the right to convert the shares designated for redemption shall terminate at the close of business on the 15th day prior to the redemption date (or the next succeeding business day, if the 15th day is not a business day) unless default be made in the payment of the Redemption Price. In the event of default in the payment of the Redemption Price, the right to convert the shares designated for redemption shall terminate at the close of business on the business day immediately preceding the date that such default is cured.

(2) In order to convert shares of Series BB Preferred Stock into Common Stock, the holder thereof shall surrender the certificate(s) therefor, duly endorsed if the Corporation shall so require, or accompanied by appropriate instruments of transfer satisfactory to the Corporation, at the office of the Transfer Agent(s) for the Series BB Preferred Stock, or at such other office as may be designated by the Corporation, together with written notice that such holder irrevocably elects to convert such shares. Such notice shall also state the name(s) and address(es) in which such holder wishes the certificate(s) for the shares of Common Stock issuable upon conversion to be issued. As soon as practicable after receipt of the certificate(s) representing the shares of Series BB Preferred Stock to be converted and the notice of election to convert the same, the Corporation shall issue and deliver at said office a certificate or certificates for the number of whole shares of Common Stock issuable upon conversion of the shares of Series BB Preferred Stock surrendered for conversion, together with a cash payment in lieu of any fraction of a share, as hereinafter provided, to the person(s) entitled to receive the same. Shares of Series BB Preferred Stock shall be deemed to have been converted immediately prior to the close of business on the date such shares are surrendered for conversion and notice of election to convert the same is received by the Corporation in accordance with the foregoing provisions, and the person(s) entitled to receive the Common Stock issuable upon such conversion shall be deemed for all purposes as record holder(s) of such Common Stock as of such date.

(3) No fractional shares of Common Stock shall be issued upon conversion of any shares of Series BB Preferred Stock. If more than one share of Series BB Preferred Stock is surrendered at one time by the same holder, the number of full shares issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares so surrendered. If the conversion of any shares of Series BB Preferred Stock results in a fractional

share of Common Stock, the Corporation shall pay cash in lieu thereof in an amount equal to such fraction multiplied times the closing price of the Common Stock on the date on which the shares of Series BB Preferred Stock were duly surrendered for conversion, or if such date is not a trading date, on the next succeeding trading date. The closing price of the Common Stock for any day shall mean the last reported sales price regular way on such day or, in case no such sale takes place on such day, the average of the reported closing bid and asked prices, regular way, on the New York Stock Exchange, or, if the Common Stock is not then listed on such Exchange, on the principal national securities exchange on which the Common Stock is listed for trading, or, if not then listed for trading on any national securities exchange, the average of the closing bid and asked prices of the Common Stock as furnished by the National Quotation Bureau, Inc., or if the National Quotation Bureau, Inc. ceases to furnish such information, by a comparable independent securities quotation service.

(4) In the event the Corporation shall at any time (i) pay a dividend or make a distribution to holders of Common Stock in shares of Common Stock, (ii) subdivide its outstanding shares of Common Stock into a larger number of shares, or (iii) combine its outstanding shares of Common Stock into a smaller number of shares, the Conversion Rate in effect at the time of the record date for such dividend or distribution or the effective date of such subdivision or combination shall be adjusted so that the holder of any shares of Series BB Preferred Stock surrendered for conversion after such record date or effective date shall be entitled to receive the number of shares of Common Stock which he would have owned or have been entitled to receive immediately following such record date or effective date had such shares of Series BB Preferred Stock been converted immediately prior thereto.

(5) Whenever the Conversion Rate shall be adjusted as herein provided (i) the Corporation shall forthwith keep available at the office of the Transfer Agent(s) for the Series BB Preferred Stock a statement describing in reasonable detail the adjustment, the facts requiring such adjustment and the method of calculation used; and (ii) the Corporation shall cause to be mailed by first class mail, postage prepaid, as soon as practicable to each holder of record of shares of Series BB Preferred Stock a notice stating that the Conversion Rate has been adjusted and setting forth the adjusted Conversion Rate.

(6) In the event of any consolidation of the Corporation with or merger of the Corporation into any other corporation (other than a merger in which the Corporation is the surviving corporation) or a sale of the assets of the Corporation substantially as an entirety, the holder of each share of Series BB Preferred Stock shall have the right, after such consolidation, merger or sale to convert such share into the number and kind of shares of stock or other securities and the amount and kind of property receivable upon such consolidation, merger or sale by a holder of the number of shares of Common Stock issuable upon conversion of such share of Series BB Preferred Stock immediately prior to such

consolidation, merger or sale. Provision shall be made for adjustments in the Conversion Rate which shall be as nearly equivalent as may be practicable to the adjustments provided for in paragraph F(4). The provisions of this paragraph F(6) shall similarly apply to successive consolidations, mergers and sales.

(7) The Corporation shall pay any taxes that may be payable in respect of the issuance of shares of Common Stock upon conversion of shares of Series BB Preferred Stock, but the Corporation shall not be required to pay any taxes which may be payable in respect of any transfer involved in the issuance of shares of Common Stock in a name other than that in which the shares of Series BB Preferred Stock so converted are registered, and the Corporation shall not be required to issue or deliver any such shares unless and until the person(s) requesting such issuance shall have paid to the Corporation the amount of any such taxes, or shall have established to the satisfaction of the Corporation that such taxes have been paid.

(8) The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock the full number of shares of Common Stock issuable upon the conversion of all shares of Series BB Preferred Stock then outstanding.

(9) In the event that:

(i) The Corporation shall declare a dividend or any other distribution on its Common Stock, payable otherwise than in cash out of retained earnings; or

(ii) The Corporation shall authorize the granting to the holders of its Common Stock of rights to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(iii) The Corporation shall propose to effect any consolidation of the Corporation with or merger of the Corporation with or into any other corporation or a sale of the assets of the company substantially as an entirety which would result in an adjustment under paragraph F(6), the Corporation shall cause to be mailed to the holders of record of Series BB Preferred Stock at least 20 days prior to the applicable date hereinafter specified a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined or (y) the date on which such consolidation, merger or sale is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such consolidation, merger or sale. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, consolidation, merger or sale.

G. Voting Rights.

Holders of Series BB Preferred Stock shall have no voting rights except as required by law and as follows: in the event that any quarterly dividend payable on the Series BB Preferred Stock is in arrears, the holders of Series BB Preferred Stock shall be entitled to vote together with the holders of Common Stock at the Corporation's next meeting of shareholders and at each subsequent meeting of shareholders unless all dividends in arrears have been paid or declared and set apart for payment prior to the date of such meeting. For the purpose of this paragraph G, each holder of Series BB Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which his Series BB Preferred Stock is then convertible.

H. Reacquired Shares.

Shares of Series BB Preferred Stock converted, redeemed, or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

I. No Sinking Fund.

Shares of Series BB Preferred Stock are not subject to the operation of a sinking fund.

4. The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street in the City of Wilmington, County of New Castle. The name of the Corporation's registered agent at such address is The Corporation Trust Company.

5. No holder of any stock of the Corporation of any class now or hereafter authorized shall have any preemptive right to purchase, subscribe for, or otherwise acquire any shares of stock of the Corporation of any class now or hereafter authorized, or any securities exchangeable for or convertible into any such shares, or any warrants or other instruments evidencing rights or options to subscribe for, purchase or otherwise acquire any such shares whether such shares, securities, warrants or other instruments be unissued, or issued and thereafter acquired by the Corporation.

6. To the fullest extent permitted by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation, its shareholders or otherwise for monetary damage for breach of his duty as a director. Any repeal or modification of this Article shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

7. In furtherance and not in limitation of the powers conferred

by law, the Board of Directors of the Corporation is expressly authorized and empowered to make, alter and repeal the Bylaws of the Corporation by a majority vote at any regular or special meeting of the Board of Directors or by written consent, subject to the power of the stockholders of the Corporation to alter or repeal any Bylaws made by the Board of Directors.

8. The Corporation reserves the right at any time from time to time to amend or repeal any provision contained in this Certificate of Incorporation, and to add any other provisions authorized by the laws of the State of Delaware at the time in force; and all rights, preferences and privileges conferred upon stockholders, directors or any other persons by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the rights reserved in this Article.

9. Unless and except to the extent that the Bylaws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot.

10. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation or may be effected by consent in writing in lieu of a meeting of such stockholders only if consents are signed by all stockholders of the Corporation entitled to vote on such action.

IN WITNESS WHEREOF, BankAmerica Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by Hugh L. McColl, Jr., its Chairman of the Board and Chief Executive Officer, and attested to by James W. Kiser, its Secretary, this 28th day of April, 1999.

BANKAMERICA CORPORATION

By: /s/ Hugh L. McColl, Jr.
Hugh L. McColl, Jr.
Chairman of the Board and Chief Executive Officer

ATTEST:

By: /s/ James W. Kiser
James W. Kiser
Secretary

CERTIFICATE OF AMENDMENT

OF

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

BANK OF AMERICA CORPORATION

Bank of America Corporation, a Delaware corporation (the "Corporation"), does hereby certify as follows:

FIRST: That at a meeting of the Board of Directors of the Corporation, resolutions were duly adopted setting forth a proposed amendment of the Amended and Restated Certificate of Incorporation of the Corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of the Corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that Article 3 of the Amended and Restated Certificate of Incorporation of the Corporation be amended by changing the number of shares of stock the Corporation is authorized to issue, so that, as amended, the first sentence of said Article 3 shall be and read as follows:

"3. The number of shares, par value $.01 per share, the Corporation is authorized to issue is Seven Billion Six Hundred Million (7,600,000,000), divided into the following classes:

| Class | Number of Shares |
|---|---|
| Common | 7,500,000,000 |
| Preferred | 100,000,000." |

The balance of said Article 3 shall remain unchanged.

SECOND: That said amendment was duly adopted in accordance with the provisions of Section 242 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be executed by a duly authorized officer on this 26th day of March, 2004.

By: /s/ James H. Hance, Jr.
Name: James H. Hance, Jr.
Title: Vice Chairman and Chief Financial Officer

**CERTIFICATE OF DESIGNATION**

**OF**

**FIXED/ADJUSTABLE RATE CUMULATIVE**

**PREFERRED STOCK**

**OF**

**Bank of America Corporation**

(Pursuant to Section 151 of the Delaware Corporation Law)

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), hereby certifies that the following resolutions were adopted by the Board of Directors of the Corporation (the "Board of Directors") pursuant to the authority of the Board of Directors as required by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on January 28, 2004:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors in accordance with the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, the Board of Directors hereby creates a series of the Corporation's previously authorized preferred stock, without par value (the "Preferred Stock") and hereby states the designation and number thereof and fixes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

(a) Designation. The designation of the series of Preferred Stock shall be "Fixed/Adjustable Rate Cumulative Preferred Stock" (hereinafter called this "Series") and the number of shares constituting this Series is Eight Hundred Five Thousand (805,000).

(b) Dividend Rate.

(1) The holders of shares of this Series shall be entitled to receive dividends thereon at a rate of 6.60% per annum computed on the basis of an issue price thereof of $250 per share, and no more, payable quarterly out of the funds of the Corporation legally available for the payment of dividends. Such dividends shall be cumulative from the date of original issue of such shares and shall be payable, when, as and if declared by the Board, on January 1, April 1, July 1 and October 1 of each year, commencing July 1, 2004 (a "Dividend Payment Date") through April 1, 2006. Each such dividend shall be paid to the holders of record of shares of this Series as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board. Dividends on account of arrears for any past quarters may be declared and paid at any time, without reference to any regular dividend

payment date, to holders of record on such date, not exceeding 45 days preceding the payment date thereof, as may be fixed by the Board.

After April 1, 2006, dividends on this Series will be payable quarterly, as, if and when declared by the Board of Directors or a duly authorized committee thereof on each Dividend Payment Date at the Applicable Rate from time to time in effect. The Applicable Rate per annum for any dividend period beginning on or after April 1, 2006 will be equal to .50% plus the highest of the Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Thirty Year Constant Maturity Rate (each as defined below under "Adjustable Rate Dividends"), as determined in advance of such dividend period. The Applicable Rate per annum for any dividend period beginning on or after April 1, 2006 will not be less than 7.0% nor greater than 13.0% (without taking into account any adjustments as described below in subsection (3) of this Section (b)).

(2) Except as provided below in this paragraph, the "Applicable Rate" per annum for any dividend period beginning on or after April 1, 2006 will be equal to .50% plus the Effective Rate (as defined below), but not less than 7.0% nor greater than 13.0% (without taking into account any adjustments as described below in subsection (3) of this Section (b)). The "Effective Rate" for any dividend period beginning on or after April 1, 2006 will be equal to the highest of the Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Thirty Year Constant Maturity Rate (each as defined below) for such dividend period. In the event that the Corporation determines in good faith that for any reason:

(i) any one of the Treasury Bill Rate, the Ten Year Constant Maturity Rate or the Thirty Year Constant Maturity Rate cannot be determined for any dividend period, then the Effective Rate for such dividend period will be equal to the higher of whichever two of such rates can be so determined;

(ii) only one of the Treasury Bill Rate, the Ten Year Constant Maturity Rate or the Thirty Year Constant Maturity Rate can be determined for any dividend period, then the Effective Rate for such dividend period will be equal to whichever such rate can be so determined; or

(iii) none of the Treasury Bill Rate, the Ten Year Constant Maturity Rate or the Thirty Year Constant Maturity Rate can be determined for any dividend period, then the Effective Rate for the preceding dividend period will be continued for such dividend period.

Except as described below in this paragraph, the "Treasury Bill Rate" for each dividend period will be the arithmetic average of the two most recent weekly per annum market discount rates (or the one weekly per annum market discount rate, if only one such rate is published during the relevant Calendar Period (as defined below)) for three-month U.S. Treasury bills, as published weekly by the Federal Reserve Board (as defined below) during the Calendar Period immediately preceding the last ten calendar days preceding the dividend period for which the dividend rate on this Series is being determined. In the event that the Federal Reserve Board does not publish such a weekly per annum market discount rate during any such Calendar Period, then the Treasury Bill Rate for such dividend period will be the arithmetic average of the two most recent weekly per annum market discount rates (or the one weekly per annum market discount rate, if only one such rate is published during the relevant Calendar Period) for three-month U.S. Treasury bills, as published weekly during such Calendar Period by any Federal Reserve Bank or by any U.S. Government department or agency selected by the Corporation. In the event that a per annum market discount rate for three-month U.S. Treasury bills is not published by the Federal Reserve Board or by any Federal Reserve Bank or by any U.S. Government department or agency during

such Calendar Period, then the Treasury Bill Rate for such dividend period will be the arithmetic average of the two most recent weekly per annum market discount rates (or the one weekly per annum market discount rate, if only one such rate is published during the relevant Calendar Period) for all of the U.S. Treasury bills then having remaining maturities of not less than 80 nor more than 100 days, as published during such Calendar Period by the Federal Reserve Board or, if the Federal Reserve Board does not publish such rates, by any Federal Reserve Bank or by any U.S. Government Department or agency selected by the Corporation. In the event that the Corporation determines in good faith that for any reason no such U.S. Treasury Bill Rates are published as provided above during such Calendar Period, then the Treasury Bill Rate for such dividend period will be the arithmetic average of the per annum market discount rates based upon the closing bids during such Calendar Period for each of the issues of marketable non-interest-bearing U.S. Treasury securities with a remaining maturity of not less than 80 nor more than 100 days from the date of each such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations are not generally available) to the Corporation by at least three recognized dealers in U.S. Government securities selected by the Corporation. In the event that the Corporation determines in good faith that for any reason the Corporation cannot determine the Treasury Bill Rate for any dividend period as provided above in this paragraph, the Treasury Bill Rate for such dividend period will be the arithmetic average of the per annum market discount rates based upon the closing bids during such Calendar Period for each of the issues of marketable interest-bearing U.S. Treasury securities with a remaining maturity of not less than 80 nor more than 100 days, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations are not generally available) to the Corporation by at least three recognized dealers in U.S. Government securities selected by the Corporation.

Except as described below in this paragraph, the “Ten Year Constant Maturity Rate” for each dividend period will be the arithmetic average of the two most recent weekly per annum Ten Year Average Yields (as defined below) (or the one weekly per annum Ten Year Average Yield, if only one such yield is published during the relevant Calendar Period), as published weekly by the Federal Reserve Board during the Calendar Period immediately preceding the last ten calendar days preceding the dividend period for which the dividend rate on this Series is being determined. In the event that the Federal Reserve Board does not publish such a weekly per annum Ten Year Average Yield during such Calendar Period, then the Ten Year Constant Maturity Rate for such dividend period will be the arithmetic average of the two most recent weekly per annum Ten Year Average Yields (or the one weekly per annum Ten Year Average Yield, if only such yield is published during the relevant Calendar Period), as published weekly during such Calendar Period by any Federal Reserve Bank or by any U.S. Government department or agency selected by the Corporation. In the event that a per annum Ten Year Average Yield is not published by the Federal Reserve Board or by any Federal Reserve Bank or by any U.S. Government department or agency during such Calendar Period, then the Ten Year Constant Maturity Rate for such dividend period will be the arithmetic average of the two most recent weekly per annum average yields to maturity (or the one weekly per annum average yield to maturity, if only one such yield is published during the relevant Calendar Period) for all of the actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities (as defined below)) then having remaining maturities of not less than eight nor more than twelve years, as published during such Calendar Period by the Federal Reserve Board or, if the Federal Reserve Board does not publish such yields, by any Federal Reserve Bank or by any U.S. Government department or agency selected by the

Corporation. In the event that the Corporation determines in good faith that for any reason the Corporation cannot determine the Ten Year Constant Maturity Rate for any dividend period as provided above in this paragraph, then the Ten Year Constant Maturity Rate for such dividend period will be the arithmetic average of the per annum average yields to maturity based upon the closing bids during such Calendar Period for each of the issues of actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) with a final maturity date not less than eight nor more than twelve years from the date of each such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations are not generally available) to the Corporation by at least three recognized dealers in U.S. Government securities selected by the Corporation.

Except as described below in this paragraph, the "Thirty Year Constant Maturity Rate" for each dividend period will be the arithmetic average of the two most recent weekly per annum Thirty Year Average Yields (as defined below) (or the one weekly per annum Thirty Year Yield, if only one such yield is published during the relevant Calendar Period), as published weekly by the Federal Reserve Board during the Calendar Period immediately preceding the last ten calendar days preceding the dividend period for which the dividend rate on this Series is being determined. In the event that the Federal Reserve Board does not publish such a weekly per annum Thirty Year Average Yield during such Calendar Period, then the Thirty Year Constant Maturity Rate for such dividend period will be the arithmetic average of the two most recent weekly per annum Thirty Year Average Yields (or the one weekly per annum Thirty Year Average Yield, if only one such yield is published during the relevant Calendar Period), as published weekly during such Calendar Period by any Federal Reserve Bank or by any U.S. Government department or agency selected by the Corporation. In the event that a per annum Thirty Year Average Yield is not published by the Federal Reserve Board or by any Federal Reserve Bank or by any U.S. Government department or agency during such Calendar Period, then the Thirty Year Constant Maturity Rate for such dividend period will be the arithmetic average of the two most recent weekly per annum average yields to maturity (or the one weekly per annum average yield to maturity, if only one such yield is published during the relevant Calendar Period) for all of the actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) then having remaining maturities of not less than twenty-eight nor more than thirty years, as published during such Calendar Period by the Federal Reserve Board or, if the Federal Reserve Board does not publish such yields, by any Federal Reserve Bank or by any U.S. Government department or agency selected by the Corporation. In the event that the Corporation determines in good faith that for any reason the Corporation cannot determine the Thirty Year Constant Maturity Rate for any dividend period as provided above in this paragraph, then the Thirty Year Constant Maturity Rate for such dividend period will be the arithmetic average of the per annum average yields to maturity based upon the closing bids during such Calendar Period for each of the issues of actively traded marketable U.S. Treasury fixed interest rate securities (other than Special Securities) with a final maturity date not less than twenty-eight nor more than thirty years from the date of such quotation, as chosen and quoted daily for each business day in New York City (or less frequently if daily quotations are not generally available) to the Corporation by at least three recognized dealers in U.S. Government securities selected by the Corporation.

The Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Thirty Year Constant Maturity Rate will each be rounded to the nearest five hundredths of a percent.

The Applicable Rate with respect to each dividend period beginning on or after April 1, 2006 will be calculated as promptly as practicable by the Corporation according to the appropriate method described above. The Corporation will cause notice of each Applicable Rate to be enclosed with the dividend payment checks next mailed to the holders of this Series.

As used above, the term "Calendar Period" means a period of fourteen calendar days; the term "Federal Reserve Board" means the Board of Governors of the Federal Reserve System; the term "Special Securities" means securities which can, at the option of the holder, be surrendered at face value in payment of any Federal estate tax or which provide tax benefits to the holder and are priced to reflect such tax benefits or which were originally issued at a deep or substantial discount; the term "Ten Year Average Yield" means the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years); and the term "Thirty Year Average Yield" means the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of thirty years.)

(3) If one or more amendments to the Internal Revenue Code of 1986, as amended (the "Code"), are enacted that change the percentage of the dividends received deduction (currently 70%) as specified in Section 243(a)(1) of the Code or any successor provision (the "Dividends Received Percentage"), the amount of each dividend payable per share of this Series for dividend payments made on or after the date of enactment of such change shall be adjusted by multiplying the amount of the dividend payable determined as described above (before adjustment) by a factor which shall be the number determined in accordance with the following formula (the "DRD Formula"), and rounding the result to the nearest cent:

$$1 - .35(1 - .70)/1 - .35(1 - \text{DRP})$$

For the purposes of the DRD Formula, "DRP" means the Dividends Received Percentage applicable to the dividend in question. No amendment to the Code, other than a change in the percentage of the dividends received deduction set forth in Section 243(a)(1) of the Code or any successor provision, will give rise to an adjustment. Notwithstanding the foregoing provisions, in the event that, with respect to any such amendment, the Corporation shall receive either an unqualified opinion of independent recognized tax counsel or a private letter ruling or similar form of authorization from the Internal Revenue Service to the effect that such an amendment would not apply to dividends payable on shares of this Series, then any such amendment shall not result in the adjustment provided for pursuant to the DRD Formula. The Corporation's calculation of the dividends payable as so adjusted and as certified accurate as to calculation and reasonable as to method by the independent certified public accountants then regularly engaged by the Corporation shall be final and not subject to review.

If any amendment to the Code which reduces the Dividends Received Percentage is enacted after a dividend payable on a Dividend Payment Date has been declared, the amount of dividend payable on such Dividend Payment Date will not be increased; but instead, an amount, equal to the excess of (x) the product of the dividends paid by the Corporation on such Dividend Payment Date and the DRD Formula (where the DRP used in the DRD Formula would be equal to the reduced Dividends Received Percentage) and (y) the dividends paid by the Corporation on such Dividend

Payment Date, will be payable to holders of record on the next succeeding Dividend Payment Date in addition to any other amounts payable on such date.

(4) No full dividends shall be declared or paid or set apart for payment on the Preferred Stock of any series ranking, as to dividends, on a parity with or junior to this Series for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for such payment on this Series for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of this Series and any other preferred stock ranking on a parity as to dividends with this Series, all dividends declared upon shares of this Series and any other class or series of preferred stock of the Corporation ranking on a parity as to dividends with this Series shall be declared pro rata so that the amount of dividends declared per share on this Series and such other preferred stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of this Series and such other preferred stock bear to each other. Holders of shares of this Series shall not be entitled to any dividend, whether payable in cash, property or stocks, in excess of full cumulative dividends, as herein provided, on this Series. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on this Series which may be in arrears.

(5) So long as any shares of this Series are outstanding, no dividend (other than a dividend in Common Stock or in any other stock ranking junior to this Series as to dividends and upon liquidation and other than as provided in subsection (4) of this Section (b)) shall be declared or paid or set aside for payment or other distribution declared or made upon the Common Stock or upon any other stock ranking junior to or on a parity with this Series as to dividends or upon liquidation, nor shall any Common Stock nor any other stock of the Corporation ranking junior to or on a parity with this Series as to dividends or upon liquidation be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Corporation (except by conversion into or exchange for stock of the Corporation ranking junior to this Series as to dividends and upon liquidation) unless, in each case, the full cumulative dividends on all outstanding shares of this Series shall have been paid for all past dividend payment periods.

(6) Dividends payable on this Series for any period shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(c) Redemption.

(1) (A) The shares of this Series shall not be redeemable prior to April 1, 2006. On and after April 1, 2006, the Corporation, at its option, may redeem shares of this Series, in whole or in part, at any time or from time to time, at a redemption price or $250 per share, plus accrued and unpaid dividends thereon to the date fixed for redemption.

(B) In the event that fewer than all the outstanding shares of this Series are to be redeemed pursuant to subsection (1)(A), the number of shares to be redeemed shall be determined by the Board and the shares to be redeemed shall be determined by lot or pro rata as may be determined

by the Board or by any other method as may be determined by the Board in its sole discretion to be equitable.

(2) (A) Notwithstanding subsection (1) above, if the Dividends Received Percentage is equal to or less than 40% and, as a result, the amount of dividends on the shares of this Series payable on any Dividend Payment Date will be or is adjusted upwards as described in Section (b)(2) above, the Corporation, at its Option, may redeem all, but not less than all, of the outstanding shares of this Series; provided, that within sixty days of the date on which an amendment to the Code is enacted which reduces the Dividends Received Percentage to 40% or less, the Corporation sends notice to holders of shares of this Series of such redemption in accordance with subsection (3) below.

(B) Any redemption of this Series in accordance with this subsection (2) shall be at the applicable redemption price set forth in the following table, in each case plus accrued and unpaid dividends (whether or not declared) thereon to the date fixed for redemption, including any changes in dividends payable due to changes in the Dividends Received Percentage.

| Redemption Period | Redemption Price Per Share | Redemption Price Per Depositary Share |
|---|---|---|
| April 2, 2004 to March 31, 2005 | 252.50 | 50.50 |
| April 1, 2005 to March 31, 2006 | 251.25 | 50.25 |
| On or after April 1, 2006 | 250.00 | 50.00 |

(3) In the event the Corporation shall redeem shares of this Series pursuant to subsections (1) or (2) above, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the redemption date, to each holder of record of the shares to be redeemed, at such holder's address as the same appears on the stock register of the Corporation. Each such notice shall state: (i) the redemption date; (ii) the number of shares of this Series to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on such redemption date.

(4) Notice having been mailed as aforesaid, from and after the redemption date (unless default shall be made by the Corporation in providing money for the payment of the redemption price) dividends on the shares of this Series so called for redemption under either subsection (1) or (2) above shall cease to accrue, and said shares shall no longer be deemed to be outstanding, and all rights of the holders thereof as stockholders of the Corporation (except the right to receive from the Corporation the redemption price) shall cease. Upon surrender in accordance with said notice of the certificates for any shares so redeemed (properly endorsed or assigned for transfer, if the Board shall so require and the notice shall so state), such shares shall be redeemed by the Corporation at the applicable redemption price. In case fewer than all the shares represented by

any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof.

(5) Notwithstanding the foregoing provisions of this Section (c), if any dividends on this Series are in arrears, no shares of this Series shall be redeemed unless all outstanding shares of this Series are simultaneously redeemed, and the Corporation shall not purchase or otherwise acquire any shares of this Series; provided, however, that the foregoing shall not prevent the purchase or acquisition of shares of this Series pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding shares of this Series.

(d) Liquidation Rights.

(1) Upon the dissolution, liquidation or winding up of the Corporation, the holders of the shares of this Series shall be entitled to receive and be paid out of the assets of the Corporation available for distribution to its stockholders, before any payment or distribution shall be made on the Common Stock or on any other class of stock ranking junior to the shares of this Series upon liquidation, the amount of $250 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(2) Neither the sale of all or substantially all the property or business of the Corporation nor the merger or consolidation of the Corporation into or with any other corporation or the merger or consolidation of any other corporation into or with the Corporation, shall be deemed to be a dissolution, liquidation or winding up, voluntary or involuntary, for the purposes of this Section (d).

(3) After the payment to the holders of the shares of this Series of the full preferential amounts provided for in this Section (d), the holders of this Series as such shall have no right or claim to any of the remaining assets of the Corporation.

(4) In the event the assets of the Corporation available for distribution to the holders of shares of this Series upon any dissolution, liquidation or winding up of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (1) of this Section (d), no such distribution shall be made on account of any shares of any other class or series of Preferred Stock ranking on a parity with the shares of this Series upon such dissolution, liquidation or winding up unless proportionate distributive amounts shall be paid on account of the shares of this Series, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation or winding up.

(e) Conversion or Exchange. The holders of shares of this Series shall not have any rights herein to convert such shares into or exchange such shares for shares of any other class or classes or of any other series of any class or classes of capital stock of the Corporation.

(f) Voting. The shares of this Series shall not have any voting powers, either general or special, except that:

(1) Unless the vote or consent of the holders of a greater number of shares shall then be required by law, the consent of the holders of at least 66 2/3% of all of the shares of this Series at the time outstanding, given in person or by proxy, either in writing or by a vote at a meeting called for the purpose at which the holders of shares of this Series shall vote together as a separate class, shall be necessary for authorizing, effecting or validating the amendment, alteration or repeal of any of the provisions of the Corporation's Amended and Restated Certificate of Incorporation or of any certificate amendatory thereof or supplemental thereto (including any Certificate of the Voting Powers, Designations, Preferences and Relative, Participating, Optional or Other Special Rights, and the Qualifications, Limitations or Restrictions thereof, or any similar document relating to any series of Preferred Stock) which would adversely affect the preferences, rights, powers or privileges of this Series;

(2) Unless the vote or consent of the holders of a greater number of shares shall then be required by law, the consent of the holders of at least 66 2/3% of all of the shares of this Series and all other series of Preferred Stock ranking on a parity with shares of this Series, either as to dividends or upon liquidation, at the time outstanding, given in person or by proxy, either in writing or by a vote at a meeting called for the purpose at which the holders of shares of this Series and such other series of Preferred Stock shall vote together as a single class without regard to series, shall be necessary for authorizing, effecting, increasing or validating the creation, authorization or issue of any shares of any class of stock of the Corporation ranking prior to the shares of this Series as to dividends or upon liquidation, or the reclassification of any authorized stock of the Corporation into any such prior shares, or the creation, authorization or issue of any obligation or security convertible into or evidencing the right to purchase any such prior shares.

(3) If, at the time of any annual meeting of stockholders for the election of directors, a default in preference dividends on any series of the Preferred Stock or any other class or series of preferred stock of the Corporation (other than any other class or series of the Corporation's preferred stock expressly entitled to elect additional directors to the Board by a vote separate and distinct from the vote provided for in this paragraph (3) ("Voting Preferred")) shall exist, the number of directors constituting the Board shall be increased by two (without duplication of any increase made pursuant to the terms of any other class or series of the Corporation's preferred stock other than any Voting Preferred) and the holders of the Corporation's preferred stock of all classes and series (other than any such Voting Preferred) shall have the right at such meeting, voting together as a single class without regard to class or series, to the exclusion of the holders of Common Stock and the Voting Preferred, to elect two directors of the Corporation to fill such newly created directorships. Such right shall continue until there are no dividends in arrears upon shares of any class or series of the Corporation's preferred stock ranking prior to or on a parity with shares of this Series as to dividends (other than any Voting Preferred). Each director elected by the holders of shares of any series of the Preferred Stock or any other class or series of the Corporation's preferred stock in an election provided for by this paragraph (3) (herein called a "Preferred Director") shall continue to serve as such director for the full term for which he shall have been elected, notwithstanding that prior to the end of such term a default in preference dividends shall cease to exist. Any Preferred Director may be removed by, and shall not be removed except by, the vote of the holders of record of the outstanding shares of the Corporation's preferred stock entitled to have originally voted for such director's election, voting together as a single class without regard to class or series, at a meeting of the stockholders, or of the holders of

shares of the Corporation's preferred stock, called for that purpose. So long as a default in any preference dividends on any series of the Preferred Stock or any other class or series of preferred stock of the Corporation shall exist (other than any Voting Preferred) (A) any vacancy in the office of a Preferred Director may be filled (except as provided in the following clause (B)) by an instrument in writing signed by the remaining Preferred Director and filed with the Corporation and (B) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding shares of the Corporation's preferred stock entitled to have originally voted for the removed director's election, voting together as a single class without regard to class or series, at the same meeting at which such removal shall be voted. Each director appointed as aforesaid shall be deemed for all purposes hereto to be a Preferred Director. Whenever the term of office of the Preferred Directors shall end and a default in preference dividends shall no longer exist, the number of directors constituting the Board shall be reduced by two. For purposes hereof, a "default in preference dividends" on any series of the Preferred Stock or any other class or series of preferred stock of the Corporation shall be deemed to have occurred whenever the amount of accrued dividends upon such class or series of the Corporation's preferred stock shall be equivalent to six full quarterly dividends or more, and, having so occurred, such default shall be deemed to exist thereafter until, but only until, all accrued dividends on all such shares of the Corporation's preferred stock of each and every series then Outstanding (other than any Voting Preferred or shares of any class or series ranking junior to shares of this Series as to dividends) shall have been paid to the end of the last preceding quarterly dividend period.

(4) Without limiting the foregoing, under any circumstances in which the Series would have additional rights under Rhode Island law if the Corporation were incorporated under the Rhode Island Business Corporation Act (rather than the Delaware General Corporation Law), holders of shares of the Series shall be entitled to such rights, including, without limitation, voting rights under Chapter 7-1.1-55, voting and notice rights under Chapter 7-1.1-67 and dissenters' rights under Chapters 7-1.1-73 and 7-1.1-74 of the Rhode Island Business Corporation Act (as such Chapters may be amended from time to time).

(g) Reacquired Shares. Shares of this Series which have been issued and reacquired through redemption or purchase shall, upon compliance with an applicable provision of the Delaware General Corporation Law, have the status of authorized and unissued shares of Preferred Stock and may be reissued but only as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board.

(h) Relation to Existing Preferred Classes of Stock. Shares of this Series are equal in rank and preference with all other series of the Preferred Stock (other than the ESOP Convertible Preferred Stock, Series C) outstanding on the date of original issue of the shares of this Series and are senior in rank and preference to the Common Stock and the ESOP Convertible Preferred Stock, Series C of the Corporation.

(i) Relation to Other Preferred Classes of Stock. For purposes of this resolution, any stock of any class or classes of the Corporation shall be deemed to rank:

(1) prior to the shares of this Series, either as to dividends or upon liquidation, if the holders of such class or classes shall be entitled to the receipt of dividends or of amounts

distributable upon dissolution, liquidation or winding up of the Corporation, as the case may be, in preference or priority to the holders of shares of this Series;

(2) on a parity with shares of this Series, either as to dividends or upon liquidation, whether or not the dividend rates, dividend payment dates or redemption or liquidation prices per share or sinking fund provisions, if any, be different from those of this Series, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up of the Corporation, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of this Series; and

(3) junior to the shares of this Series, either as to dividends or upon liquidation, if such class shall be Common Stock or if the holders of shares of this Series shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up of the Corporation, as the case may be, in preference or priority to the holders of shares of such class or classes.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be duly executed by James H. Hance, Jr., its Vice Chairman and Chief Financial Officer, and attested to by Rachel R. Cummings, its Corporate Secretary, and has caused the corporate seal to be affixed hereto, this 26th day of March, 2004.

BANK OF AMERICA CORPORATION

By: /s/ James H. Hance, Jr.
Vice Chairman and Chief Financial Officer

ATTEST:

/s/ Rachel R. Cummings
Corporate Secretary

(Corporate Seal)

**CERTIFICATE OF DESIGNATION**

**OF**

**6.75% PERPETUAL PREFERRED STOCK**

**OF**

**BANK OF AMERICA CORPORATION**

(Pursuant to Section 151 of the Delaware Corporation Law)

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), hereby certifies that the following resolutions were adopted by the Board of Directors of the Corporation (the "Board of Directors") pursuant to the authority of the Board of Directors as required by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on January 28, 2004:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors in accordance with the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, the Board of Directors hereby creates a series of the Corporation's previously authorized preferred stock, without par value (the "Preferred Stock") and hereby states the designation and number thereof and fixes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

(a) Designation. The designation of the series of Preferred Stock shall be "6.75% Perpetual Preferred Stock" (hereinafter called this "Series") and the number of shares constituting this Series is Six Hundred Ninety Thousand (690,000).

(b) Dividend Rate.

(1) The holders of shares of this Series shall be entitled to receive dividends thereon at a rate of 6.75% per annum computed on the basis of an issue price thereof of $250 per share, and no more, payable quarterly out of the funds of the Corporation legally available for the payment of dividends. Such dividends shall be cumulative from the date of original issue of such shares and shall be payable, when, as and if declared by the Board, on January 15, April 15, July 15 and October 15 of each year, commencing April 15, 2004 (a "Dividend Payment Date"). Each such dividend shall be paid to the holders of record of shares of this Series as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date

thereof, as shall be fixed by the Board. Dividends on account of arrears for any past quarters may be declared and paid at any time, without reference to any regular dividend payment date, to holders of record on such date, not exceeding 45 days preceding the payment date thereof, as may be fixed by the Board.

(2) If one or more amendments to the Internal Revenue Code of 1986, as amended (the "Code"), are enacted that change the percentage of the dividends received deduction (currently 70%) as specified in Section 243(a)(1) of the Code or any successor provision (the "Dividends Received Percentage"), the amount of each dividend payable per share of this Series for dividend payments made on or after the date of enactment of such change shall be adjusted by multiplying the amount of the dividend payable determined as described above (before adjustment) by a factor which shall be the number determined in accordance with the following formula (the "DRD Formula"), and rounding the result to the nearest cent:

$$1 - .35(1 - .70)/1 - .35(1 - \text{DRP})$$

For the purposes of the DRD Formula, "DRP" means the Dividends Received Percentage applicable to the dividend in question. No amendment to the Code, other than a change in the percentage of the dividends received deduction set forth in Section 243(a)(1) of the Code or any successor provision, will give rise to an adjustment. Notwithstanding the foregoing provisions, in the event that, with respect to any such amendment, the Corporation shall receive either an unqualified opinion of independent recognized tax counsel or a private letter ruling or similar form of authorization from the Internal Revenue Service to the effect that such an amendment would not apply to dividends payable on shares of this Series, then any such amendment shall not result in the adjustment provided for pursuant to the DRD Formula. The Corporation's calculation of the dividends payable as so adjusted and as certified accurate as to calculation and reasonable as to method by the independent certified public accountants then regularly engaged by the Corporation shall be final and not subject to review.

If any amendment to the Code which reduces the Dividends Received Percentage is enacted after a dividend payable on a Dividend Payment Date has been declared, the amount of dividend payable on such Dividend Payment Date will not be increased; but instead, an amount, equal to the excess of (x) the product of the dividends paid by the Corporation on such Dividend Payment Date and the DRD Formula (where the DRP used in the DRD Formula would be equal to the reduced Dividends Received Percentage) and (y) the dividends paid by the Corporation on such Dividend Payment Date, will be payable to holders of record on the next succeeding Dividend Payment Date in addition to any other amounts payable on such date.

(3) No full dividends shall be declared or paid or set apart for payment on the Preferred Stock of any series ranking, as to dividends, on a parity with or junior to this Series for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the

payment thereof set apart for such payment on this Series for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of this Series and any other preferred stock ranking on a parity as to dividends with this Series, all dividends declared upon shares of this Series and any other class or series of preferred stock of the Corporation ranking on a parity as to dividends with this Series shall be declared pro rata so that the amount of dividends declared per share on this Series and such other preferred stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of this Series and such other preferred stock bear to each other. Holders of shares of this Series shall not be entitled to any dividend, whether payable in cash, property or stocks, in excess of full cumulative dividends, as herein provided, on this Series. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on this Series which may be in arrears.

(4) So long as any shares of this Series are outstanding, no dividend (other than a dividend in Common Stock or in any other stock ranking junior to this Series as to dividends and upon liquidation and other than as provided in subsection (3) of this Section (b)) shall be declared or paid or set aside for payment or other distribution declared or made upon the Common Stock or upon any other stock ranking junior to or on a parity with this Series as to dividends or upon liquidation, nor shall any Common Stock nor any other stock of the Corporation ranking junior to or on a parity with this Series as to dividends or upon liquidation be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Corporation (except by conversion into or exchange for stock of the Corporation ranking junior to this Series as to dividends and upon liquidation) unless, in each case, the full cumulative dividends on all outstanding shares of this Series shall have been paid for all past dividend payment periods.

(5) Dividends payable on this Series for any period shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(c) Redemption.

(1) (A) The shares of this Series shall not be redeemable prior to April 15, 2006. On and after April 15, 2006, the Corporation, at its option, may redeem shares of this Series, in whole or in part, at any time or from time to time, at a redemption price of $250 per share, plus accrued and unpaid dividends thereon to the date fixed for redemption.

(B) In the event that fewer than all the outstanding shares of this Series are to be redeemed pursuant to subsection (1)(A), the number of shares to be redeemed shall be determined by the Board and the shares to be redeemed shall be determined by lot or pro rata as may be determined by the Board or by any other method as may be determined by the Board in its sole discretion to be equitable.

(2) (A) Notwithstanding subsection (1) above, if the Dividends Received Percentage is equal to or less than 40% and, as a result, the amount of dividends on the shares of this Series payable on any Dividend Payment Date will be or is adjusted upwards as described in Section (b)(2) above, the Corporation, at its option, may redeem all, but not less than all, of the outstanding shares of this Series; provided, that within sixty days of the date on which an amendment to the Code is enacted which reduces the Dividends Received Percentage to 40% or less, the Corporation sends notice to holders of shares of this Series of such redemption in accordance with subsection (3) below.

(B) Any redemption of the Perpetual Preferred Stock in accordance with this subsection (2) shall be at the applicable redemption price set forth in the following table, in each case plus accrued and unpaid dividends (whether or not declared) thereon to the date fixed for redemption, including any changes in dividends payable due to changes in the Dividends Received Percentage.

| Redemption Period | Redemption Price Per Share | Redemption Price Per Depositary Share |
|---|---|---|
| April 2, 2004 to April 14, 2004 | 253.75 | 50.75 |
| April 15, 2004 to April 14, 2005 | 252.50 | 50.50 |
| April 15, 2005 to April 14, 2006 | 251.25 | 50.25 |
| On or after April 15, 2006 | 250.00 | 50.00 |

(3) In the event the Corporation shall redeem shares of this Series pursuant to subsections (1) or (2) above, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the redemption date, to each holder of record of the shares to be redeemed, at such holder's address as the same appears on the stock register of the Corporation. Each such notice shall state: (i) the redemption date; (ii) the number of shares of this Series to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on such redemption date.

(4) Notice having been mailed as aforesaid, from and after the redemption date (unless default shall be made by the Corporation in providing money for the payment of the redemption price) dividends on the shares of this Series so called for redemption under either subsection (1) or (2) above shall cease to accrue, and said shares shall no longer be deemed to be outstanding, and all rights of the holders thereof as stockholders of the Corporation (except the right to receive from the Corporation the redemption price) shall cease. Upon surrender in accordance with said notice of the certificates for any shares so redeemed (properly endorsed or assigned for transfer, if the Board shall so require and the notice shall so state), such shares shall be redeemed by the Corporation at the applicable redemption price. In case fewer than all the shares represented by

any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof.

(5) Notwithstanding the foregoing provisions of this Section (c), if any dividends on this Series are in arrears, no shares of this Series shall be redeemed unless all outstanding shares of this Series are simultaneously redeemed, and the Corporation shall not purchase or otherwise acquire any shares of this Series; provided, however, that the foregoing shall not prevent the purchase or acquisition of shares of this Series pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding shares of this Series.

(d) Liquidation Rights.

(1) Upon the dissolution, liquidation or winding up of the Corporation, the holders of the shares of this Series shall be entitled to receive and be paid out of the assets of the Corporation available for distribution to its stockholders, before any payment or distribution shall be made on the Common Stock or on any other class of stock ranking junior to the shares of this Series upon liquidation, the amount of $250 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(2) Neither the sale of all or substantially all the property or business of the Corporation nor the merger or consolidation of the Corporation into or with any other corporation or the merger or consolidation of any other corporation into or with the Corporation, shall be deemed to be a dissolution, liquidation or winding up, voluntary or involuntary, for the purposes of this Section (d).

(3) After the payment to the holders of the shares of this Series of the full preferential amounts provided for in this Section (d), the holders of this Series as such shall have no right or claim to any of the remaining assets of the Corporation.

(4) In the event the assets of the Corporation available for distribution to the holders of shares of this Series upon any dissolution, liquidation or winding up of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (1) of this Section (d), no such distribution shall be made on account of any shares of any other class or series of Preferred Stock ranking on a parity with the shares of this Series upon such dissolution, liquidation or winding up unless proportionate distributive amounts shall be paid on account of the shares of this Series, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation or winding up.

(e) Conversion or Exchange. The holders of shares of this Series shall not have any rights herein to convert such shares into or exchange such shares for shares of any other class or classes or of any other series of any class or classes of capital stock of the Corporation.

(f) Voting. The shares of this Series shall not have any voting powers, either general or special, except that:

(1) Unless the vote or consent of the holders of a greater number of shares shall then be required by law, the consent of the holders of at least 66 2/3% of all of the shares of this Series at the time outstanding, given in person or by proxy, either in writing or by a vote at a meeting called for the purpose at which the holders of shares of this Series shall vote together as a separate class, shall be necessary for authorizing, effecting or validating the amendment, alteration or repeal of any of the provisions of the Corporation's Amended and Restated Certificate of Incorporation or of any certificate amendatory thereof or supplemental thereto (including any Certificate of the Voting Powers, Designations, Preferences and Relative, Participating, Optional or Other Special Rights, and the Qualifications, Limitations or Restrictions thereof, or any similar document relating to any series of Preferred Stock) which would adversely affect the preferences, rights, powers or privileges of this Series;

(2) Unless the vote or consent of the holders of a greater number of shares shall then be required by law, the consent of the holders of at least 66 2/3% of all of the shares of this Series and all other series of Preferred Stock ranking on a parity with shares of this Series, either as to dividends or upon liquidation, at the time outstanding, given in person or by proxy, either in writing or by a vote at a meeting called for the purpose at which the holders of shares of this Series and such other series of Preferred Stock shall vote together as a single class without regard to series, shall be necessary for authorizing, effecting, increasing or validating the creation, authorization or issue of any shares of any class of stock of the Corporation ranking prior to the shares of this Series as to dividends or upon liquidation, or the reclassification of any authorized stock of the Corporation into any such prior shares, or the creation, authorization or issue of any obligation or security convertible, into or evidencing the right to purchase any such prior shares.

(3) If, at the time of any annual meeting of stockholders for the election of directors, a default in preference dividends on any series of the Preferred Stock or any other class or series of preferred stock of the Corporation (other than any other class or series of the Corporation's preferred stock expressly entitled to elect additional directors to the Board by a vote separate and distinct from the vote provided for in this paragraph (3) ("Voting Preferred")) shall exist, the number of directors constituting the Board shall be increased by two (without duplication of any increase made pursuant to the terms of any other class or series of the Corporation's preferred stock other than any Voting Preferred) and the holders of the Corporation's preferred stock of all classes and series (other than any such Voting Preferred) shall have the right at such meeting, voting together as a single class without regard to class or series, to the exclusion of the holders of Common Stock and the Voting Preferred, to elect two directors of the Corporation to fill such newly created directorships. Such right shall continue until there are no dividends in arrears upon shares of any class or series of the Corporation's preferred stock ranking prior to or on a parity with shares of this Series as to dividends (other than any Voting Preferred). Each director elected by the holders of shares of any series of the Preferred Stock or any other class or series of the Corporation's preferred stock in an election provided for by this paragraph (3) (herein called a "Preferred Director") shall continue to serve as such director for the full term for which he shall have been elected, notwithstanding that prior to the end of such term a default in preference dividends shall cease to exist. Any Preferred Director may be removed by, and shall not be removed except by, the vote of the holders of record of the outstanding shares of the Corporation's preferred stock entitled to have originally voted for such director's election, voting together as a single class without regard to class or series, at a meeting of the stockholders, or of the holders of

shares of the Corporation's preferred stock, called for that purpose. So long as a default in any preference dividends on any series of the Preferred Stock or any other class or series of preferred stock of the Corporation shall exist (other than any Voting Preferred) (A) any vacancy in the office of a Preferred Director may be filled (except as provided in the following clause (B)) by an instrument in writing signed by the remaining Preferred Director and filed with the Corporation and (B) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding shares of the Corporation's preferred stock entitled to have originally voted for the removed director's election, voting together as a single class without regard to class or series, at the same meeting at which such removal shall be voted. Each director appointed as aforesaid shall be deemed for all purposes hereto to be a Preferred Director.

Whenever the term of office of the Preferred Directors shall end and a default in preference dividends shall no longer exist, the number of directors constituting the Board shall be reduced by two. For purposes hereof, a "default in preference dividends" on any series of the Preferred Stock or any other class or series of preferred stock of the Corporation shall be deemed to have occurred whenever the amount of accrued dividends upon such class or series of the Corporation's preferred stock shall be equivalent to six full quarterly dividends or more, and, having so occurred, such default shall be deemed to exist thereafter until, but only until, all accrued dividends on all such shares of the Corporation's preferred stock of each and every series then outstanding (other than any Voting Preferred or shares of any class or series ranking junior to shares of this Series as to dividends) shall have been paid to the end of the last preceding quarterly dividend period.

(4) Without limiting the foregoing, under any circumstances in which the Series would have additional rights under Rhode Island law if the Corporation were incorporated under the Rhode Island Business Corporation Act (rather than the Delaware General Corporation Law), holders of shares of the Series shall be entitled to such rights, including, without limitation, voting rights under Chapter 7-1.1-55, voting and notice rights under Chapter 7-1.1-67 and dissenters' rights under Chapters 7-1.1-73 and 7-1.1-74 of the Rhode Island Business Corporation Act (as such Chapters may be amended from time to time).

(g) Reacquired Shares. Shares of this Series which have been issued and reacquired through redemption or purchase shall, upon compliance with an applicable provision of the Delaware General Corporation Law, have the status of authorized and unissued shares of Preferred Stock and may be reissued but only as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board.

(h) Relation to Existing Preferred Classes of Stock. Shares of this Series are equal in rank and preference with all other series of the Preferred Stock (other than the ESOP Convertible Preferred Stock, Series C) outstanding on the date of original issue of the shares of this Series and are senior in rank and preference to the Common Stock and the ESOP Convertible Preferred Stock, Series C of the Corporation.

(i) Relation to Other Preferred Classes of Stock. For purposes of this resolution, any stock of any class or classes of the Corporation shall be deemed to rank:

(1) prior to the shares of this Series, either as to dividends or upon liquidation, if the holders of such class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up of the Corporation, as the case may be, in preference or priority to the holders of shares of this Series;

(2) on a parity with shares of this Series, either as to dividends or upon liquidation, whether or not the dividend rates, dividend payment dates or redemption or liquidation prices per share or sinking fund provisions, if any, be different from those of this Series, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up of the Corporation, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of this Series; and

(3) junior to the shares of this Series, either as to dividends or upon liquidation, if such class shall be Common Stock or if the holders of shares of this Series shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up of the Corporation, as the case may be, in preference or priority to the holders of shares of such class or classes.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be duly executed by James H. Hance, Jr., its Vice Chairman and Chief Financial Officer, and attested to by Rachel R. Cummings, its Corporate Secretary, and has caused the corporate seal to be affixed hereto, this 26th day of March, 2004.

BANK OF AMERICA CORPORATION

By: /s/ James H. Hance, Jr.
Vice Chairman and Chief Financial Officer

ATTEST:

/s/ Rachel R. Cummings
Corporate Secretary

(Corporate Seal)

CERTIFICATE OF MERGER
OF
FLEETBOSTON FINANCIAL CORPORATION
INTO
BANK OF AMERICA CORPORATION

In accordance with Section 252 of the General Corporation Law of the State of Delaware, Bank of America Corporation, a Delaware corporation ("Bank of America"), does hereby certify as follows:

FIRST: That the name and state of incorporation of each of the constituent corporations of the merger herein certified are as follows:

| Name | State of Incorporation |
|---|---|
| FleetBoston Financial Corporation | Rhode Island |
| Bank of America Corporation | Delaware |

SECOND: That an Agreement and Plan of Merger, dated as of October 27, 2003, by and between FleetBoston Financial Corporation ("FleetBoston"), a Rhode Island Corporation, and Bank of America, was approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 252 of the General Corporation Law of the State of Delaware.

THIRD: That Bank of America will continue as the surviving corporation.

FOURTH: That the Amended and Restated Certificate of Incorporation of Bank of America at the effective time of the merger shall be the certificate of incorporation of the surviving corporation.

FIFTH: That a copy of the executed Agreement and Plan of Merger is on file at the offices of the surviving corporation at Bank of America Corporate Center, Charlotte, North Carolina 28255.

SIXTH: That a copy of the Agreement and Plan of Merger will be furnished by Bank of America, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: The authorized capital stock of FleetBoston consisted of 2,000,000,000 shares of Common Stock, $0.01 par value per share, and 16,000,000 shares of Preferred Stock, $1.00 par value per share, of which 690,000 shares were designated as Series VI 6.75% Perpetual Preferred Stock and 805,000 shares were designated as Series VII Fixed/Adjustable Rate Cumulative Preferred Stock.

EIGHTH: This Certificate of Merger shall become effective on April 1, 2004 at 12:01 a.m., Eastern Time.

IN WITNESS WHEREOF, Bank of America has caused this Certificate of Merger to be executed by a duly authorized officer on this 31st day of March, 2004.

BANK OF AMERICA CORPORATION

By: /s/ JAMES H. HANCE, JR.
Name: James H. Hance, Jr.
Title: Chief Financial Officer

CERTIFICATE OF MERGER

OF

MBNA CORPORATION
(a Maryland corporation)

with and into

BANK OF AMERICA CORPORATION
(a Delaware corporation)

Pursuant to Section 252 of the General Corporation Law of the State of Delaware (the "DGCL"), Bank of America Corporation, a Delaware corporation ("Bank of America"), hereby certifies the following information relating to the merger of MBNA Corporation, a Maryland corporation ("MBNA"), with and into Bank of America (the "Merger"):

**FIRST:** The name and state of incorporation of each of the constituent corporations (the "Constituent Corporations") in the Merger are:

| Name: | State of Incorporation |
|---|---|
| Bank of America Corporation | Delaware |
| MBNA Corporation | Maryland |

**SECOND:** The Agreement and Plan of Merger, dated as of June 30, 2005, by and between MBNA and Bank of America (the "Plan of Merger"), setting forth the terms and conditions of the Merger has been approved, adopted, certified, executed and acknowledged by each of the Constituent Corporations in accordance with the requirements of Section 252 of the DGCL.

**THIRD:** The name of the surviving corporation of the Merger (the "Surviving Corporation") is Bank of America Corporation.

**FOURTH:** The Amended and Restated Certificate of Incorporation of Bank of America in effect immediately prior to the effective time of the Merger shall be the certificate of incorporation of the Surviving Corporation.

**FIFTH:** The executed Plan of Merger is on file at the principal place of business of the Surviving Corporation at Bank of America Corporate Center, 100 N. Tryon Street, Charlotte, North Carolina 28255.

**SIXTH:** A copy of the Plan of Merger will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of either Constituent Corporation.

**SEVENTH:** The authorized capital stock of MBNA consisted of 1,500,000,000 shares of

common stock, par value $0.01 per share, and 20,000,000 shares of preferred stock, par value $0.01 per share.

**EIGHTH:** The Merger shall become effective as of 12:01 a.m., Eastern time, on January 1, 2006.

IN WITNESS WHEREOF, Bank of America has caused this Certificate of Merger to be executed by its duly authorized officer on this 29th day of December, 2005.

BANK OF AMERICA CORPORATION

By: /s/ WILLIAM J. MOSTYN
Name: William J. Mostyn
Title: Secretary

**CERTIFICATE OF ELIMINATION**
**OF**
**FIXED/ADJUSTABLE RATE CUMULATIVE PREFERRED STOCK**
**AND**
**6.75% PERPETUAL PREFERRED STOCK**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151(g)
of the General Corporation Law
of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Company"), in accordance with the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the "DGCL"), hereby certifies as follows:

1. That, pursuant to Section 151 of the DGCL and the authority granted in the Amended and Restated Certificate of Incorporation of the Company (the "Certificate of Incorporation"), the Board of Directors of the Company (the "Board"), by resolution duly adopted, authorized the issuance of a series of 805,000 shares of Fixed/Adjustable Rate Cumulative Preferred Stock, without par value (the "Fixed/Adjustable Preferred Stock"), and established the powers, designations, preferences and relative, participating and other rights, and the qualifications, limitations or restrictions thereof, and, on March 29, 2004, filed a Certificate of Designation with respect to such Fixed/Adjustable Preferred Stock in the office of the Secretary of State of the State of Delaware (the "Secretary of State").

2. That, pursuant to Section 151 of the DGCL and the authority granted in the Certificate of Incorporation, the Board, by resolution duly adopted, authorized the issuance of a series of 690,000 shares of 6.75% Perpetual Preferred Stock, without par value (the "Perpetual Preferred Stock"), and established the powers, designations, preferences and relative, participating and other rights, and the qualifications, limitations or restrictions thereof, and, on March 29, 2004, filed a Certificate of Designation with respect to such Perpetual Preferred Stock in the office of the Secretary of State.

3. That on May 26, 2006 the Special Preferred Stock Committee of the Board (the "Committee") authorized and approved the redemption of the issued and outstanding shares of Fixed/Adjustable Preferred Stock on July 3, 2006 and the redemption of the Fixed/Adjustable Preferred Stock on July 14, 2006.

4. That all of the issued and outstanding shares of Fixed/Adjustable Preferred Stock were redeemed on July 3, 2006 and all of the issued and outstanding shares of Perpetual Preferred Stock were redeemed on July 14, 2006, and, therefore, no shares of

Fixed/Adjustable Preferred Stock or Perpetual Preferred Stock are outstanding and no shares thereof will be issued subject to such Certificates of Designation.

5. That the Board has adopted the following resolutions:

WHEREAS, by resolution of the Board of Directors of the Company (the "Board") and by a Certificate of Designation filed in the office of the Secretary of State of the State of Delaware (the "Secretary of State") on March 29, 2004, this Company authorized the issuance of a series of 805,000 shares of Fixed/Adjustable Rate Cumulative Preferred Stock, without par value, of the Company (the "Fixed/Adjustable Preferred Stock") and established the voting powers, designations, preferences and relative, participating and other rights, and the qualifications, limitations or restrictions thereof; and

WHEREAS, by resolution of the Board and by a Certificate of Designation filed in the office of the Secretary of State on March 29, 2004, this Company authorized the issuance of a series of 690,000 shares of 6.75% Perpetual Preferred Stock, without par value, of the Company (the "Perpetual Preferred Stock") and established the voting powers, designations, preferences and relative, participating and other rights, and the qualifications, limitations and restrictions thereof;

WHEREAS, on May 26, 2006, the Special Preferred Stock Committee of the Board (the "Committee") authorized and approved the redemption of all the issued and outstanding shares of the Fixed/Adjustable Preferred Stock on July 3, 2006 and the Perpetual Preferred Stock on July 14, 2006;

WHEREAS, all of the issued and outstanding shares of Fixed/Adjustable Preferred Stock were redeemed on July 3, 2006 and all issued and outstanding shares of Perpetual Preferred Stock were redeemed on July 14, 2006, and, therefore, no shares of Fixed/Adjustable Preferred Stock or Perpetual Preferred Stock are outstanding and no shares thereof will be issued subject to such Certificates of Designation;

WHEREAS, it is desirable that all matters set forth in the Certificates of Designation with respect to such Fixed/Adjustable Preferred Stock and Perpetual Preferred Stock be eliminated from the Amended and Restated Certificate of Incorporation, as heretofore amended, of the Company (the "Certificate of Incorporation").

NOW, THEREFORE, BE IT AND IT HEREBY IS:

RESOLVED, that all matters set forth in the Certificates of Designation with respect to such Fixed/Adjustable Preferred Stock and Perpetual Preferred Stock be eliminated from the Certificate of Incorporation; and it is further

RESOLVED, that the officers of the Company be, and hereby are,

authorized and directed to file a Certificate with the office of the Secretary of State setting forth a copy of these resolutions whereupon all matters set forth in the Certificates of Designation with respect to such Fixed/Adjustable Preferred Stock and Perpetual Preferred Stock shall be eliminated from the Certificate of Incorporation; and it is further

RESOLVED, that the officers of the Corporation be, and each of them hereby is, authorized and directed, for and on behalf of the Corporation, to take any and all actions, to perform all such acts and things, to execute, file, deliver or record in the name and on behalf of the Corporation, all such certificates, instruments, agreements or other documents, and to make all such payments as they, in their judgment, or in the judgment of any one or more of them, may deem necessary, advisable or appropriate in order to carry out the purpose and intent of the foregoing resolutions and the transactions contemplated therein or thereby, the authorization therefor to be conclusively evidenced by the taking of such action or the execution and delivery of such certificates, instruments, agreements or documents.

6. That, accordingly, all matters set forth in the Certificates of Designation with respect to such Fixed/Adjustable Preferred Stock and Perpetual Preferred Stock be, and hereby are, eliminated from the Certificate of Incorporation, as heretofore amended.

IN WITNESS WHEREOF, the Company has caused this Certificate to be signed by its duly authorized officer as of this 31st day of July, 2006.

**BANK OF AMERICA CORPORATION**

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

**CERTIFICATE OF DESIGNATIONS**
**OF**
**6.204% NON-CUMULATIVE PREFERRED STOCK, SERIES D**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. At a meeting duly convened and held on July 26, 2006, the Board of Directors of the Corporation (the "Board") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Committee (the "Committee") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on September 6, 2006, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in Exhibit A hereto, which is incorporated herein by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 13th day of September, 2006.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**TO**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**6.204% NON-CUMULATIVE PREFERRED STOCK, SERIES D**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 1. Designation**. The designation of the series of preferred stock shall be "6.204% Non-Cumulative Preferred Stock, Series D" (the "*Series D Preferred Stock*"). Each share of Series D Preferred Stock shall be identical in all respects to every other share of Series D Preferred Stock. Series D Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares**. The number of authorized shares of Series D Preferred Stock shall be 34,500. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series D Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series D Preferred Stock.

**Section 3. Definitions**. As used herein with respect to Series D Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depositary Trust Company, together with its successors and assigns.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series D Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B and (b) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series D Preferred Stock in the payment of dividends and in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

*"Senior Stock"* means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series D Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series D Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

**Section 4. Dividends.**

**(a) Rate**. Holders of Series D Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $25,000 per share of Series D Preferred Stock, and no more, payable quarterly in arrears on each March 14, June 14, September 14 and December 14; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series D Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a *"Dividend Period."* Dividends on each share of Series D Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate per annum equal to 6.204%. The record date for payment of dividends on the Series D Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series D Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series D Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series D Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period after the Dividend Payment Date for such Dividend Period or interest with respect to such

dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series D Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends**. So long as any share of Series D Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series D Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series D Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted.

Subject to the succeeding sentence, for so long as any shares of Series D Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series D Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series D Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a pro rate basis among the holders of the shares of Series D Preferred Stock and the holders of any Parity Stock. For purposes of calculating the pro rate allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series D Preferred Stock and the aggregate of the current and accrued dividends due on the Parity Stock. No interest will be payable in respect of any dividend payment on shares of Series D Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series D Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series D Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series D Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $25,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series D Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series D Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series D Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences plus any dividends which have been declared but not yet paid of Series D Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series D Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 6. Redemption**.

**(a) Optional Redemption**. The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series D Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on September 14, 2011, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series D Preferred Stock shall be $25,000 per share plus dividends that have been declared but not paid.

**(b) Notice of Redemption**. Notice of every redemption of shares of Series D Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series D Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series D Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series D Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series D Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption**. In case of any redemption of only part of the shares of Series D Preferred Stock at the time outstanding, the shares of Series D Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series D Preferred Stock in proportion to the number of Series D Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series D Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption**. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to

the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 7. Voting Rights**.

**(a) General.** The holders of Series D Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by Delaware law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series D Preferred Stock or any other class or series of preferred stock that ranks on parity with Series D Preferred Stock as to payment of dividends, and upon which voting rights equivalent to those granted by this Section 7(b) have been conferred and are exercisable, have not been paid in an aggregate amount equal, as to any class or series, to at least six quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors of the Corporation shall be increased by two, and the holders of the Series D Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of the such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist), shall have the right, voting separately as a single class without regard to series, to the exclusion of the holders of common stock, to elect two directors of the Corporation to fill such newly created directorships (and to fill any vacancies in the terms of such directorships), provided that the election of such directors must not cause the Corporation to violate the corporate governance requirements of the New York Stock Exchange (or other exchange on which the Corporation's securities may be listed) that listed companies must have a majority of independent directors and further provided that the Board of Directors of the Corporation shall at no time include more than two such directors. Each such director elected by the holders of shares of Series D Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series D Preferred Stock as to payment of dividends is a "*Preferred Director".*

**(ii) Election.** The election of the Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the holders of Series D Preferred Stock and any other class or series of our stock that ranks on parity with Series D Preferred Stock as to payment of dividends and for which dividends have not been paid, called as provided herein. At any time after the special voting power has vested pursuant to Section 7(b)(i) above, the secretary of the Corporation may, and upon the written request of any holder of Series D Preferred Stock (addressed to the secretary at the Corporation's principal office) must (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), call a special meeting of the holders of Series D Preferred Stock and any other class or series of preferred stock that ranks on parity with Series D Preferred Stock as to payment of dividends and for which dividends have not been paid for the election of the two directors to be

elected by them as provided in Section 7(b)(iii) below. The Preferred Directors shall each be entitled to one vote per director on any matter.

**(iii) Notice of Special Meeting.** Notice for a special meeting will be given in a similar manner to that provided in the Corporation's by-laws for a special meeting of the stockholders. If the secretary of the Corporation does not call a special meeting within 20 days after receipt of any such request, then any holder of Series D Preferred Stock may (at our expense) call such meeting, upon notice as provided in this Section 7(b)(iii), and for that purpose will have access to the stock register of the Corporation. The Preferred Directors elected at any such special meeting will hold office until the next annual meeting of our stockholders unless they have been previously terminated or removed pursuant to Section 7(b)(iv). In case any vacancy in the office of a Preferred Director occurs (other than prior to the initial election of the Preferred Directors), the vacancy may be filled by the written consent of the Preferred Director remaining in office, or if none remains in office, by the vote of the holders of the Series D Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) to serve until the next annual meeting of the stockholders.

**(iv) Termination; Removal.** Whenever full dividends have been paid regularly on the Series D Preferred Stock and any other class or series of preferred stock that ranks on parity with Series D Preferred Stock as to payment of dividends, if any, for at least four quarterly Dividend Periods, then the right of the holders of Series D Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of the special voting rights in the case of any similar non-payment of dividends in respect of future Dividend Periods). The terms of office of the Preferred Directors will immediately terminate, and the number of directors constituting the board of directors will be reduced accordingly. Any Preferred Director may be removed at any time without cause by the holders of record of a majority of the outstanding shares of the Series D Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) when they have the voting rights described in this Section 7(b).

**Section 8. Preemption and Conversion**. The holders of Series D Preferred Stock shall not have any rights of preemption or rights to convert such Series D Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Rank**. Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series D Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series D Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 10. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell Series D Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 11. Unissued or Reacquired Shares**. Shares of Series D Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 12. No Sinking Fund**. Shares of Series D Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES E**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. At a meeting duly convened and held on July 26, 2006, the Board of Directors of the Corporation (the "Board") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Committee (the "Committee") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on October 30, 2006, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in Exhibit A hereto, which is incorporated herein by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 3rd day of November, 2006.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**TO**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES E**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 1. Designation.** The designation of the series of preferred stock shall be "Floating Rate Non-Cumulative Preferred Stock, Series E" (the "*Series E Preferred Stock*"). Each share of Series E Preferred Stock shall be identical in all respects to every other share of Series E Preferred Stock. Series E Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series E Preferred Stock shall be 85,100. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series E Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series E Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series E Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Calculation Agent*" shall mean The Bank of New York Trust Company, N.A., or such other bank or entity as may be appointed by the Corporation to act as calculation agent for the Series E Preferred Stock.

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Determination Date*" shall have the meaning set forth below in the definition of "Three-Month LIBOR."

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series E Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*London Banking Day*" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London, England.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D and (c) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series E Preferred Stock in the payment of dividends and in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Senior Stock*" means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series E Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series E Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

"*Telerate Page 3750*" means the display page so designated on the Moneyline/Telerate Service (or any other page as may replace that page on that service, or any other service as may be nominated as the information vendor, for the purpose of displaying rates or prices comparable to the London Interbank Offered Rate for U.S. dollar deposits).

"*Three-Month LIBOR*" means, with respect to any Dividend Period, the offered rate (expressed as a percentage per annum) for deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period that appears on Telerate Page 3750 as of 11:00 a.m. (London time) on the second London Banking Day immediately preceding the first day of that Dividend Period (the "*Dividend Determination Date*"). If such rate does not appear on Telerate Page 3750, Three-Month LIBOR will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000 are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Corporation, at approximately 11:00 A.M., London time on the second London Banking Day immediately preceding the first day of that Dividend Period. The Calculation Agent will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations. If fewer than two quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York City selected by the Corporation, at approximately 11:00 a.m., New York City time, on the first day of that Dividend Period for loans in U.S. dollars to leading European banks for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000. However, if fewer than three banks selected by the Corporation to provide quotations are not quoting as described above, Three-Month LIBOR for that Dividend Period will be the same as Three-Month LIBOR as determined for the previous Dividend Period, or in the case of the first Dividend Period, the most

recent rate that could have been determined in accordance with the first sentence of this paragraph had Series E Preferred Stock been outstanding. The calculation agent's establishment of Three-Month LIBOR and calculation of the amount of dividends for each Dividend Period will be on file at the principal offices of the Corporation, will be made available to any holder of Series E Preferred Stock upon request and will be final and binding in the absence of manifest error.

**Section 4. Dividends.**

**(a) Rate.** Holders of Series E Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $25,000 per share of Series E Preferred Stock, and no more, payable quarterly in arrears on each February 15, May 15, August 15 and November 15; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series E Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a "*Dividend Period.*" Dividends on each share of Series E Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate per annum equal to the greater of (i) Three-Month LIBOR plus a spread of 0.35% and (ii) 4.00%. The record date for payment of dividends on the Series E Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year and the actual number of days elapsed in a Dividend Period.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series E Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series E Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable and the Corporation shall have no obligation to pay, and the holders of Series E Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period after the Dividend Payment Date for such Dividend Period or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series E Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends.** So long as any share of Series E Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of

any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series E Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series E Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series E Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series E Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series E Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a pro rate basis among the holders of the shares of Series E Preferred Stock and the holders of any Parity Stock. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series E Preferred Stock and the aggregate of the current and accrued dividends due on the Parity Stock. No interest will be payable in respect of any dividend payment on shares of Series E Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series E Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series E Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series E Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $25,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series E Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series E Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series E Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with

the respective aggregate liquidation preferences plus any dividends which have been declared but not yet paid of Series E Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series E Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series E Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on November 15, 2011, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series E Preferred Stock shall be $25,000 per share plus dividends that have been declared but not paid.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series E Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series E Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series E Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series E Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series E Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series E Preferred Stock at the time outstanding, the shares of Series E Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series E Preferred Stock in proportion to the number of Series E Preferred Stock held by such holders or by lot or in such other manner as

the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series E Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 7. Voting Rights.**

**(a) General.** The holders of Series E Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by Delaware law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series E Preferred Stock or any other class or series of preferred stock that ranks on parity with Series E Preferred Stock as to payment of dividends, and upon which voting rights equivalent to those granted by this Section 7(b) have been conferred and are exercisable, have not been paid in an aggregate amount equal, as to any class or series, to at least six quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors of the Corporation shall be increased by two, and the holders of the Series E Preferred Stock (together with holders of any class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of the such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist), shall have the right, voting separately as a single class without regard to series, to the exclusion of the holders of common stock, to elect two directors of the Corporation to fill such newly created directorships (and to fill any vacancies in the terms of

such directorships), provided that the election of such directors must not cause the Corporation to violate the corporate governance requirements of the New York Stock Exchange (or other exchange on which the Corporation's securities may be listed) that listed companies must have a majority of independent directors and further provided that the Board of Directors of the Corporation shall at no time include more than two such directors. Each such director elected by the holders of shares of Series E Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series E Preferred Stock as to payment of dividends is a "*Preferred Director*."

**(ii) Election.** The election of the Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the holders of Series E Preferred Stock and any other class or series of our stock that ranks on parity with Series E Preferred Stock as to payment of dividends and for which dividends have not been paid, called as provided herein. At any time after the special voting power has vested pursuant to Section 7(b)(i) above, the secretary of the Corporation may, and upon the written request of any holder of Series E Preferred Stock (addressed to the secretary at the Corporation's principal office) must (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), call a special meeting of the holders of Series E Preferred Stock and any other class or series of preferred stock that ranks on parity with Series E Preferred Stock as to payment of dividends and for which dividends have not been paid for the election of the two directors to be elected by them as provided in Section 7(b)(iii) below. The Preferred Directors shall each be entitled to one vote per director on any matter.

**(iii) Notice of Special Meeting.** Notice for a special meeting will be given in a similar manner to that provided in the Corporation's by-laws for a special meeting of the stockholders. If the secretary of the Corporation does not call a special meeting within 20 days after receipt of any such request, then any holder of Series E Preferred Stock may (at our expense) call such meeting, upon notice as provided in this Section 7(b)(iii), and for that purpose will have access to the stock register of the Corporation. The Preferred Directors elected at any such special meeting will hold office until the next annual meeting of our stockholders unless they have been previously terminated or removed pursuant to Section 7(b)(iv). In case any vacancy in the office of a Preferred Director occurs (other than prior to the initial election of the Preferred Directors), the vacancy may be filled by the written consent of the Preferred Director remaining in office, or if none remains in office, by the vote of the holders of the Series E Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) to serve until the next annual meeting of the stockholders.

**(iv) Termination; Removal.** Whenever full dividends have been paid regularly on the Series E Preferred Stock and any other class or series of preferred stock that ranks on parity with Series E Preferred Stock as to payment of dividends, if any, for at least four quarterly Dividend Periods, then the right of the holders of Series E Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of the special voting rights in the case of any similar non-payment of dividends in respect of future Dividend Periods). The terms of office of the Preferred Directors will immediately terminate and the number of directors constituting the board of directors will be reduced accordingly. Any Preferred Director may be removed at any

time without cause by the holders of record of a majority of the outstanding shares of the Series E Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) when they have the voting rights described in this Section 7(b).

**Section 8. Preemption and Conversion.** The holders of Series E Preferred Stock shall not have any rights of preemption or rights to convert such Series E Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Rank.** Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series E Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series E Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series E Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 11. Unissued or Reacquired Shares.** Shares of Series E Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 12. No Sinking Fund.** Shares of Series E Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES F**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "*Corporation*"), does hereby certify that:

1. At a meeting duly convened and held on April 26, 2006, the Board of Directors of the Corporation (the "*Board*") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Committee (the "*Committee*") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on February 12, 2007, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series F, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in Exhibit A hereto, which is incorporated herein by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 15th day of February, 2007.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**TO**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES F**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 1. Designation**. The designation of the series of preferred stock shall be "Floating Rate Non-Cumulative Preferred Stock, Series F" (the "*Series F Preferred Stock*"). Each share of Series F Preferred Stock shall be identical in all respects to every other share of Series F Preferred Stock. Series F Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares**. The number of authorized shares of Series F Preferred Stock shall be 7,001. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series F Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series F Preferred Stock.

**Section 3. Definitions**. As used herein with respect to Series F Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Calculation Agent*" shall mean The Bank of New York Trust Company, N.A., or such other bank or entity as may be appointed by the Corporation to act as calculation agent for the Series F Preferred Stock.

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Determination Date*" shall have the meaning set forth below in the definition of "Three-Month LIBOR."

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series F Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*London Banking Day*" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London, England.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, (c) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, (d) the Corporation's Adjustable Rate Non-Cumulative Preferred Stock, Series G and (e) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series F Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Senior Stock*" means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series F Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series F Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

"*Telerate Page 3750*" means the display page so designated on the Moneyline/Telerate Service (or any other page as may replace that page on that service, or any other service as may be nominated as the information vendor, for the purpose of displaying rates or prices comparable to the London Interbank Offered Rate for U.S. dollar deposits).

"*Three-Month LIBOR*" means, with respect to any Dividend Period, the offered rate (expressed as a percentage per annum) for deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period that appears on Telerate Page 3750 as of 11:00 a.m. (London time) on the second London Banking Day immediately preceding the first day of that Dividend Period (the "*Dividend Determination Date*"). If such rate does not appear on Telerate Page 3750, Three-Month LIBOR will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000 are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Corporation, at approximately 11:00 a.m., London time on the second London Banking Day immediately preceding the first day of that Dividend Period. The Calculation Agent will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such

quotations. If fewer than two quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York City selected by the Corporation, at approximately 11:00 a.m., New York City time, on the first day of that Dividend Period for loans in U.S. dollars to leading European banks for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000. However, if fewer than three banks selected by the Corporation to provide quotations are not quoting as described above, Three-Month LIBOR for that Dividend Period will be the same as Three-Month LIBOR as determined for the previous Dividend Period, or in the case of the first Dividend Period, the most recent rate that could have been determined in accordance with the first sentence of this paragraph had Series F Preferred Stock been outstanding. The Calculation Agent's establishment of Three-Month LIBOR and calculation of the amount of dividends for each Dividend Period will be on file at the principal offices of the Corporation, will be made available to any holder of Series F Preferred Stock upon request and will be final and binding in the absence of manifest error.

**Section 4. Dividends.**

**(a) Rate**. Holders of Series F Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $100,000 per share of Series F Preferred Stock, and no more, payable quarterly in arrears on each March 15, June 15, September 15 and December 15; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series F Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a "*Dividend Period.*" Dividends on each share of Series F Preferred Stock will accrue on the liquidation preference of $100,000 per share for each Dividend Period (1) from the date of issuance to, but excluding, the Dividend Payment Date in March 2012 (if issued prior to that date) at a rate per annum equal to Three-Month LIBOR plus a spread of 0.40% and (2) thereafter at a rate per annum equal to the greater of (i) Three-Month LIBOR plus a spread of 0.40% and (ii) 4.00%. The record date for payment of dividends on the Series F Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year and the actual number of days elapsed in a Dividend Period.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series F Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series F Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable and the Corporation shall have no obligation to pay, and the holders of Series F Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period after the Dividend Payment Date for such Dividend Period or interest with respect to such

dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series F Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends**. So long as any share of Series F Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series F Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series F Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series F Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series F Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series F Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a *pro rata* basis among the holders of the shares of Series F Preferred Stock and the holders of any Parity Stock. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series F Preferred Stock and the aggregate of the current and accrued dividends due on the Parity Stock. No interest will be payable in respect of any dividend payment on shares of Series F Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series F Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series F Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and

subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series F Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $100,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series F Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series F Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series F Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences plus any dividends which have been declared but not yet paid of Series F Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series F Preferred Stock and all holders of any Parity Stock, then the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 6. Redemption**.

**(a) Optional Redemption**. The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series F Preferred Stock at the time outstanding, at any time on or after the later of March 15, 2012 and the date of original issuance of the Series F Preferred Stock, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series F Preferred Stock shall be $100,000 per share plus dividends that have been declared but not paid plus accrued and unpaid dividends for the then-current Dividend Period to the redemption date.

**(b) Notice of Redemption**. Notice of every redemption of shares of Series F Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 15 days and not more than 60 days

before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series F Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series F Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series F Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series F Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption**. In case of any redemption of only part of the shares of Series F Preferred Stock at the time outstanding, the shares of Series F Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series F Preferred Stock in proportion to the number of Series F Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series F Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption**. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 7. Voting Rights**. The holders of the Series F Preferred Stock will have no voting rights and will not be entitled to elect any directors, except as expressly provided by law.

**Section 8. Preemption and Conversion**. The holders of Series F Preferred Stock shall not have any rights of preemption or rights to convert such Series F Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Rank**. Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series F Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series F Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 10. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell Series F Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 11. Unissued or Reacquired Shares**. Shares of Series F Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 12. No Sinking Fund**. Shares of Series F Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**ADJUSTABLE RATE NON-CUMULATIVE PREFERRED STOCK, SERIES G**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "*Corporation*"), does hereby certify that:

1. At a meeting duly convened and held on April 26, 2006, the Board of Directors of the Corporation (the "*Board*") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Committee (the "*Committee*") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on February 12, 2007, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's Adjustable Rate Non-Cumulative Preferred Stock, Series G, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in Exhibit A hereto, which is incorporated herein by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 15th day of February, 2007.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**TO**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**ADJUSTABLE RATE NON-CUMULATIVE PREFERRED STOCK, SERIES G**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 13. Designation**. The designation of the series of preferred stock shall be "Adjustable Rate Non-Cumulative Preferred Stock, Series G" (the "*Series G Preferred Stock*"). Each share of Series G Preferred Stock shall be identical in all respects to every other share of Series G Preferred Stock. Series G Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 14. Number of Shares**. The number of authorized shares of Series G Preferred Stock shall be 8,501. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series G Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series G Preferred Stock.

**Section 15. Definitions**. As used herein with respect to Series G Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Calculation Agent*" shall mean The Bank of New York Trust Company, N.A., or such other bank or entity as may be appointed by the Corporation to act as calculation agent for the Series G Preferred Stock.

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Determination Date*" shall have the meaning set forth below in the definition of "Three-Month LIBOR."

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series G Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*London Banking Day*" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London, England.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, (c) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, (d) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series F and (e) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series G Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Senior Stock*" means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series G Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series G Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

"*Telerate Page 3750*" means the display page so designated on the Moneyline/Telerate Service (or any other page as may replace that page on that service, or any other service as may be nominated as the information vendor, for the purpose of displaying rates or prices comparable to the London Interbank Offered Rate for U.S. dollar deposits).

"*Three-Month LIBOR*" means, with respect to any Dividend Period, the offered rate (expressed as a percentage per annum) for deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period that appears on Telerate Page 3750 as of 11:00 a.m. (London time) on the second London Banking Day immediately preceding the first day of that Dividend Period (the "*Dividend Determination Date*"). If such rate does not appear on Telerate Page 3750, Three-Month LIBOR will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000 are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Corporation, at approximately 11:00 a.m., London time on the second London Banking Day immediately preceding the first day of that Dividend Period. The Calculation Agent will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such

quotations. If fewer than two quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York City selected by the Corporation, at approximately 11:00 a.m., New York City time, on the first day of that Dividend Period for loans in U.S. dollars to leading European banks for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000. However, if fewer than three banks selected by the Corporation to provide quotations are not quoting as described above, Three-Month LIBOR for that Dividend Period will be the same as Three-Month LIBOR as determined for the previous Dividend Period, or in the case of the first Dividend Period, the most recent rate that could have been determined in accordance with the first sentence of this paragraph had Series G Preferred Stock been outstanding. The Calculation Agent's establishment of Three-Month LIBOR and calculation of the amount of dividends for each Dividend Period will be on file at the principal offices of the Corporation, will be made available to any holder of Series G Preferred Stock upon request and will be final and binding in the absence of manifest error.

**Section 16. Dividends**.

**(a) Rate**. Holders of Series G Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $100,000 per share of Series G Preferred Stock, and no more, payable as follows: (i) if the Series G Preferred Stock is issued prior to March 15, 2012, semi-annually in arrears on each March 15 and September 15 through March 15, 2012; and (ii) from and including the later of March 15, 2012 and the date of issuance, quarterly in arrears on each March 15, June 15, September 15 and December 15; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series G Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a "*Dividend Period.*" Dividends on each share of Series G Preferred Stock will accrue on the liquidation preference of $100,000 per share for each Dividend Period (1) from the date of issuance to, but excluding, the Dividend Payment Date in March 2012 (if issued prior to that date) at a rate per annum equal to 5.63% and (2) thereafter at a rate per annum equal to the greater of (x) Three-Month LIBOR plus a spread of 0.40% and (y) 4.00%. The record date for payment of dividends on the Series G Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year and the actual number of days elapsed in a Dividend Period.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series G Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series G Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable and the Corporation shall have no obligation to pay, and the holders of

Series G Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period after the Dividend Payment Date for such Dividend Period or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series G Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends**. So long as any share of Series G Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series G Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series G Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series G Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series G Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series G Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a *pro rata* basis among the holders of the shares of Series G Preferred Stock and the holders of any Parity Stock. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series G Preferred Stock and the aggregate of the current and accrued dividends due on the Parity Stock. No interest will be payable in respect of any dividend payment on shares of Series G Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series G Preferred Stock shall not be entitled to participate in any such dividend.

**Section 17. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series G Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series G Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $100,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series G Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series G Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series G Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences plus any dividends which have been declared but not yet paid of Series G Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series G Preferred Stock and all holders of any Parity Stock, then the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 18. Redemption**.

**(a) Optional Redemption**. The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series G Preferred Stock at the time outstanding, at any time on or after the later of March 15, 2012 and the date of original issuance of the Series G Preferred Stock, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series G Preferred Stock shall be $100,000 per share plus

dividends that have been declared but not paid plus accrued and unpaid dividends for the then-current Dividend Period to the redemption date.

**(b) Notice of Redemption**. Notice of every redemption of shares of Series G Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 15 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series G Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series G Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series G Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series G Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption**. In case of any redemption of only part of the shares of Series G Preferred Stock at the time outstanding, the shares of Series G Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series G Preferred Stock in proportion to the number of Series G Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series G Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption**. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any

interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 19. Voting Rights**. The holders of the Series G Preferred Stock will have no voting rights and will not be entitled to elect any directors, except as expressly provided by law.

**Section 20. Preemption and Conversion**. The holders of Series G Preferred Stock shall not have any rights of preemption or rights to convert such Series G Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 21. Rank**. Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series G Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series G Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 22. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell Series G Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 23. Unissued or Reacquired Shares**. Shares of Series G Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 24. No Sinking Fund**. Shares of Series G Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**6.625% NON-CUMULATIVE PREFERRED STOCK, SERIES I**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. At a meeting duly convened and held on January 24, 2007, the Board of Directors of the Corporation (the "Board") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Special Committee (the "Committee") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on September 20, 2007, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's 6.625% Non-Cumulative Preferred Stock, Series I, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in the Certificate of Designations attached hereto as Exhibit A, which is incorporated herein and made a part of these resolutions by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 25th day of September, 2007.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**6.625% NON-CUMULATIVE PREFERRED STOCK, SERIES I**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 1. Designation**. The designation of the series of preferred stock shall be "6.625% Non-Cumulative Preferred Stock, Series I" (the "*Series I Preferred Stock*"). Each share of Series I Preferred Stock shall be identical in all respects to every other share of Series I Preferred Stock. Series I Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares**. The number of authorized shares of Series I Preferred Stock shall be 25,300. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series I Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series I Preferred Stock.

**Section 3. Definitions**. As used herein with respect to Series I Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series I Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, (c) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, (d) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding), (e) the Corporation's Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding) and (f) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series I Preferred Stock in the payment of dividends and in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

*"Senior Stock"* means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series I Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series I Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

**Section 4. Dividends**.

**(a) Rate**. Holders of Series I Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $25,000 per share of Series I Preferred Stock, and no more, payable quarterly in arrears on each January 1, April 1, July 1, and October 1; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series I Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a *"Dividend Period."* Dividends on each share of Series I Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate per annum equal to 6.625%. The record date for payment of dividends on the Series I Preferred Stock shall be the fifteenth day of the calendar month immediately preceding the month during which the Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series I Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series I Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series I Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period after the Dividend Payment Date for such Dividend Period or interest with respect to such

dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series I Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends**. So long as any share of Series I Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series I Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series I Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series I Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series I Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series I Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a *pro rata* basis among the holders of the shares of Series I Preferred Stock and the holders of any Parity Stock then outstanding. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series I Preferred Stock and the aggregate of the current and accrued dividends due on the outstanding Parity Stock. No interest will be payable in respect of any dividend payment on shares of Series I Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series I Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series I Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series I Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $25,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series I Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series I Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series I Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences plus any dividends which have been declared but not yet paid of Series I Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series I Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 6. Redemption**.

**(a) Optional Redemption**. The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series I Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on October 1, 2017, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series I Preferred Stock shall be $25,000 per share plus dividends that have been declared but not paid.

**(b) Notice of Redemption**. Notice of every redemption of shares of Series I Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series I Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series I Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series I Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series I Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption**. In case of any redemption of only part of the shares of Series I Preferred Stock at the time outstanding, the shares of Series I Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series I Preferred Stock in proportion to the number of Series I Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series I Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption**. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the

Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 7. Voting Rights**.

**(a) General.** The holders of Series I Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by Delaware law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series I Preferred Stock or any other class or series of preferred stock that ranks on parity with Series I Preferred Stock as to payment of dividends, and upon which voting rights equivalent to those granted by this Section 7(b)(i) have been conferred and are exercisable, have not been paid in an aggregate amount equal, as to any class or series, to at least six quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors of the Corporation shall be increased by two, and the holders of the Series I Preferred Stock (together with holders of any class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of the such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist), shall have the right, voting separately as a single class without regard to series, to the exclusion of the holders of common stock, to elect two directors of the Corporation to fill such newly created directorships (and to fill any vacancies in the terms of such directorships), provided that the election of such directors must not cause the Corporation to violate the corporate governance requirements of the New York Stock Exchange (or other exchange on which the Corporation's securities may be listed) that listed companies must have a majority of independent directors and further provided that the Board of Directors of the Corporation shall at no time include more than two such directors. Each such director elected by the holders of shares of Series I Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series I Preferred Stock as to payment of dividends and having equivalent voting rights is a "*Preferred Director."*

**(ii) Election.** The election of the Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the holders of Series I Preferred Stock and any other class or series of our stock that ranks on parity with Series I Preferred Stock as to payment of dividends and having equivalent voting rights and for which dividends have not been paid, called as provided herein. At any time after the special voting power has vested pursuant to Section 7(b)(i) above, the secretary of the Corporation may, and upon the written request of any holder of Series I Preferred Stock (addressed to the secretary at the Corporation's principal office) must (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), call a special meeting of the holders of Series I Preferred Stock and any other class or series of preferred stock that ranks on parity with Series I Preferred Stock as to payment of dividends and for which dividends have not been paid for the election of the two directors to be elected by them as provided in Section 7(b)(iii) below. The Preferred Directors shall each be entitled to one vote per director on any matter.

**(iii) Notice of Special Meeting.** Notice for a special meeting will be given in a similar manner to that provided in the Corporation's by-laws for a special meeting of the stockholders. If the secretary of the Corporation does not call a special meeting within 20 days after receipt of any such request, then any holder of Series I Preferred Stock may (at our expense) call such meeting, upon notice as provided in this Section 7(b)(iii), and for that purpose will have access to the stock register of the Corporation. The Preferred Directors elected at any such special meeting will hold office until the next annual meeting of our stockholders unless they have been previously terminated or removed pursuant to Section 7(b)(iv). In case any vacancy in the office of a Preferred Director occurs (other than prior to the initial election of the Preferred Directors), the vacancy may be filled by the written consent of the Preferred Director remaining in office, or if none remains in office, by the vote of the holders of the Series I Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) to serve until the next annual meeting of the stockholders.

**(iv) Termination; Removal.** Whenever full dividends have been paid regularly on the Series I Preferred Stock and any other class or series of preferred stock that ranks on parity with Series I Preferred Stock as to payment of dividends, if any, for at least four quarterly Dividend Periods, then the right of the holders of Series I Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of the special voting rights in the case of any similar non-payment of dividends in respect of future Dividend Periods). The terms of office of the Preferred Directors will immediately terminate, and the number of directors constituting the board of directors will be reduced accordingly. Any Preferred Director may be removed at any time without cause by the holders of record of a majority of the outstanding shares of the Series I Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) when they have the voting rights described in this Section 7(b).

**Section 8. Preemption and Conversion**. The holders of Series I Preferred Stock shall not have any rights of preemption or rights to convert such Series I Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Rank**. Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series I Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series I Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 10. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell Series I Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized

committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 11. Unissued or Reacquired Shares**. Shares of Series I Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 12. No Sinking Fund**. Shares of Series I Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**7.25% NON-CUMULATIVE PREFERRED STOCK, SERIES J**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. At a meeting duly convened and held on January 24, 2007, the Board of Directors of the Corporation (the "Board") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Special Committee (the "Committee") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on November 14, 2007, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's 7.25% Non-Cumulative Preferred Stock, Series J, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in the Certificate of Designations attached hereto as Exhibit A, which is incorporated herein and made a part of these resolutions by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 19th day of November, 2007.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**7.25% NON-CUMULATIVE PREFERRED STOCK, SERIES J**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 1. Designation**. The designation of the series of preferred stock shall be "7.25% Non-Cumulative Preferred Stock, Series J" (the "*Series J Preferred Stock*"). Each share of Series J Preferred Stock shall be identical in all respects to every other share of Series J Preferred Stock. Series J Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares**. The number of authorized shares of Series J Preferred Stock shall be 41,400. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series J Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series J Preferred Stock.

**Section 3. Definitions**. As used herein with respect to Series J Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series J Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, (c) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, (d) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding), (e) the Corporation's Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding), (f) the Corporation's 6.625% Non-Cumulative Preferred Stock, Series I and (g) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series J Preferred Stock in the payment of dividends and in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

*"Senior Stock"* means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series J Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series J Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

**Section 4. Dividends**.

**(a) Rate**. Holders of Series J Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $25,000 per share of Series J Preferred Stock, and no more, payable quarterly in arrears on each February 1, May 1, August 1 and November 1; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series J Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a *"Dividend Period."* Dividends on each share of Series J Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate per annum equal to 7.25%. The record date for payment of dividends on the Series J Preferred Stock shall be the fifteenth day of the calendar month immediately preceding the month during which the Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series J Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series J Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series J Preferred Stock shall have no right to receive, dividends accrued for such Dividend

Period after the Dividend Payment Date for such Dividend Period or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series J Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends**. So long as any share of Series J Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series J Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series J Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series J Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series J Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series J Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a *pro rata* basis among the holders of the shares of Series J Preferred Stock and the holders of any Parity Stock then outstanding. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series J Preferred Stock and the aggregate of the current and accrued dividends due on the outstanding Parity Stock. No interest will be payable in respect of any dividend payment on shares of Series J Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series J Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series J Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series J Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $25,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series J Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series J Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series J Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences, plus any dividends which have been declared but not yet paid, of Series J Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series J Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 6. Redemption**.

**(a) Optional Redemption**. The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series J Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on November 1, 2012, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series J Preferred Stock shall be $25,000 per share plus dividends that have been declared but not paid.

**(b) Notice of Redemption**. Notice of every redemption of shares of Series J Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series J Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series J Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series J Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series J Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption**. In case of any redemption of only part of the shares of Series J Preferred Stock at the time outstanding, the shares of Series J Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series J Preferred Stock in proportion to the number of Series J Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series J Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption**. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the

Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 7. Voting Rights**.

**(a) General.** The holders of Series J Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by Delaware law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series J Preferred Stock or any other class or series of preferred stock that ranks on parity with Series J Preferred Stock as to payment of dividends, and upon which voting rights equivalent to those granted by this Section 7(b)(i) have been conferred and are exercisable, have not been paid in an aggregate amount equal, as to any class or series, to at least six quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors of the Corporation shall be increased by two, and the holders of the Series J Preferred Stock (together with holders of any class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of the such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist), shall have the right, voting separately as a single class without regard to series, to the exclusion of the holders of common stock, to elect two directors of the Corporation to fill such newly created directorships (and to fill any vacancies in the terms of such directorships), provided that the election of such directors must not cause the Corporation to violate the corporate governance requirements of the New York Stock Exchange (or other exchange on which the Corporation's securities may be listed) that listed companies must have a majority of independent directors and further provided that the Board of Directors of the Corporation shall at no time include more than two such directors. Each such director elected by the holders of shares of Series J Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series J Preferred Stock as to payment of dividends and having equivalent voting rights is a "*Preferred Director*."

**(ii) Election.** The election of the Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the holders of Series J Preferred Stock and any other class or series of our stock that ranks on parity with Series J Preferred Stock as to payment of dividends and having equivalent voting rights and for which dividends have not been paid, called as provided herein. At any time after the special voting power has vested pursuant to Section 7(b)(i) above, the secretary of the Corporation may, and upon the written request of any holder of Series J Preferred Stock (addressed to the secretary at the Corporation's principal office) must (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), call a special meeting of the holders of Series J Preferred Stock and any other class or series of preferred stock that ranks on parity with Series J Preferred Stock as to payment of dividends and having equivalent voting rights and for which dividends have not been paid for the election of the two directors to be elected by them as provided in Section 7(b)(iii) below. The Preferred Directors shall each be entitled to one vote per director on any matter.

**(iii) Notice of Special Meeting.** Notice for a special meeting will be given in a similar manner to that provided in the Corporation's by-laws for a special meeting of the stockholders. If the secretary of the Corporation does not call a special meeting within 20 days after receipt of any such request, then any holder of Series J Preferred Stock may (at our expense) call such meeting, upon notice as provided in this Section 7(b)(iii), and for that purpose will have access to the stock register of the Corporation. The Preferred Directors elected at any such special meeting will hold office until the next annual meeting of our stockholders unless they have been previously terminated or removed pursuant to Section 7(b)(iv). In case any vacancy in the office of a Preferred Director occurs (other than prior to the initial election of the Preferred Directors), the vacancy may be filled by the written consent of the Preferred Director remaining in office, or if none remains in office, by the vote of the holders of the Series J Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) to serve until the next annual meeting of the stockholders.

**(iv) Termination; Removal.** Whenever full dividends have been paid regularly on the Series J Preferred Stock and any other class or series of preferred stock that ranks on parity with Series J Preferred Stock as to payment of dividends, if any, for at least four quarterly Dividend Periods, then the right of the holders of Series J Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of the special voting rights in the case of any similar non-payment of dividends in respect of future Dividend Periods). The terms of office of the Preferred Directors will immediately terminate, and the number of directors constituting the Board of Directors will be reduced accordingly. Any Preferred Director may be removed at any time without cause by the holders of record of a majority of the outstanding shares of the Series J Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) when they have the voting rights described in this Section 7(b).

**Section 8. Preemption and Conversion**. The holders of Series J Preferred Stock shall not have any rights of preemption or rights to convert such Series J Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Rank**. Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series J Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series J Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 10. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell Series J Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 11. Unissued or Reacquired Shares**. Shares of Series J Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 12. No Sinking Fund**. Shares of Series J Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**FIXED-TO-FLOATING RATE**
**NON-CUMULATIVE PREFERRED STOCK, SERIES K**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. At meetings duly convened and held on December 11, 2007 and January 23, 2008, the Board of Directors of the Corporation (the "Board") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Special Committee (the "Committee") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on January 25, 2008, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in the Certificate of Designations attached hereto as Exhibit A, which is incorporated herein and made a part of these resolutions by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 28th day of January, 2008.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**

**CERTIFICATE OF DESIGNATIONS**

**OF**

**FIXED-TO-FLOATING RATE**
**NON-CUMULATIVE PREFERRED STOCK, SERIES K**

**OF**

**BANK OF AMERICA CORPORATION**

**Section 1. Designation**. The designation of the series of preferred stock shall be "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K" (the "*Series K Preferred Stock*"). Each share of Series K Preferred Stock shall be identical in all respects to every other share of Series K Preferred Stock. Series K Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares**. The number of authorized shares of Series K Preferred Stock shall be 240,000. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series K Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation, the Committee or any other duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series K Preferred Stock.

**Section 3. Definitions**. As used herein with respect to Series K Preferred Stock:

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or obligated by law, regulation or executive order to close in New York, New York or in Charlotte, North Carolina.

"*Calculation Agent*" shall mean The Bank of New York Trust Company, N.A., or such other bank or entity as may be appointed by the Corporation to act as calculation agent for the Series K Preferred Stock during the Floating Rate Period (as defined below).

"*Depositary Company*" shall have the meaning set forth in Section 6(d) hereof.

"*Dividend Determination Date*" shall have the meaning set forth below in the definition of "Three-Month LIBOR."

"*Dividend Payment Date*" shall have the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" shall have the meaning set forth in Section 4(a) hereof.

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Fixed Rate Period*" shall have the meaning set forth in Section 4(a) hereof.

"*Floating Rate Period*" shall have the meaning set forth in Section 4(a) hereof.

"*Junior Stock*" means the Corporation's common stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which Series K Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*London Banking Day*" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London, England.

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, (c) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, (d) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding), (e) the Corporation's Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding), (f) the Corporation's 6.625% Non-Cumulative Preferred Stock, Series I, (g) the Corporation's 7.25% Non-Cumulative Preferred Stock, Series J, (h) the Corporation's 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L (if and when issued and outstanding), and (i) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series K Preferred Stock in the payment of dividends and in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Reuters Screen Page "LIBOR01"*" means the display page so designated on Reuters (or any other page as may replace that page on that service, or any other service as may be nominated as the information vendor, for the purpose of displaying rates or prices comparable to the London Interbank Offered Rate for U.S. dollar deposits).

*"Senior Stock"* means any class or series of stock of the Corporation now existing or hereafter authorized which has preference or priority over the Series K Preferred Stock as to the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"*Series K Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

"*Three-Month LIBOR*" means, with respect to any Dividend Period in the Floating Rate Period, the offered rate (expressed as a percentage *per annum*) for deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period that appears on Reuters Screen Page "LIBOR01" as of 11:00 a.m. (London time) on the second London Banking Day immediately preceding the first day of that Dividend Period (the "*Dividend Determination Date*"). If such rate does not appear on Reuters Screen Page "LIBOR01", Three-Month LIBOR

will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000 are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Corporation, at approximately 11:00 a.m., London time on the second London Banking Day immediately preceding the first day of that Dividend Period. The Calculation Agent will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations. If fewer than two quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York City selected by the Corporation, at approximately 11:00 a.m., New York City time, on the first day of that Dividend Period for loans in U.S. dollars to leading European banks for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than $1,000,000. However, if fewer than three banks selected by the Corporation to provide quotations are not quoting as described above, Three-Month LIBOR for that Dividend Period will be the same as Three-Month LIBOR as determined for the previous Dividend Period, or in the case of the first Dividend Period in the Floating Rate Period, the most recent rate that could have been determined in accordance with the first sentence of this paragraph had the dividend rate been a floating rate during the Fixed Rate Period (as defined below). The Calculation Agent's establishment of Three-Month LIBOR and calculation of the amount of dividends for each Dividend Period in the Floating Rate Period will be on file at the principal offices of the Corporation, will be made available to any holder of Series K Preferred Stock upon request and will be final and binding in the absence of manifest error.

**Section 4. Dividends**.

**(a) Rate**. Holders of Series K Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference of $25,000 per share of Series K Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on each January 30 and July 30 and (y) for the Floating Rate Period, quarterly in arrears on each January 30, April 30, July 30 and October 30; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the Series K Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a "*Dividend Period.*" Dividends on each share of Series K Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate *per annum* equal to (1) 8.00%, for each Dividend Period from the issue date to, but excluding, January 30, 2018 (the "*Fixed Rate Period*"), and (2) Three-Month LIBOR plus a spread of 3.63%, for each Dividend Period from January 30, 2018 to the date of redemption of the Series K Preferred Stock (the "*Floating Rate Period*"). The record date for payment of dividends on the Series K Preferred Stock shall be the fifteenth day of the calendar month in which the Dividend

Payment Date falls. For the Fixed Rate Period, the amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. For the Floating Rate Period, the amount of dividends payable shall be computed on the basis of a 360-day year and the actual number of days elapsed in a Dividend Period.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series K Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series K Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series K Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period after the Dividend Payment Date for such Dividend Period or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series K Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation.

**(c) Priority of Dividends**. So long as any share of Series K Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in shares of Junior Stock, (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series K Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, in each case unless full dividends on all outstanding shares of Series K Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series K Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series K Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series K Preferred Stock and on any Parity Stock but cannot make full payment of such declared dividends, the Corporation will allocate the dividend payments on a *pro rata* basis among the holders of the shares of Series K Preferred Stock and the holders of any Parity Stock then outstanding. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series K Preferred Stock and the aggregate of the current and accrued dividends due on the outstanding Parity Stock. No interest will be payable in respect of any dividend payment on

shares of Series K Preferred Stock that may be in arrears. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series K Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series K Preferred Stock shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series K Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidating distribution in the amount of the liquidation preference of $25,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. The holders of Series K Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series K Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series K Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences, plus any dividends which have been declared but not yet paid, of Series K Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series K Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 6. Redemption**.

**(a) Optional Redemption**. The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem out of funds legally available therefor, in whole or in part, the shares of Series K Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on January 30, 2018, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series K Preferred Stock shall be $25,000 per share plus dividends that have been declared but not paid.

**(b) Notice of Redemption**. Notice of every redemption of shares of Series K Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series K Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series K Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series K Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series K Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption**. In case of any redemption of only part of the shares of Series K Preferred Stock at the time outstanding, the shares of Series K Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series K Preferred Stock in proportion to the number of Series K Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation, the Committee or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series K Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption**. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the "*Depositary Company*") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares

shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depositary Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

**Section 7. Voting Rights**.

**(a) General.** The holders of Series K Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by Delaware law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series K Preferred Stock or any other class or series of preferred stock that ranks on parity with Series K Preferred Stock as to payment of dividends, and upon which voting rights equivalent to those granted by this Section 7(b)(i) have been conferred and are exercisable, have not been paid in an aggregate amount equal to, as to any class or series, the equivalent of at least three or more semi-annual or six or more quarterly Dividend Periods (whether consecutive or not), as applicable, the number of directors constituting the Board of Directors of the Corporation shall be increased by two, and the holders of the Series K Preferred Stock (together with holders of any class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of the such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist), shall have the right, voting separately as a single class without regard to series, to the exclusion of the holders of common stock, to elect two directors of the Corporation to fill such newly created directorships (and to fill any vacancies in the terms of such directorships), provided that the election of such directors must not cause the Corporation to violate the corporate governance requirements of the New York Stock Exchange (or other exchange on which the Corporation's securities may be listed) that listed companies must have a majority of independent directors and further provided that the Board of Directors of the Corporation shall at no time include more than two such directors. Each such director elected by the holders of shares of Series K Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series K Preferred Stock as to payment of dividends and having equivalent voting rights is a "*Preferred Director*."

**(ii) Election.** The election of the Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the holders of Series K Preferred Stock and any other class or series of our stock that ranks on parity with Series K Preferred Stock as to payment of dividends and having equivalent voting rights and for which dividends have not been paid, called as provided herein. At any time after the special voting power has vested pursuant to

Section 7(b)(i) above, the secretary of the Corporation may, and upon the written request of any holder of Series K Preferred Stock (addressed to the secretary at the Corporation's principal office) must (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), call a special meeting of the holders of Series K Preferred Stock and any other class or series of preferred stock that ranks on parity with Series K Preferred Stock as to payment of dividends and having equivalent voting rights and for which dividends have not been paid for the election of the two directors to be elected by them as provided in Section 7(b)(iii) below. The Preferred Directors shall each be entitled to one vote per director on any matter.

**(iii) Notice of Special Meeting.** Notice for a special meeting will be given in a similar manner to that provided in the Corporation's by-laws for a special meeting of the stockholders. If the secretary of the Corporation does not call a special meeting within 20 days after receipt of any such request, then any holder of Series K Preferred Stock may (at our expense) call such meeting, upon notice as provided in this Section 7(b)(iii), and for that purpose will have access to the stock register of the Corporation. The Preferred Directors elected at any such special meeting will hold office until the next annual meeting of our stockholders unless they have been previously terminated or removed pursuant to Section 7(b)(iv). In case any vacancy in the office of a Preferred Director occurs (other than prior to the initial election of the Preferred Directors), the vacancy may be filled by the written consent of the Preferred Director remaining in office, or if none remains in office, by the vote of the holders of the Series K Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) to serve until the next annual meeting of the stockholders.

**(iv) Termination; Removal.** Whenever full dividends have been paid regularly on the Series K Preferred Stock and any other class or series of preferred stock that ranks on parity with Series K Preferred Stock as to payment of dividends, if any, for the equivalent of at least two semi-annual or four quarterly Dividend Periods, as applicable, then the right of the holders of Series K Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of the special voting rights in the case of any similar non-payment of dividends in respect of future Dividend Periods). The terms of office of the Preferred Directors will immediately terminate, and the number of directors constituting the Board of Directors will be reduced accordingly. Any Preferred Director may be removed at any time without cause by the holders of record of a majority of the outstanding shares of the Series K Preferred Stock (together with holders of any other class of the Corporation's authorized preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) when they have the voting rights described in this Section 7(b).

**Section 8. Preemption and Conversion**. The holders of Series K Preferred Stock shall not have any rights of preemption or rights to convert such Series K Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Rank**. Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board of Directors of the Corporation, the Committee or any authorized committee of the Board of Directors of the Corporation, without the vote of the holders of the Series K Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series K Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 10. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell Series K Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 11. Unissued or Reacquired Shares**. Shares of Series K Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series.

**Section 12. No Sinking Fund**. Shares of Series K Preferred Stock are not subject to the operation of a sinking fund.

**CERTIFICATE OF DESIGNATIONS**
**OF**
**7.25% NON-CUMULATIVE PERPETUAL**
**CONVERTIBLE PREFERRED STOCK, SERIES L**
**OF**
**BANK OF AMERICA CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. At meetings duly convened and held on December 11, 2007 and January 23, 2008, the Board of Directors of the Corporation (the "Board") duly adopted resolutions (a) authorizing the issuance and sale by the Corporation of one or more series of the Corporation's preferred stock, and (b) appointing a Special Committee (the "Committee") of the Board to act on behalf of the Board in establishing the number of authorized shares, the dividend rate and other powers, designations, preferences and rights of the preferred stock.

2. Thereafter, on January 28, 2008, the Committee duly adopted the following resolution by written consent:

"**RESOLVED**, that the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Corporation's 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, including those established by the Board and the number of authorized shares and dividend rate established hereby, are authorized and approved as set forth in the Certificate of Designations attached hereto as Exhibit A, which is incorporated herein and made a part of these resolutions by reference."

IN WITNESS WHEREOF, this Certificate of Designations is executed on behalf of the Corporation by its duly authorized officer this 28th day of January, 2008.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

**EXHIBIT A**
**CERTIFICATE OF DESIGNATIONS**
**OF**
**7.25% NON-CUMULATIVE PERPETUAL**
**CONVERTIBLE PREFERRED STOCK, SERIES L**
**OF**
**BANK OF AMERICA CORPORATION**

**Section 1. Designation**. The designation of the series of preferred stock shall be "7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L", $0.01 par value, with a liquidation preference of $1,000 per share (the "*Series L Preferred Stock*"). Each share of Series L Preferred Stock shall be identical in all respects to every other share of Series L Preferred Stock. Series L Preferred Stock will rank equally with Parity Stock, if any, will rank senior to Junior Stock and will rank junior to Senior Stock, if any, with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares**. The number of authorized shares of Series L Preferred Stock shall be 6,900,000. That number from time to time may be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series L Preferred Stock then outstanding) by further resolution duly adopted by the Board, the Committee or any other duly authorized committee of the Board and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such increase or reduction, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series L Preferred Stock.

**Section 3. Definitions**. As used herein with respect to Series L Preferred Stock:

"*Applicable Conversion Price*" at any given time means, for each share of Series L Preferred Stock, the price equal to $1,000 divided by the Applicable Conversion Rate in effect at such time.

"*Applicable Conversion Rate*" means the Conversion Rate in effect at any given time.

"*Base Price*" has the meaning set forth in Section 6(d)(i).

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions are not authorized or required by law or regulation to close in New York, New York or in Charlotte, North Carolina.

"*Closing Price*" of the Common Stock on any determination date means the closing sale price or, if no closing sale price is reported, the last reported sale price of the shares of the Common Stock on the New York Stock Exchange on such date. If the Common Stock is not

traded on the New York Stock Exchange on any determination date, the Closing Price of the Common Stock on such determination date means the closing sale price as reported in the composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal U.S. national or regional securities exchange on which the Common Stock is so listed or quoted, or if the Common Stock is not so listed or quoted on a U.S. national or regional securities exchange, the last quoted bid price for the Common Stock in the over-the-counter market as reported by Pink Sheets LLC or a similar organization, or, if that bid price is not available, the market price of the Common Stock on that date as determined by a nationally recognized independent investment banking firm retained by the Corporation for this purpose.

For purposes of this Certificate of Designations, all references herein to the "Closing Price" and "last reported sale price" of the Common Stock on the New York Stock Exchange shall be such closing sale price and last reported sale price as reflected on the website of the New York Stock Exchange (http://www.nyse.com) and as reported by Bloomberg Professional Service; *provided* that in the event that there is a discrepancy between the closing sale price or last reported sale price as reflected on the website of the New York Stock Exchange and as reported by Bloomberg Professional Service, the closing sale price and last reported sale price on the website of the New York Stock Exchange will govern.

"*Common Stock*" means the common stock, $0.01 par value, of the Corporation.

"*Conversion Agent*" shall mean Computershare Trust Company, N.A. and Computershare Inc. collectively acting in their capacity as conversion agent for the Series L Preferred Stock, and their respective successors and assigns.

"*Conversion Date*" has the meaning set forth in Section 6(a)(v)(B).

"*Conversion Rate*" means for each share of Series L Preferred Stock, 20 shares of Common Stock, plus cash in lieu of fractional shares, subject to adjustment as set forth herein.

"*Current Market Price*" of the Common Stock on any day, means the average of the VWAP of the Common Stock over each of the ten consecutive Trading Days ending on the earlier of the day in question and the day before the Ex-Date or other specified date with respect to the issuance or distribution requiring such computation, appropriately adjusted to take into account the occurrence during such period of any event described in Section 7(a)(i) through (vi).

"*Depository*" means DTC or its nominee or any successor depository appointed by the Corporation.

"*Dividend Payment Date*" has the meaning set forth in Section 4(a) hereof.

"*Dividend Period*" has the meaning set forth in Section 4(a) hereof.

"*Dividend Threshold Amount*" has the meaning set forth in Section 7(a)(v).

"*DTC*" means The Depository Trust Company, together with its successors and assigns.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Exchange Property*" has the meaning set forth in Section 8(a).

"*Ex-Date*," when used with respect to any issuance or distribution, means the first date on which the Common Stock or other securities trade without the right to receive the issuance or distribution.

"*Fundamental Change*" has the meaning set forth in Section 6(d)(i).

"*Holder*" means the Person in whose name the shares of Series L Preferred Stock are registered, which may be treated by the Corporation, Transfer Agent, Registrar, paying agent and Conversion Agent as the absolute owner of the shares of Series L Preferred Stock for the purpose of making payment and settling conversions and for all other purposes.

"*Junior Stock*" means the Common Stock and any other class or series of capital stock of the Corporation over which Series L Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Make-Whole Acquisition*" means the occurrence, prior to any Conversion Date, of one of the following:

(a) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act files a Schedule TO or any schedule, form, or report under the Exchange Act disclosing that such person or group has become the direct or indirect ultimate "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of common equity of the Corporation representing more than 50% of the voting power of the Common Stock; or

(b) consummation of the Corporation's consolidation or merger or similar transaction or any sale, lease, or other transfer in one transaction or a series of related transactions of all or substantially all of the Corporation's and the Corporation's subsidiaries' consolidated assets, taken as a whole, to any Person other than one of the Corporation's subsidiaries, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property, other than pursuant to a transaction in which the persons that "beneficially owned" (as defined in Rule 13d-3 under the Exchange Act) directly or indirectly, voting shares immediately prior to such transaction beneficially own, directly or indirectly, voting shares representing a majority of the total voting power of all outstanding classes of voting shares of the continuing or surviving person immediately after the transaction;

*provided, however* that a Make-Whole Acquisition will not be deemed to have occurred if at least 90% of the consideration received by holders of the Common Stock in the transaction or transactions consists of shares of common stock or American Depositary Receipts in respect of common stock that are traded on a U.S. national securities exchange or securities exchange in the European Economic Area or that will be so traded when issued or exchanged in connection with a Make-Whole Acquisition.

"*Make-Whole Acquisition Conversion*" has the meaning set forth in Section 6(c)(i).

"*Make-Whole Acquisition Conversion Period*" has the meaning set forth in Section 6(c)(i).

"*Make-Whole Acquisition Effective Date*" has the meaning set forth in Section 6(c)(i).

"*Make-Whole Acquisition Stock Price*" means the price paid per share of Common Stock in the event of a Make-Whole Acquisition. If the holders of shares of Common Stock receive only cash in the Make-Whole Acquisition, the Make-Whole Acquisition Stock Price will be the cash amount paid per share of Common Stock. Otherwise, the Make-Whole Acquisition Stock Price shall be the average of the Closing Price per share of Common Stock on the ten Trading Days up to, but not including, the Make-Whole Acquisition Effective Date.

"*Make-Whole Shares*" has the meaning set forth in Section 6(c)(i).

"*Nonpayment*" has the meaning set forth in Section 11(b)(i).

"*Notice of Optional Conversion*" has the meaning set forth in Section 6(b)(iii).

"*Optional Conversion Date*" has the meaning set forth in Section 6(b)(iii).

"*Parity Stock*" means (a) the Corporation's 7% Cumulative Redeemable Preferred Stock, Series B, (b) the Corporation's 6.204% Non-Cumulative Preferred Stock, Series D, (c) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series E, (d) the Corporation's Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding), (e) the Corporation's Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding), (f) the Corporation's 6.625% Non-Cumulative Preferred Stock, Series I, (g) the Corporation's 7.25% Non-Cumulative Preferred Stock, Series J, (h) the Corporation's Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K (if and when issued and outstanding) and (i) any other class or series of capital stock of the Corporation hereafter authorized that ranks on par with the Series L Preferred Stock in the payment of dividends and in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Person*" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company or trust.

"*Preferred Director*" has the meaning set forth in Section 11(b)(i).

"*Purchased Shares*" has the meaning set forth in Section 7(a)(vi)

"*Reference Price*" means the price paid per share of Common Stock in the event of a Fundamental Change. If the holders of shares of Common Stock receive only cash in the Fundamental Change, the Reference Price shall be the cash amount paid per share. Otherwise, the Reference Price will be the average of the Closing Price per share of Common Stock on the ten Trading Days up to, but not including, the effective date of the Fundamental Change.

"*Reorganization Event*" has the meaning set forth in Section 8.

"*Registrar*" means Computershare Trust Company, N.A. or its nominee or any successor or registrar appointed by the Corporation.

"*Senior Stock"* means any class or series of capital stock of the Corporation authorized which has preference or priority over the Series L Preferred Stock as to the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

"*Series L Preferred Stock*" has the meaning set forth in Section 1.

"s*pin-off*" has the meaning set forth in Section 7(a)(iv).

"*Trading Day*" for purposes of determining the VWAP or Closing Price means a day on which the shares of Common Stock:

(a) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market at the close of business; and

(b) have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the Common Stock.

"*Transfer Agent*" means Computershare Trust Company, N.A. acting as Transfer Agent, Registrar, and Conversion Agent for the Series L Preferred Stock, and its successors and assigns.

"*Voting Parity Securities*" has the meaning set forth in Section 11(b)(i).

"*VWAP*" means, per share of the Common Stock on any Trading Day, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "BAC UN <equity> AQR" (or its equivalent successor if such page is not available) in respect of the period from the open of trading on the relevant Trading Day until the close of trading on the relevant Trading Day (or if such volume-weighted average price is unavailable, the market price of one share of the Common Stock on such trading days determined, using a volume-weighted average method, by a nationally recognized investment banking firm (unaffiliated with the Corporation) retained for this purpose by the Corporation).

**Section 4. Dividends**.

**(a) Rate**. Holders of Series L Preferred Stock shall be entitled to receive, when, as and if declared by the Board or any duly authorized committee of the Board, but only out of assets legally available under Delaware law for payment, non-cumulative cash dividends on the liquidation preference of $1,000 per share of Series L Preferred Stock, and no more, payable quarterly in arrears on each January 30, April 30, July 30 and October 30 of each year, beginning on April 30, 2008; provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, unless that day falls in the next calendar year, in which case payment of such dividend will occur on the immediately preceding Business Day (in either case, without any interest or other payment in respect of such delay) (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from and including the date of issuance of the

Series L Preferred Stock or any Dividend Payment Date to but excluding the next Dividend Payment Date is a "*Dividend Period*". Dividends on each share of Series L Preferred Stock will accrue on the liquidation preference of $1,000 per share at a rate per annum equal to 7.25%. The record date for payment of dividends on the Series L Preferred Stock shall be the first day of the calendar month in which the relevant Dividend Payment Date falls. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward. Dividends on the Series L Preferred Stock will cease to accrue after conversion, as described below. If the Corporation issues additional shares of the Series L Preferred Stock, dividends on those additional shares will accrue from the preceding scheduled Dividend Payment Date at the dividend rate.

**(b) Non-Cumulative Dividends**. Dividends on shares of Series L Preferred Stock shall be non-cumulative. Accordingly, if for any reason the Board or a duly authorized committee of the Board does not declare a dividend on the Series L Preferred Stock for a Dividend Period prior to the related Dividend Payment Date, that dividend will not accrue, and the Corporation will have no obligation to pay a dividend for that Dividend Period on the Dividend Payment Date or at any time in the future, whether or not the Board or a duly authorized committee of the Board declares a dividend on the Series L Preferred Stock or any other series of the Corporation's preferred stock or Common Stock for any future Dividend Period.

**(c) Dividend Stopper**. So long as any share of Series L Preferred Stock remains outstanding, (i) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock (other than a dividend payable solely in shares of Junior Stock), (ii) no shares of Junior Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into other Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock by the Corporation and (iii) no shares of Parity Stock will be repurchased, redeemed, or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a*pro rata* portion, of the Series L Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, during a Dividend Period, unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of Series L Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside. The foregoing limitations do not apply to purchases or acquisitions of the Corporation's Junior Stock pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreements) of the Corporation or any subsidiary of the Corporation heretofore or hereafter adopted. Subject to the succeeding sentence, for so long as any shares of Series L Preferred Stock remain outstanding, no dividends shall be declared or paid or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series L Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series L Preferred Stock and on any Parity Stock but does

not make full payment of such declared dividends, the Corporation will allocate the dividend payments on a*pro rata* basis among the holders of the shares of Series L Preferred Stock and the holders of any Parity Stock then outstanding. For purposes of calculating the *pro rata* allocation of partial dividend payments, the Corporation will allocate dividend payments based on the ratio between the then-current dividend payments due on the shares of Series L Preferred Stock and the aggregate of the current and accrued dividends due on the outstanding Parity Stock. The Corporation is not obligated to and will not pay Holders of the Series L Preferred Stock any interest or sum of money in lieu of interest on any dividend not paid on a Dividend Payment Date. The Corporation is not obligated to and will not pay Holders of the Series L Preferred Stock any dividend in excess of the dividends on the Series L Preferred Stock that are payable as described herein. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board or any duly authorized committee of the Board may be declared and paid on any Junior Stock from time to time out of any assets legally available therefor, and the shares of Series L Preferred Stock shall not be entitled to participate in any such dividend.

**Section 5. Right to Convert**. Each Holder shall have the right, at such Holder's option, at any time, to convert all or any portion of such Holder's Series L Preferred Stock into shares of Common Stock at the Applicable Conversion Rate (subject to the conversion procedures set forth in Section 6 herein) plus cash in lieu of fractional shares.

**Section 6. Conversion**.

**(a) Conversion Procedures**.

(i) Effective immediately prior to the close of business on the Optional Conversion Date or any applicable Conversion Date, dividends shall no longer be declared on any converted shares of Series L Preferred Stock and such shares of Series L Preferred Stock shall cease to be outstanding, in each case, subject to the right of Holders to receive any declared and unpaid dividends on such shares and any other payments to which they are otherwise entitled pursuant to Section 5, Section 6(b), Section 6(c), Section 6(d), Section 8 or Section 12 hereof, as applicable.

(ii) Prior to the close of business on the Optional Conversion Date or any applicable Conversion Date, shares of Common Stock issuable upon conversion of, or other securities issuable upon conversion of, any shares of Series L Preferred Stock shall not be deemed outstanding for any purpose, and Holders shall have no rights with respect to the Common Stock or other securities issuable upon conversion (including voting rights, rights to respond to tender offers for the Common Stock and rights to receive any dividends or other distributions on the Common Stock or other securities issuable upon conversion) by virtue of holding shares of Series L Preferred Stock.

(iii) Shares of Series L Preferred Stock duly converted in accordance with the terms hereof, or otherwise reacquired by the Corporation, will resume the status of authorized and unissued preferred stock, undesignated as to series and available for future issuance. The Corporation may from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series L Preferred Stock.

(iv) The Person or Persons entitled to receive the Common Stock and/or securities issuable upon conversion of Series L Preferred Stock shall be treated for all purposes as the record holder(s) of such shares of Common Stock and/or securities as of the close of business on the Optional Conversion Date or any applicable Conversion Date. In the event that a Holder shall not by written notice designate the name in which shares of Common Stock and/or cash, securities or other property (including payments of cash in lieu of fractional shares) to be issued or paid upon conversion of shares of Series L Preferred Stock should be registered or paid or the manner in which such shares should be delivered, the Corporation shall be entitled to register and deliver such shares, and make such payment, in the name of the Holder and in the manner shown on the records of the Corporation or, in the case of global certificates, through book-entry transfer through the Depository.

(v) Conversion into shares of Common Stock will occur on the Optional Conversion Date or any applicable Conversion Date as follows:

(A) On the Optional Conversion Date, certificates representing shares of Common Stock shall be issued and delivered to Holders or their designee upon presentation and surrender of the certificate evidencing the Series L Preferred Stock to the Conversion Agent if shares of the Series L Preferred Stock are held in certificated form, and, if required, the furnishing of appropriate endorsements and transfer documents and the payment of all transfer and similar taxes. If a Holder's interest is a beneficial interest in a global certificate representing Series L Preferred Stock, a book-entry transfer through the Depository will be made by the Conversion Agent upon compliance with the Depository's procedures for converting a beneficial interest in a global security.

(B) On the date of any conversion at the option of Holders pursuant to Section 5, Section 6(b), Section 6(c) or Section 6(d), if a Holder's interest is in certificated form, a Holder must do each of the following in order to convert:

(1) complete and manually sign the conversion notice provided by the Conversion Agent, or a facsimile of the conversion notice, and deliver this irrevocable notice to the Conversion Agent;

(2) surrender the shares of Series L Preferred Stock to the Conversion Agent;

(3) if required, furnish appropriate endorsements and transfer documents;

(4) if required, pay all transfer or similar taxes; and

(5) if required, pay funds equal to any declared and unpaid dividend payable on the next Dividend Payment Date to which such Holder is entitled.

If a Holder's interest is a beneficial interest in a global certificate representing Series L Preferred Stock, in order to convert a Holder must comply with paragraphs (3) through (5) listed above and comply with the Depository's procedures for converting a beneficial interest in a global security.

The date on which a Holder complies with the procedures in this clause (v) is the "*Conversion Date*."

(C) The Conversion Agent shall, on a Holder's behalf, convert the Series L Preferred Stock into shares of Common Stock, in accordance with the terms of the notice delivered by such Holder described in clause (B) above. If the Conversion Date is prior to the record date relating to any declared dividend for the Dividend Period in which a Holder elects to convert, the Holder will not receive any declared dividends for that Dividend Period. If the Conversion Date is after the record date relating to any declared dividend and prior to the Dividend Payment Date, the Holder will receive that dividend on the relevant Dividend Payment Date if the Holder was the holder of record on the record date for that dividend. However, if the Conversion Date is after the record date and prior to the Dividend Payment Date, whether or not the Holder was the holder of record on the record date, the Holder must pay to the Conversion Agent when it converts its shares of Series L Preferred Stock an amount in cash equal to the full dividend actually paid on the Dividend Payment Date for the then-current Dividend Period on the shares of Series L Preferred Stock being converted, unless the Holder's shares of Series L Preferred Stock are being converted as a result of a conversion pursuant to Section 6(b), Section 6(c) or Section 6(d).

**(b) Conversion at the Corporation's Option**.

(i) On or after January 30, 2013, the Corporation may, at its option, at any time or from time to time, cause some or all of the Series L Preferred Stock to be converted into shares of Common Stock at the then-Applicable Conversion Rate if, for 20 Trading Days during any period of 30 consecutive Trading Days the Closing Price of the Common Stock exceeds 130% of the then-Applicable Conversion Price of the Series L Preferred Stock. If the Corporation exercises its optional conversion right on January 30, 2013, it will still pay any dividend payable (in accordance with Section 4) on January 30, 2013 to the applicable Holders of record. The Corporation will provide notice of its optional conversion within five Trading Days of the end of the 30 consecutive Trading Day period.

(ii) If the Corporation elects to cause less than all of the Series L Preferred Stock to be converted under clause (i) above, the Conversion Agent will select the Series L Preferred Stock to be converted by lot, or on a *pro rata* basis or by another method the Conversion Agent considers fair and appropriate, including any method required by DTC or any successor depository (so long as such method is not prohibited by the rules of any stock exchange or quotation association on which the Series L Preferred Stock is then traded or quoted). If the Conversion Agent selects a portion of a Holder's Series L Preferred Stock for partial conversion at the Corporation's option and such Holder converts a portion of its shares of Series L Preferred Stock, the converted portion will be deemed to be from the portion selected for conversion at the Corporation's option under this Section 6(b).

(iii) If the Corporation exercises the optional conversion right described in this Section 6(b), the Corporation shall provide notice of such conversion by first class mail to each Holder of record for the shares of Series L Preferred Stock to be converted (such notice a "*Notice of Optional Conversion*") or issue a press release for publication and make this information available on its website. The Conversion Date shall be a date selected by the Corporation (the

"*Optional Conversion Date*"), and the Notice of Optional Conversion must be mailed, or the Corporation must issue the press release, not more than 20 days prior to the Optional Conversion Date. In addition to any information required by applicable law or regulation, the Notice of Optional Conversion or press release shall state, as appropriate:

(A) the Optional Conversion Date;

(B) the aggregate number of shares of Series L Preferred Stock to be converted and, if less than all of the shares of Series L Preferred Stock are to be converted, the percentage of shares of Series L Preferred Stock to be converted; and

(C) the number of shares of Common Stock to be issued upon conversion of each share of Series L Preferred Stock.

**(c) Conversion Upon Make-Whole Acquisition**.

(i) In the event of a Make-Whole Acquisition, each Holder shall have the option to convert its shares of Series L Preferred Stock (a "*Make-Whole Acquisition Conversion*") during the period (the "*Make-Whole Acquisition Conversion Period*") beginning on the effective date of the Make-Whole Acquisition (the "*Make-Whole Acquisition Effective Date*") and ending on the date that is 30 days after the Make-Whole Acquisition Effective Date and receive an additional number of shares of Common Stock (the "*Make-Whole Shares*") as set forth in clause (ii) below.

(ii) The number of Make-Whole Shares per share of Series L Preferred Stock shall be determined by reference to the table below for the applicable Make-Whole Acquisition Effective Date and the applicable Make-Whole Acquisition Stock Price:

| Effective Date | $40.00 | $41.00 | $42.00 | $44.00 | $47.00 | $50.00 | $60.00 | $80.00 | $110.00 | $150.00 | $200.00 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1/24/2008 | 5.0000 | 4.7993 | 4.6190 | 4.2023 | 3.6851 | 3.2540 | 2.1450 | 1.0450 | 0.5164 | 0.2765 | 0.1468 |
| 1/30/2009 | 5.0000 | 4.7512 | 4.4643 | 4.1386 | 3.5702 | 3.1760 | 2.0317 | 0.9563 | 0.4682 | 0.2480 | 0.1285 |
| 1/30/2010 | 5.0000 | 4.6439 | 4.2929 | 3.9886 | 3.3830 | 2.9300 | 1.7617 | 0.6462 | 0.2287 | 0.1033 | 0.0390 |
| 1/30/2011 | 5.0000 | 4.6049 | 4.2429 | 3.9250 | 3.3170 | 2.8040 | 1.5650 | 0.5300 | 0.1964 | 0.1067 | 0.0500 |
| 1/30/2012 | 5.0000 | 4.5780 | 4.2405 | 3.8386 | 3.2596 | 2.5840 | 1.2667 | 0.2313 | 0.0755 | 0.0429 | 0.0206 |
| 1/30/2013 | 5.0000 | 4.5366 | 4.2214 | 3.7932 | 3.1660 | 2.5260 | 1.0217 | 0.0000 | 0.0000 | 0.0000 | 0.0000 |
| Thereafter | 5.0000 | 4.5366 | 4.2214 | 3.7932 | 3.1660 | 2.5260 | 1.0217 | 0.0000 | 0.0000 | 0.0000 | 0.0000 |

(A) The exact Make-Whole Acquisition Stock Prices and Make-Whole Acquisition Effective Dates may not be set forth in the table, in which case:

(1) if the Make-Whole Acquisition Stock Price is between two Make-Whole Acquisition Stock Price amounts in the table or the Make-Whole Acquisition Effective Date is between two dates in the table, the number of Make-Whole Shares will be determined by straight-line interpolation between the number of Make-Whole Shares set forth for the higher and lower Make-Whole Acquisition Stock Price amounts and the two Make-Whole Acquisition Effective Dates, as applicable, based on a 365-day year;

(2) if the Make-Whole Acquisition Stock Price is in excess of $200.00 per share (subject to adjustment pursuant to Section 7 hereof), no Make-Whole Shares will be issued upon conversion of the Series L Preferred Stock; and

(3) if the Make-Whole Acquisition Stock Price is less than $40.00 per share (subject to adjustment pursuant to Section 7 hereof), no Make-Whole Shares will be issued upon conversion of the Series L Preferred Stock.

(B) The Make-Whole Acquisition Stock Prices set forth in the table above are subject to adjustment pursuant to Section 7 hereof and shall be adjusted as of any date the Conversion Rate is adjusted. The adjusted Make-Whole Acquisition Stock Prices will equal the Make-Whole Acquisition Stock Prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Make-Whole Acquisition Stock Prices adjustment and the denominator of which is the Conversion Rate as so adjusted. Each of the number of Make-Whole Shares in the table shall also be subject to adjustment in the same manner as the Conversion Rate pursuant to Section 7.

(iii) On or before the twentieth day prior to the date the Corporation anticipates being the effective date for the Make-Whole Acquisition, a written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the anticipated effective date of the Make-Whole Acquisition; and

(B) the date, which shall be 30 days after the anticipated Make-Whole Acquisition Effective Date, by which a Make-Whole Acquisition Conversion must be exercised.

(iv) On the Make-Whole Acquisition Effective Date, another written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the date that shall be 30 days after the Make-Whole Acquisition Effective Date;

(B) the number of Make-Whole Shares;

(C) the amount of cash, securities and other consideration receivable by a Holder of Series L Preferred Stock upon conversion; and

(D) the instructions a Holder must follow to exercise its conversion option in connection with such Make-Whole Acquisition.

(v) To exercise a Make-Whole Acquisition Conversion option, a Holder must, no later than 5:00 p.m., New York City time on or before the date by which the Make-Whole Acquisition Conversion option must be exercised as specified in the notice delivered under clause (iv) above, comply with the procedures set forth in Section 6(a)(v)(B).

(vi) If a Holder does not elect to exercise the Make-Whole Acquisition Conversion option pursuant to this Section 6(c), the shares of Series L Preferred Stock or successor security held by it will remain outstanding, and the Holder will not be eligible to receive Make-Whole Shares.

(vii) Upon a Make-Whole Acquisition Conversion, the Conversion Agent shall, except as otherwise provided in the instructions provided by the Holder thereof in the written notice provided to the Corporation or its successor as set forth in Section 6(a)(iv) above, deliver to the Holder such cash, securities or other property as are issuable with respect to Make-Whole Shares in the Make-Whole Acquisition.

(viii) In the event that a Make-Whole Acquisition Conversion is effected with respect to shares of Series L Preferred Stock or a successor security representing less than all the shares of Series L Preferred Stock or a successor security held by a Holder, upon such Make-Whole Acquisition Conversion the Corporation or its successor shall execute and the Conversion Agent shall, unless otherwise instructed in writing, countersign and deliver to the Holder thereof, at the expense of the Corporation or its successors, a certificate evidencing the shares of Series L Preferred Stock or such successor security held by the Holder as to which a Make-Whole Acquisition Conversion was not effected.

**(d) Conversion Upon Fundamental Change**.

(i) In lieu of receiving the Make-Whole Shares, if the Reference Price in connection with a Make-Whole Acquisition is less than the Applicable Conversion Price (a "*Fundamental Change*"), a Holder may elect to convert each share of Series L Preferred Stock during the period beginning on the effective date of the Fundamental Change and ending on the date that is 30 days after the effective date of such Fundamental Change at an adjusted conversion price equal to the greater of (1) the Reference Price and (2) $19.95, subject to adjustment as described in clause (ii) below (the "*Base Price*"). If the Reference Price is less than the Base Price, Holders will receive a maximum of 50.1253 shares of Common Stock per share of Series L Preferred Stock converted, subject to adjustment as described in clause (ii) below.

(ii) The Base Price shall be adjusted as of any date the Conversion Rate of the Series L Preferred Stock is adjusted pursuant to Section 7. The adjusted Base Price shall equal the Base Price applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Conversion Rate adjustment and the denominator of which is the Conversion Rate as so adjusted.

(iii) In lieu of issuing Common Stock upon conversion in the event of a Fundamental Change, the Corporation may at its option, and if it obtains Federal Reserve Board approval, pay an amount in cash (computed to the nearest cent) equal to the Reference Price for each share of Common Stock otherwise issuable upon conversion.

(iv) On or before the twentieth day prior to the date the Corporation anticipates being the effective date for the Fundamental Change, a written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the anticipated effective date of the Fundamental Change; and

(B) the date, which shall be 30 days after the anticipated effective date of a Fundamental Change, by which a Fundamental Change conversion must be exercised.

(v) On the effective date of a Fundamental Change, another written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the date that shall be 30 days after the effective date of the Fundamental Change;

(B) the adjusted conversion price following the Fundamental Change;

(C) the amount of cash, securities and other consideration received by a Holder of Series L Preferred Stock upon conversion; and

(D) the instructions a Holder must follow to exercise its conversion option in connection with such Fundamental Change.

(vi) To exercise its conversion option upon a Fundamental Change, a Holder must, no later than 5:00 p.m., New York City time on or before the date by which the conversion option upon the Fundamental Change must be exercised as specified in the notice delivered under clause (v) above, comply with the procedures set forth in Section 6(a)(v)(B) and indicate that it is exercising the Fundamental Change conversion option.

(vii) If a Holder does not elect to exercise its conversion option upon a Fundamental Change pursuant to this Section 6(d), the Holder will not be eligible to convert such Holder's shares at the Base Price and such Holder's shares of Series L Preferred Stock or successor security held by it will remain outstanding.

(viii) Upon a conversion upon a Fundamental Change, the Conversion Agent shall, except as otherwise provided in the instructions provided by the Holder thereof in the written notice provided to the Corporation or its successor as set forth in Section 6(a)(iv) above, deliver to the Holder such cash, securities or other property as are issuable with respect to the adjusted conversion price following the Fundamental Change.

(ix) In the event that a conversion upon a Fundamental Change is effected with respect to shares of Series L Preferred Stock or a successor security representing less than all the shares of Series L Preferred Stock or a successor security held by a Holder, upon such conversion the Corporation or its successor shall execute and the Conversion Agent shall, unless otherwise instructed in writing, countersign and deliver to the Holder thereof, at the expense of the Corporation, a certificate evidencing the shares of Series L Preferred Stock or such successor security held by the Holder as to which a conversion upon a Fundamental Change was not effected.

**Section 7. Anti-Dilution Adjustments**.

(a) The Conversion Rate shall be subject to the following adjustments.

(i) **Stock Dividend Distributions**. If the Corporation pays dividends or other distributions on the Common Stock in shares of Common Stock, then the Conversion Rate in effect immediately following the record date for such dividend or distribution will be multiplied by the following fraction:

$$\frac{OS_1}{OS_0}$$

Where,

$OS_0$ = the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or distribution.

$OS_1$ = the sum of the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or distribution plus the total number of shares of Common Stock constituting such dividend.

Notwithstanding the foregoing, no adjustment will be made for the issuance of the Common Stock as a dividend or distribution to all holders of Common Stock that is made in lieu of quarterly dividends or distributions to such holders, to the extent such dividend or distribution does not exceed the dividend threshold amount defined in clause (v) below. For purposes of this paragraph, the amount of any dividend or distribution will equal the number of shares being issued multiplied by the average VWAP of the Common Stock over each of the five consecutive Trading Days prior to the record date for such distribution.

(ii) **Subdivisions, Splits, and Combination of the Common Stock** If the Corporation subdivides, splits, or combines the shares of Common Stock, then the Conversion Rate in effect immediately following the effective date of such share subdivision, split, or combination will be multiplied by the following fraction:

$$\frac{OS_1}{OS_0}$$

Where,

$OS_0$ = the number of shares of Common Stock outstanding immediately prior to the effective date of such share subdivision, split, or combination.

$OS_1$ = the number of shares of Common Stock outstanding immediately after the opening of business on the effective date of such share subdivision, split, or combination.

(iii) **Issuance of Stock Purchase Rights**. If the Corporation issues to all holders of the shares of Common Stock rights or warrants (other than rights or warrants issued

pursuant to a dividend reinvestment plan or share purchase plan or other similar plans) entitling them, for a period of up to 60 days from the date of issuance of such rights or warrants, to subscribe for or purchase the shares of Common Stock (or securities convertible into shares of Common Stock) at less than (or having a conversion price per share less than) the Current Market Price on the date fixed for the determination of stockholders entitled to receive such rights or warrants, then the Conversion Rate in effect immediately following the close of business on the record date for such distribution will be multiplied by the following fraction:

$$\frac{OS_0 + X}{OS_0 + Y}$$

Where,

$OS_0$ = the number of shares of Common Stock outstanding at the close of business on the record date for such distribution.

X = the total number of shares of Common Stock issuable pursuant to such rights or warrants (or upon conversion of such securities).

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights or warrants (or the conversion price for such securities) divided by the Current Market Price.

To the extent that such rights or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights or warrants upon the exercise of such rights or warrants, the Conversion Rate shall be readjusted to such Conversion Rate that would then be in effect had the adjustment made upon the issuance of such rights or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered. In determining the aggregate offering price payable for such shares of Common Stock, the Conversion Agent will take into account any consideration received for such rights or warrants and the value of such consideration (if other than cash, to be determined by the Board).

(iv) **Debt or Asset Distributions**. If the Corporation distributes to all holders of shares of Common Stock evidences of indebtedness, shares of capital stock (other than Common Stock), securities, or other assets (excluding any dividend or distribution referred to in clauses (i) or (ii) above, any rights or warrants referred to in clause (iii) above, any dividend or distribution paid exclusively in cash, any consideration payable in connection with a tender or exchange offer made by the Corporation or any of its subsidiaries, and any dividend of shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit in the case of certain spin-off transactions as described below), then the Conversion Rate in effect immediately following the close of business on the record date for such distribution will be multiplied by the following fraction:

$$\frac{SP_0}{SP_0 - FMV}$$

Where,

$SP_0$ = the Current Market Price per share of Common Stock on the Ex-Date.

FMV = the fair market value of the portion of the distribution applicable to one share of Common Stock on the date immediately preceding the Ex-Date as determined by the Board.

In a spin-off, where the Corporation makes a distribution to all holders of shares of Common Stock consisting of capital stock of any class or series, or similar equity interests of, or relating to, a subsidiary or other business unit, the Conversion Rate will be adjusted on the fifteenth Trading Day after the effective date of the distribution by multiplying such Conversion Rate in effect immediately prior to such fifteenth Trading Day by the following fraction:

$$\frac{MP_0 + MP_s}{MP_0}$$

Where,

$MP_0$ = the average of the VWAP of the Common Stock over each of the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution.

$MP_s$ = the average of the VWAP of the capital stock or equity interests representing the portion of the distribution applicable to one share of Common Stock over each of the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution, or, if not traded on a national or regional securities exchange or over-the-counter market, the fair market value of the capital stock or equity interests representing the portion of the distribution applicable to one share of Common Stock on such date as determined by the Board.

(v) **Cash Distributions**. If the Corporation makes a distribution consisting exclusively of cash to all holders of the Common Stock, excluding (a) any cash dividend on the Common Stock to the extent that the aggregate cash dividend per share of the Common Stock does not exceed $0.64 in any fiscal quarter (the "*Dividend Threshold Amount*"), (b) any cash that is distributed in a Reorganization Event or as part of a spin-off referred to in clause (iv) above, (c) any dividend or distribution, in connection with the Corporation's liquidation, dissolution, or winding up, and (d) any consideration payable in connection with a tender or exchange offer made by the Corporation or any of its subsidiaries, then in each event, the Conversion Rate in effect immediately following the record date for such distribution will be multiplied by the following fraction:

$$\frac{SP_0}{SP_0 - DIV}$$

Where,

$SP_0$ = the VWAP per share of Common Stock on the Trading Day immediately preceding the Ex-Date.

DIV = the cash amount per share of Common Stock of the dividend or distribution, as determined pursuant to the following paragraph.

If an adjustment is required to be made as set forth in this clause as a result of a distribution (1) that is a regularly scheduled quarterly dividend, such adjustment would be based on the amount by which such dividend exceeds the Dividend Threshold Amount or (2) that is not a regularly scheduled quarterly dividend, such adjustment would be based on the full amount of such distribution.

The Dividend Threshold Amount is subject to adjustment on an inversely proportional basis whenever the Conversion Rate is adjusted;*provided* that no adjustment will be made to the Dividend Threshold Amount for any adjustment made to the Conversion Rate pursuant to this clause (v).

(vi) **Self-Tender Offers and Exchange Offers** If the Corporation or any of its subsidiaries successfully completes a tender or exchange offer for the Common Stock where the cash and the value of any other consideration included in the payment per share of the Common Stock exceeds the VWAP per share of the Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer, then the Conversion Rate in effect at the close of business on such immediately succeeding Trading Day will be multiplied by the following fraction:

$$\frac{AC + (SP_0 \, x \, OS_1)}{OS_0 \, \text{x} \, SP_0}$$

Where,

$SP_0$ = the VWAP per share of Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer.

$OS_0$ = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer, including any shares validly tendered and not withdrawn (the "*Purchased Shares*").

$OS_1$= the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer, less any Purchased Shares.

AC = the aggregate cash and fair market value of the other consideration payable in the tender or exchange offer, as determined by the Board.

In the event that the Corporation, or one of its subsidiaries, is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Corporation, or such subsidiary, is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Rate shall be readjusted to be such Conversion Rate that would then be in effect if such tender offer or exchange offer had not been made.

(vii) **Rights Plans**. To the extent that the Corporation has a rights plan in effect with respect to the Common Stock on any Conversion Date, upon conversion of any shares of the Series L Preferred Stock, Holders will receive, in addition to the shares of Common Stock, the rights under the rights plan, unless, prior to such Conversion Date, the rights have separated from the shares of Common Stock, in which case the Conversion Rate will be adjusted at the time of separation as if the Corporation had made a distribution to all holders of the Common Stock as described in clause (iv) above, subject to readjustment in the event of the expiration, termination, or redemption of such rights.

(b) The Corporation may make such increases in the Conversion Rate, in addition to any other increases required by this Section 7, if the Corporation deems it advisable in order to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of shares of Common Stock (or issuance of rights or warrants to acquire shares of Common Stock) or from any event treated as such for income tax purposes or for any other reason.

(c)(i) All adjustments to the Conversion Rate shall be calculated to the nearest 1/10,000th of a share of Common Stock. No adjustment in the Conversion Rate will be made unless such adjustment would require an increase or decrease of at least one percent therein; *provided*, that any adjustments which by reason of this subparagraph are not required to be made shall be carried forward and taken into account in any subsequent adjustment; *provided further* that on the Optional Conversion Date, the Make-Whole Acquisition Effective Date or the effective date of a Fundamental Change, adjustments to the Conversion Rate will be made with respect to any such adjustment carried forward and which has not been taken into account before such date.

(ii) No adjustment to the Conversion Rate shall be made if Holders may participate in the transaction that would otherwise give rise to an adjustment, as a result of holding the Series L Preferred Stock, without having to convert the Series L Preferred Stock, as if they held the full number of shares of Common Stock into which their shares of the Series L Preferred Stock may then be converted.

(iii) The Applicable Conversion Rate will not be adjusted:

(A) upon the issuance of any shares of the Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Corporation's securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(B) upon the issuance of any shares of the Common Stock or rights or warrants to purchase those shares pursuant to any present or future employee, director, or consultant benefit plan or program of or assumed by the Corporation or any of its subsidiaries;

(C) upon the issuance of any shares of the Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the date the shares of the Series L Preferred Stock were first issued;

(D) for a change in the par value or no par value of the Common Stock; or

(E) for accrued and unpaid dividends on the Series L Preferred Stock.

(d) Whenever the Conversion Rate is to be adjusted in accordance with Section 7(a) or Section 7(b), the Corporation shall: (i) compute the Conversion Rate in accordance with Section 7(a) or Section 7(b), taking into account the one percent threshold set forth in Section 7(c) hereof, and prepare and transmit to the Transfer Agent an officer's certificate setting forth the Conversion Rate, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based; (ii) as soon as practicable following the occurrence of an event that requires an adjustment to the Conversion Rate pursuant to Section 7(a) or Section 7(b), taking into account the one percent threshold set forth in Section 7(c) hereof (or if the Corporation is not aware of such occurrence, as soon as practicable after becoming so aware), provide, or cause to be provided, a written notice to the Holders of the occurrence of such event; and (iii) as soon as practicable following the determination of the revised Conversion Rate in accordance with Section 7(a) or Section 7(b) hereof, provide, or cause to be provided, a written notice to the Holders setting forth in reasonable detail the method by which the adjustment to the Conversion Rate was determined and setting forth the revised Conversion Rate.

**Section 8. Reorganization Events**.

(a) In the event of:

(i) the Corporation's consolidation or merger with or into another Person, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property of the Corporation or another Person;

(ii) any sale, transfer, lease, or conveyance to another Person of all or substantially all of the Corporation's property and assets, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property; or

(iii) any statutory exchange of the Corporation's securities with another Person (other than in connection with a merger or acquisition);

(any such event specified in this Section 8(a), a "*Reorganization Event*"); each share of Series L Preferred Stock outstanding immediately prior to such Reorganization Event will, without the consent of Holders, become convertible into the kind of securities, cash, and other property receivable in such Reorganization Event by a holder of the shares of Common Stock that was not the counterparty to the Reorganization Event or an affiliate of such other party (such securities, cash, and other property, the "*Exchange Property*").

(b) In the event that holders of the shares of the Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the consideration that the Holders are entitled to receive will be deemed to be the types and amounts of consideration received by the majority of the holders of the shares of the Common Stock that affirmatively make an election (or of all such holders if none make an election). On each Conversion Date following a Reorganization Event, the Conversion Rate then in effect will be applied to the value on such Conversion Date of the securities, cash, or other property received per share of Common Stock, determined as set forth above. The amount of Exchange Property receivable upon conversion of any Series L Preferred Stock in accordance with Section 5, Section 6(b), Section 6(c) or Section 6(d) hereof shall be determined based upon the then Applicable Conversion Rate.

(c) The above provisions of this Section 8 shall similarly apply to successive Reorganization Events and the provisions of Section 7 shall apply to any shares of capital stock of the Corporation (or any successor) received by the holders of the Common Stock in any such Reorganization Event.

(d) The Corporation (or any successor) shall, within 20 days of the occurrence of any Reorganization Event, provide written notice to the Holders of such occurrence of such event and of the kind and amount of the cash, securities or other property that constitutes the Exchange Property. Failure to deliver such notice shall not affect the operation of this Section 8.

**Section 9. Liquidation Rights**.

**(a) Liquidation**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series L Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders before any distribution of the assets of the Corporation may be made to the Holders of any Junior Stock to receive in full a liquidating distribution in the amount of the liquidation preference of $1,000 per share, plus any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation. After payment of this liquidating distribution, the holders of Series L Preferred Stock will not be entitled to any further participation in any distribution of the Corporation's assets in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation. Distributions will be made only to the extent of the Corporation's assets remaining available after satisfaction of all liabilities to creditors and subject to the rights of holders of any securities ranking senior to the Series L Preferred Stock and *pro rata* as to the Series L Preferred Stock and any other shares of the Corporation's stock ranking equally as to such distribution.

**(b) Partial Payment**. If the assets of the Corporation are not sufficient to pay in full the liquidation preference plus any dividends which have been declared but not yet paid to all holders of Series L Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series L Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences, plus any dividends which have been declared but not yet paid, of Series L Preferred Stock and all such Parity Stock.

**(c) Residual Distributions**. If the liquidation preference plus any dividends which have been declared but not yet paid has been paid in full to all holders of Series L Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation**. For purposes of this Section 9, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

**Section 10. Redemption**.

The Series L Preferred Stock shall not be redeemable either at the Corporation's option or at the option of the Holders at any time.

**Section 11. Voting Rights**.

**(a) General.** The holders of Series L Preferred Stock shall not be entitled to vote on any matter except as set forth in Section 11(b) below or as required by Delaware law.

**(b) Special Voting Right**.

**(i) Voting Right.** If and whenever dividends on the Series L Preferred Stock or any other class or series of preferred stock ranking equally with Series L Preferred Stock as to payment of dividends and upon which voting rights equivalent to those granted by this Section 11 have been conferred ("*Voting Parity Securities*") and are exercisable, have not been declared and paid for the equivalent of at least six or more quarterly Dividend Periods (whether consecutive or not (a "*Nonpayment*")), the number of directors constituting the Board shall be increased by two, and the Holders of the outstanding shares of Series L Preferred Stock voting as a class with holders of any series of the Corporation's preferred stock having equivalent voting rights, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist, shall have the right, voting separately as a single class without regard to series, with voting rights allocated *pro rata* based on liquidation preference, to the exclusion of the holders of Common Stock, to elect two directors of the Corporation to fill such newly created directorships (and to fill any vacancies in the terms of such directorships), provided that the election of such directors must not cause the Corporation to violate the corporate governance requirements of the New York Stock Exchange (or other exchange on which the Corporation's securities may be listed) that listed companies must have a majority of independent directors and provided further that the Board shall at no time include more than two such directors. Each such director elected by the holders of shares of Series L Preferred Stock and any Voting Parity Securities is a "*Preferred Director*." Any Preferred Director elected by the holders of the Series L Preferred Stock and any Parity Stock

may only be removed by the vote of the holders of record of the outstanding Series L Preferred Stock and any such Parity Stock, voting together as a single and separate class, at a meeting of the Corporation's stockholders called for that purpose. Any vacancy created by the removal of any Preferred Director may be filled only by the vote of the holders of the outstanding Series L Preferred Stock and any such Parity Stock, voting together as a single and separate class.

Notwithstanding the foregoing, without the consent of the Holders, so long as such action does not adversely affect the interests of the Holders, the Corporation may amend, alter, supplement, or repeal any terms of the Series L Preferred Stock for the following purposes:

(1) to cure any ambiguity, or to cure, correct, or supplement any provision contained in this Certificate of Designations that may be ambiguous, defective, or inconsistent; or

(2) to make any provision with respect to matters or questions relating to the Series L Preferred Stock that is not inconsistent with the provisions of this Certificate of Designations.

**(ii) Election.** The election of the Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the Holders Series L Preferred Stock and any Voting Parity Securities with exercisable voting rights, called as provided herein. At any time after the special voting right has vested pursuant to Section 11(b)(i) above, the secretary of the Corporation may, and upon the written request of any Holder of Series L Preferred Stock (addressed to the secretary at the Corporation's principal office) must (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the stockholders, in which event such election shall be held at such next annual or special meeting of stockholders), call a special meeting of the holders of Series L Preferred Stock and any Voting Parity Securities with exercisable voting rights, for the election of the two directors to be elected by them as provided in Section 11(b)(iii) below. The Preferred Directors shall each be entitled to one vote per director on any matter.

**(iii) Notice of Special Meeting.** Notice for a special meeting will be given in a similar manner to that provided in the Corporation's by-laws for a special meeting of the stockholders. If the secretary of the Corporation does not call a special meeting within 20 days after receipt of any such request, then any Holder of Series L Preferred Stock may (at our expense) call such meeting, upon notice as provided in this Section 11(b)(iii), and for that purpose will have access to the stock register of the Corporation. The Preferred Directors elected at any such special meeting will hold office until the next annual meeting of our stockholders unless they have been previously terminated or removed pursuant to Section 11(b)(iv). In case any vacancy in the office of a Preferred Director occurs (other than prior to the initial election of the Preferred Directors), the vacancy may be filled by the written consent of the Preferred Director remaining in office, or if none remains in office, by the vote of the Holders of the Series L Preferred Stock (voting together on a single and separate class with holders of any Voting Parity Securities, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist) to serve until the next annual meeting of the stockholders.

**(iv) Termination; Removal.** The voting rights described above will terminate, except as provided by law, upon the earlier of (A) the conversion of all of the Series L Preferred Stock or (B) the payment of full dividends on the Series L Preferred Stock and any other series of the Corporation's preferred stock, if any, for the equivalent of at least four quarterly Dividend Periods (but subject to revesting in the case of any similar non-payment of dividends in respect of future Dividend Periods) following a Nonpayment on the Series L Preferred Stock and any other series of the Corporation's preferred stock. Upon termination of the special voting right described above, the terms of office of the Preferred Directors will immediately terminate, and the number of directors constituting the Board will be reduced accordingly. Any Preferred Director may be removed at any time without cause by the holders of record of a majority of the outstanding shares of the Series L Preferred Stock (voting together as a single and separate class with holders of any Voting Parity Securities, whether or not the holders of such preferred stock would be entitled to vote for the election of directors if such default in dividends did not exist).

**Section 12.** Fractional Shares.

(a) No fractional shares of Common Stock will be issued as a result of any conversion of shares of Series L Preferred Stock.

(b) In lieu of any fractional share of Common Stock otherwise issuable in respect of any conversion at the Corporation's option pursuant to Section 5 hereof or any conversion at the option of the Holder pursuant to Section 6(b), Section 6(c) or Section 6(d) hereof, the Corporation shall pay an amount in cash (computed to the nearest cent) equal to the same fraction of the Closing Price of the Common Stock determined as of the second Trading Day immediately preceding the effective date of conversion.

(c) If more than one share of the Series L Preferred Stock is surrendered for conversion at one time by or for the same Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Series L Preferred Stock so surrendered.

**Section 13.** Reservation of Common Stock.

(a) The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock or shares held in the treasury by the Corporation, solely for issuance upon the conversion of shares of Series L Preferred Stock as provided in this Certificate of Designations, free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Series L Preferred Stock then outstanding, at the Applicable Conversion Price subject to adjustment as described under Section 7. For purposes of this Section 13(a), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding shares of Series L Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(b) Notwithstanding the foregoing, the Corporation shall be entitled to deliver upon conversion of shares of Series L Preferred Stock, as herein provided, shares of Common

Stock acquired by the Corporation (in lieu of the issuance of authorized and unissued shares of Common Stock), so long as any such acquired shares are free and clear of all liens, charges, security interests or encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders).

(c) All shares of Common Stock delivered upon conversion of the Series L Preferred Stock shall be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests and other encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders).

(d) Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of the Series L Preferred Stock, the Corporation shall use its reasonable best efforts to comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(e) The Corporation hereby covenants and agrees that, if at any time the Common Stock shall be listed on the New York Stock Exchange or any other national securities exchange or automated quotation system, the Corporation will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all the Common Stock issuable upon conversion of the Series L Preferred Stock; *provided, however*, that if the rules of such exchange or automated quotation system permit the Corporation to defer the listing of such Common Stock until the first conversion of Series L Preferred Stock into Common Stock in accordance with the provisions hereof, the Corporation covenants to list such Common Stock issuable upon conversion of the Series L Preferred Stock in accordance with the requirements of such exchange or automated quotation system at such time.

**Section 14. Preemption**. The Holders of Series L Preferred Stock shall not have any rights of preemption.

**Section 15. Rank**. Notwithstanding anything set forth in the Corporation's Amended and Restated Certificate of Incorporation or this Certificate of Designations to the contrary, the Board, the Committee or any authorized committee of the Board, without the vote of the Holders of the Series L Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class or series of Senior Stock or any other securities ranking senior to the Series L Preferred Stock as to dividends and the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 16. Repurchase**. Subject to the limitations imposed herein, the Corporation may purchase and sell shares of Series L Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board or any duly authorized committee of the Board may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

**Section 17. Unissued or Reacquired Shares**. Shares of Series L Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of preferred stock without designation as to series and shall be available for subsequent issuance.

**Section 18. No Sinking Fund**. Shares of Series L Preferred Stock are not subject to the operation of a sinking fund.

**Exhibit 4(e)**

**SUPPLEMENTAL AGREEMENT TO THE AMENDED AND RESTATED AGENCY AGREEMENT**

***relating to***

**BANK OF AMERICA CORPORATION**

**U.S. $50,000,000,000**

**Euro Medium-Term Note Program**

***between***

**BANK OF AMERICA CORPORATION**

***and***

**THE BANK OF NEW YORK**
**as Issuing and Principal Paying Agent**

**DATED AS OF JULY 26, 2007**

INDEX

THIS SUPPLEMENTAL AGREEMENT (this "Agreement") dated as of July 26, 2007 is made by and between:

(i) Bank of America Corporation, a Delaware corporation (the "Issuer"); and

(ii) The Bank of New York (the "Agent" and the "Issuing and Principal Paying Agent").

WHEREAS, the Issuer and the Agent wish to update the arrangements originally agreed among the Issuer and JPMorgan Chase Bank N.A., London Branch pursuant to an Amended and Restated Agency Agreement dated August 21, 2006 (the "Prior Amended Agreement") between the Issuer and JPMorgan Chase Bank N.A., London Branch;

WHEREAS, JPMorgan Chase Bank N.A., London Branch transferred all its corporate trust business to The Bank of New York effective as of May 19, 2007, whereupon The Bank of New York was thereafter regarded as the Agent and the Issuing and Principal Paying Agent pursuant to Clause 20 of the Agency Agreement;

WHEREAS, the Issuer proposes to issue up to U.S. $50,000,000,000 (or its equivalent in other currencies) in aggregate principal amount of Euro Medium-Term Notes (the "Notes") outstanding at any one time as provided in an Amended and Restated Program Agreement dated August 21, 2006 (as amended and supplemented by the Supplemental Agreement to the Amended and Restated Program Agreement of even date herewith) among the Issuer, the Arranger and the Dealers named therein (the "Program Agreement") and as described in an Offering Circular of even date herewith (the "Offering Circular");

WHEREAS, the Issuer and the Agent wish to amend the Prior Amended Agreement with respect to the securities to be issued by the Issuer under this Agreement on and after the date hereof.

NOW, THEREFORE, it is agreed as follows:

1. Definitions and Interpretation

Terms and expressions defined or specifically interpretated in the Prior Amended Agreement shall have the same meanings or interpretations in this Agreement, except where the context requires otherwise.

2. Amendment of the Agency Agreement

(1) With respect to all Notes issued under the Program Agreement on and after the date hereof, the Prior Amended Agreement shall be amended by:

(a) deleting the form of Terms and Conditions in Schedule 4 of the Prior Amended Agreement and replacing it with the form of Terms and Conditions contained in Schedule 1 hereto;

(b) deleting the form of Temporary Global Note in Schedule 1 to the Prior Amended Agreement and replacing it with the form of Temporary Global Note contained in Schedule 2 hereto;

(c) deleting the form of Permanent Global Note in Schedule 2 to the Prior Amended Agreement and replacing it with the form of Permanent Global Note contained in Schedule 3 hereto;

(d) deleting the forms of Definitive Note, Coupon, Receipt and Talon in Schedule 3 to the Prior Amended Agreement and replacing them with the forms of Definitive Note, Coupon, Receipt and Talon in Part I, Part II, Part III and Part IV, respectively, of Schedule 4 hereto;

(e) deleting the address details for the Agent in Clause 23 of the Prior Amended Agreement and replacing them with the following:

The Bank of New York
One Canada Square
London E14 5AL
United Kingdom
Attn: Corporate Trust
Facsimile: 020 7964 2536; and

(f) deleting all references to JPMorgan Chase Bank, N.A., London Branch and replacing them with references to The Bank of New York.

(2) All other provisions of the Prior Amended Agreement shall remain in full force and effect.

3. Governing Law

(1) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, United States of America, without regard to principles of conflicts of laws.

(2) The Issuer and the Agent each hereby irrevocably submit to the non-exclusive jurisdiction of any United States federal court sitting in New York City, the Borough of Manhattan over any suit, action or proceeding arising out of or related to this Agreement (the "Proceedings"). The Issuer and the Agent each irrevocably waive, to the fullest extent permitted by law, any objection which it may have to the laying of the venue of the Proceedings brought in such a court and any claim that the Proceedings have been brought in an inconvenient forum. The Issuer and the Agent each agree that final judgment in the Proceedings brought in such a court shall be conclusive and binding upon the Issuer or the Agent, as the case may be, and may be enforced in any court of the jurisdiction to which the Issuer or the Agent is subject by a suit upon such judgment, provided that the service of process is effected upon the Issuer and the Agent in the manner specified in subsection (3) below or as otherwise permitted by law.

(3) As long as any of the Notes, Receipts, Coupons or Talons remains outstanding, the Issuer shall at all times either maintain an office or have an authorized agent in New York City upon whom process may be served in the Proceedings. Service of process upon the Issuer at its offices or upon such agent with written notice of such service mailed or delivered to the Issuer shall, to the fullest extent permitted by law, be deemed in every respect effective service of process upon the Issuer in the Proceedings. The Issuer hereby continues the appointment of CT Corporation System located at 111 Eighth Avenue, New York, New York 10011, U.S.A., as its agent for such purposes, and covenants and agrees that service of process in the Proceedings may be made upon it at its office or at the specified offices of such agent (or such other addresses or at the offices of any other authorized agents which the Issuer may designate by written notice to the Agent) and prior to any termination of such agencies for any reason, it will so appoint a successor thereto as agent hereunder.

4. Counterparts

This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument. Any party may enter into this Agreement by signing such a counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their respective officers thereunder duly authorized as of the date and year first above written.

BANK OF AMERICA CORPORATION
as Issuer

By /s/ B. KENNETH BURTON, JR.
Name: B. Kenneth Burton, Jr.
Title: Senior Vice President

THE BANK OF NEW YORK
as Agent and Issuing and Principal Paying Agent

By /s/ JASON BLONDELL
Name: Jason Blondell
Title: Authorized Signatory

Schedule 1

**FORM OF TERMS AND CONDITIONS OF THE NOTES**

Schedule 2

**FORM OF TEMPORARY GLOBAL NOTE**

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION IN THIS NOTE MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THIS NOTE IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THIS NOTE MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS NOTE IS A TEMPORARY GLOBAL NOTE IN BEARER FORM, WITHOUT COUPONS, EXCHANGEABLE FOR A BEARER NOTE IN PERMANENT GLOBAL FORM. THE RIGHTS ATTACHING TO THIS TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR A PERMANENT GLOBAL NOTE, ARE AS SPECIFIED IN THE AMENDED AND RESTATED AGENCY AGREEMENT (AS DEFINED HEREIN).

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER.)][1]

[1] [This language is applicable only to Temporary Global Notes representing Notes with maturities of 183 days or less from the date of original issue.]

BANK OF AMERICA CORPORATION

EURO MEDIUM-TERM NOTES

TEMPORARY GLOBAL NOTE

COMMON CODE: ISIN:

This Global Note is a Temporary Global Note in bearer form without interest coupons in respect of a duly authorized Series of Euro Medium-Term Notes (the "Notes") of Bank of America Corporation (the "Issuer") described, and having the provisions specified, in the applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the Terms and Conditions shall be to the Terms and Conditions of the Notes as set out in Schedule 4 to the Amended and Restated Agency Agreement (as defined below) as modified and supplemented by the information set out in the Final Terms and which are incorporated herein by reference, but in the event of any conflict between the provisions of that Schedule and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the Terms and Conditions and/or the Final Terms shall bear the same meaning when used herein.

This Global Note is issued subject to, and with the benefit of, the Terms and Conditions and an Amended and Restated Agency Agreement (the "Amended and Restated Agency Agreement," which expression shall be construed as a reference to that agreement as the same may be amended or supplemented from time to time) dated as of August 21, 2006, and as amended and supplemented by a supplemental agreement dated July 26 2007, and made between Bank of America Corporation and The Bank of New York (the "Agent").

For value received, the Issuer, subject to and in accordance with the Terms and Conditions, promises to pay to the bearer hereof on each Installment Date the amount payable on such Installment Date in respect of the Notes represented by this Global Note (if the Notes represented by this Global Note are Installment Notes) and on the Maturity Date or, as the case may be, on the Interest Payment Date, or on such earlier date as any of the Notes represented by this Global Note may become due and payable in accordance with the Terms and Conditions, the amount payable on redemption of such Notes then represented by this Global Note becoming so due and payable, and to pay interest (if any) on the Notes from time to time represented by this Global Note calculated and payable as provided in the Terms and Conditions together with any other sums payable under the Terms and Conditions, upon presentation and, at maturity, surrender of this Global Note to or to the order of the Agent or any of the other paying agents located outside the United States and its possessions (except as provided in the Terms and Conditions) from time to time appointed by the Issuer in respect of the Notes, but in each case subject to the requirements as to certification provided herein.

If the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, the nominal amount of Notes represented by this Global Note shall be the aggregate amount from time to time entered in the records of both Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, société anonyme ("Clearstream, Luxembourg" and, together with Euroclear, the "relevant Clearing Systems"). The records of the relevant Clearing Systems (which expression in this Global Note means the records that each relevant Clearing System holds for its customers which reflect the amount of such customer's interest in the Notes) shall be conclusive evidence of the nominal amount of Notes represented by this Global Note and, for these purposes, a statement issued by a relevant Clearing System (which statement shall be made available to the bearer upon request) stating the nominal amount of Notes represented by this Global Note at any time shall be conclusive evidence of the records of the relevant Clearing System at that time.

If the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, the nominal amount of the Notes represented by this Global Note shall be the amount stated in the applicable Final Terms or, if lower, the nominal amount most recently recorded by or on behalf of the Issuer, in the relevant column in Part II, III or IV of Schedule 1 or in Schedule 2.

On any redemption, payment of an Installment Amount or purchase and cancellation of any of the Notes represented by this Global Note, the Issuer shall procure that:

(a) if the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, details of such redemption, payment or purchase and cancellation (as the case may be) shall be entered pro rata in the records of the relevant Clearing Systems and, upon any such entry being made, the nominal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this Global Note shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or by the amount of such Installment so paid; or

(b) if the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, details of such redemption, payment or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part II, III or IV of Schedule 1 or Schedule 2 hereto recording any such redemption, payment or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such redemption, payment of an Installment Amount or purchase and cancellation, the principal amount of such Notes represented by this Global Note shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or the amount of such Installment Amount or by the amount of such installment so paid.

Prior to the Exchange Date (as defined below), all payments (if any) on this Global Note will only be made to the bearer hereof to the extent that there is presented to the Agent by Clearstream, Luxembourg or Euroclear, a certificate, substantially in the form set out in Schedule 5 to the Amended and Restated Agency Agreement, to the effect that it has received from or in respect of a person entitled to a particular principal amount of the Notes (as shown by its records) a certificate in or substantially in the form of the certificate as set out in Schedule 6 to the Amended and Restated Agency Agreement. Payments due in respect of Notes for the time being represented by this Global Note shall be made to the bearer of this Global Note and each payment so made will discharge the Issuer's obligations in respect thereof. Any failure to make the entries referred to in sub-paragraphs (a) and (b) above shall not affect such discharge. After the Exchange Date, the bearer of this Global Note will not be entitled to receive any payment of interest hereon.

On or after the Exchange Date (as defined below) this Global Note may be exchanged in whole or in part (free of charge) for, as specified in the Final Terms, either (a) if the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, interests recorded in the records of the relevant Clearing Systems in a Permanent Global Note or, if the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, a Permanent Global Note, which, in either case, is in or substantially in the form set out in Schedule 2 to the Amended and Restated Agency Agreement (together with the Final Terms attached to it), in each case upon notice being given by a relevant Clearing System acting on the instructions of any holder of an interest in this Global Note or, (b) under certain limited circumstances, security printed Definitive Notes and, (if applicable) Coupons, Receipts and/or Talons in the form set out in Parts I, II, III and IV respectively of Schedule 3 to the Amended and Restated Agency Agreement (on the basis that all the appropriate details have been included on the face of such Definitive Notes and (if applicable) Coupons, Receipts and/or Talons and the Final Terms have been incorporated on such Definitive Notes) and subject to such notice period as is specified in the Final Terms. The “Exchange Date” for this Global Note will normally be the 40th day after the later of the date on which the Issuer receives the proceeds of the sale of the Global Note and the closing date for the Global Note. However, if the Issuer, a Dealer or any distributor, as defined in Treasury Regulation Sec. 1.163-5(c)(2)(i)(D)(4), holds a Note represented by this Global Note as part of an unsold allotment or subscription for more than 40 days after the later of the date on which the Issuer receives the proceeds of the sale of the Global Note and the closing date for the Global Note, the Exchange Date with respect to such Note will be the day after the date on which the Issuer, Dealer or distributor sells such Note.

This Global Note may be exchanged by the bearer hereof on any day (other than a Saturday or Sunday) on which banks are open for business in London. The Issuer shall procure that Definitive Notes and interests in the Permanent Global Note shall be so issued and delivered and (in the case of the Permanent Global Note where the applicable Final Terms indicates that this Global Note is intended to be a New Global Note) recorded in the records of the relevant Clearing System in exchange for only that portion of this Global Note in respect of which there shall have been presented to the Agent by Euroclear or Clearstream, Luxembourg a certificate, substantially in the form set out in Schedule 5 to the Amended and Restated Agency Agreement, to the effect that it has received from or in respect of a person entitled to a beneficial interest in a particular principal amount of the Notes (as shown by its records) a certificate from such person in or substantially in the form of the certificate set out in Schedule 6 to the Amended and Restated Agency Agreement, unless such certificate has already been given in accordance with the above provisions. The aggregate principal amount of interests in a

Permanent Global Note issued upon an exchange of this Global Note subject to the terms hereof, will be equal to the aggregate principal amount of this Global Note submitted by the bearer hereof for exchange (to the extent that such principal amount does not exceed the aggregate principal amount of this Global Note).

On an exchange of the whole of this Global Note, this Global Note shall be surrendered to the Agent. On an exchange of only part of this Global Note, the Issuer shall procure that:

(a) if the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, details of such exchange shall be entered pro rata in the records of the relevant Clearing Systems; or

(b) if the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, details of such exchange shall be entered in Schedule 2 hereto and the relevant space in Schedule 2 hereto recording such exchange and shall be signed by or on behalf of the Issuer and the principal amount of this Global Note and the Notes represented by this Global Note shall be reduced by the principal amount so exchanged.

If, following the issue of a Permanent Global Note in exchange for some of the Notes represented by this Global Note, further Notes represented by this Global Note are to be exchanged for interests in a Permanent Global Note, such exchange may be effected, subject as provided herein, without the issue of a new Permanent Global Note, (i) if the applicable Final Terms indicate that this Global Note is intended to be a New Global Note, recording the details of such increase in the records of the relevant Clearing Systems, or (ii) if the applicable Final Terms indicate that this Global Note is not intended to be a New Global Note, by the Issuer or its agent endorsing Schedule 2 of the Permanent Global Note previously issued to reflect an increase in the aggregate principal amount of such Permanent Global Note by an amount equal to the aggregate principal amount of the Permanent Global Note which would otherwise have been issued on such exchange.

Until the exchange of the whole of this Global Note as aforesaid, the bearer hereof shall in all respects (except as otherwise provided herein) be entitled to the same benefits as if he were the bearer of Definitive Notes and (if applicable) Coupons, Receipts and/or Talons in the form set out in Parts I, Part II, Part III and Part IV, respectively, of Schedule 3 to the Amended and Restated Agency Agreement.

Notwithstanding any provision to the contrary contained in this Temporary Global Note, the Issuer irrevocably agrees, for the benefit of such Noteholders and their successors and assigns, that each Noteholder or its successors or assigns may file without the consent and to the exclusion of the bearer hereof, any claim, take any action or institute any proceeding to enforce, directly against the Issuer, the obligation of the Issuer hereunder to pay any amount due or to become due in respect of each Note represented by this Temporary Global Note which is credited to such Noteholder's securities account with Euroclear or Clearstream, Luxembourg without the production of this Temporary Global Note; provided that the bearer hereof shall not theretofore have filed a claim, taken action or instituted proceedings to enforce the same in respect of such Note.

Until exchanged in full for the Permanent Global Note, this Temporary Global Note in all respects shall be entitled to the same benefits under, and subject to the same terms and conditions of, the Amended and Restated Agency Agreement as the Permanent Global Note authenticated and delivered thereunder, except that neither the Holder hereof nor the beneficial owners of this Temporary Global Note shall be entitled to receive payment of interest hereon.

This Temporary Global Note shall be governed by, and construed in accordance with the laws of the State of New York, United States of America, without regard to principles of conflicts of laws.

This Temporary Global Note shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the Agent acting in accordance with the Amended and Restated Agency Agreement. If the applicable Final Terms indicates that this Global Note is intended to be held in a manner which would allow Eurosystem eligibility, this Global Note shall not become valid or obligatory for any purpose until it is duly effectuated by the entity appointed as common safekeeper by the relevant Clearing Systems.

IN WITNESS WHEREOF the Issuer has caused this Temporary Global Note to be duly signed on its behalf.

BANK OF AMERICA CORPORATION

By: _____
Duly authorized officer

CERTIFICATE OF AUTHENTICATION OF THE AGENT

This Temporary Global Note is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK
As Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

CERTIFICATE OF EFFECTUATION

This Temporary Global Note is effectuated by or on behalf of the common safekeeper.

Clearstream Banking, société anonyme
As common safekeeper

By: _____
Authorized Signatory
For the purposes of effectuation only.

Schedule 1 to the
Temporary Global Note[2]

PART I

INTEREST PAYMENTS

| Interest Payment Date | Date of Payment | Total Amount of Interest Payable | Amount of Interest Paid | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|
| *First | | | | |

[2] Schedule 1 should only be completed where the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note.

* Continue numbering until the appropriate number of interest payment dates for the particular Tranche of Notes is reached.

PART II

INSTALLMENT PAYMENTS

| Installment Date | Date of Payment | Total of Installment Amounts Payable | Amount of Installment Amounts Paid | Remaining principal amount of this Global Note following such payment[3] | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|---|
| *First | | | | | |

3 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

* Continue numbering until the appropriate number of installment payment dates for the particular Tranche of Notes is reached.

PART III

REDEMPTIONS

| Date of Redemption | Total principal amount of this Global Note to be redeemed | Principal amount redeemed | Remaining principal amount of this Global Note following such redemption[4] | Confirmation of redemption by or on behalf of the Issuer |
|---|---|---|---|---|

4 See most recent entry in Part II, III, IV of Schedule 1 or Schedule 2 in order to determine this amount.

PART IV

PURCHASES AND CANCELLATIONS

| Date of purchase and cancellation | Part of principal amount of this Global Note purchased and canceled | Remaining principal amount of this Global Note following such purchase and cancellation[5] | Confirmation of purchase and cancellation by or on behalf of the Issuer |
|---|---|---|---|

5 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

Schedule 2 to the
Temporary Global Note[6]

SCHEDULE OF EXCHANGES
FOR DEFINITIVE NOTES OR PERMANENT GLOBAL NOTE

The following exchanges of a part of this Global Note for Definitive Notes or Notes represented by a Permanent Global Note have been made:

| Date of exchange | Principal amount of this Global Note exchanged for Definitive Notes or Notes represented by a Permanent Global Note | Remaining principal amount of this Global Note following such exchange[7] | Notation made by or on behalf of the Issuer |
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6 Schedule 2 should only be completed where the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note.
7 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

Schedule 3

**FORM OF PERMANENT GLOBAL NOTE**

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION IN THIS NOTE MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THIS NOTE IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THIS NOTE MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS BEARER NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

[1] [This language is applicable only to Permanent Global Notes representing Notes with maturities of 183 days or less from the date of original issue.]

BANK OF AMERICA CORPORATION

EURO MEDIUM-TERM NOTES

PERMANENT GLOBAL NOTE

COMMON CODE: ISIN:

This Global Note is a Permanent Global Note in bearer form without interest coupons in respect of a duly authorized Series of Euro Medium-Term Notes (the "Notes") of Bank of America Corporation (the "Issuer") described, and having the provisions specified, in the applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the Terms and Conditions shall be to the Terms and Conditions of the Notes as set out in Schedule 4 to the Amended and Restated Agency Agreement (as defined below) as modified and supplemented by the information set out in the Final Terms and which are incorporated herein by reference, but in the event of any conflict between the provisions of that Schedule and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the Terms and Conditions and/or the Final Terms shall bear the same meaning when used herein.

This Global Note is issued subject to, and with the benefit of, the Terms and Conditions and an Amended and Restated Agency Agreement (the "Amended and Restated Agency Agreement," which expression shall be construed as a reference to that agreement as the same may be amended or supplemented from time to time) dated as of August 21, 2006, and as amended and supplemented by a supplemental agreement dated July 26 2007, and made between Bank of America Corporation and The Bank of New York (the "Agent").

For value received the Issuer, subject to and in accordance with the Terms and Conditions, promises to pay to the bearer hereof on each Installment Date the amount payable on such Installment Date in respect of the Notes represented by this Global Note (if the Notes represented by this Global Note are Installment Notes) and on the Maturity Date or, as the case may be, on the Interest Payment Date, or on such earlier date as any of the Notes represented by this Global Note may become due and payable in accordance with the Terms and Conditions, the amount payable on redemption of such Notes then represented by this Global Note becoming so due and payable, and to pay interest (if any) on the Notes from time to time represented by this Global Note calculated and payable as provided in the Terms and Conditions together with any other sums payable under the Terms and Conditions, upon presentation and, at maturity, surrender of this Global Note to or to the order of the Agent or any of the other paying agents located outside the United States and its possessions (except as provided in the Terms and Conditions) from time to time appointed by the Issuer in respect of the Notes, but in each case subject to the requirements as to certification provided herein.

If the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, the nominal amount of Notes represented by this Global Note shall be the aggregate amount from time to time entered in the records of both Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, société anonyme ("Clearstream, Luxembourg" and, together with Euroclear, the "relevant Clearing Systems"). The records of the relevant Clearing Systems (which expression in this Global Note means the records that each relevant Clearing System holds for its customers which reflect the amount of such customer's interest in the Notes) shall be conclusive evidence of the nominal amount of Notes represented by this Global Note and, for these purposes, a statement issued by a relevant Clearing System (which statement shall be made available to the bearer upon request) stating the nominal amount of Notes represented by this Global Note at any time shall be conclusive evidence of the records of the relevant Clearing System at that time.

If the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, the nominal amount of the Notes represented by this Global Note shall be the amount stated in the applicable Final Terms or, if lower, the nominal amount most recently envisaged by or on behalf of the Issuer, in the relevant column in Part II, III or IV of Schedule 1 or in Schedule 2.

On any redemption, payment of an Installment Amount or purchase and cancellation of, any of the Notes represented by this Global Note, the Issuer shall procure that:

(1) (a) if the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, details of such redemption, payment or purchase and cancellation (as the case may be) shall be entered pro rata in the records of the relevant Clearing Systems and, upon any such entry being made, the nominal amount of the Notes recorded in the records of the relevant Clearing Systems and represented by this Global Note shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or by the amount of such Installment so paid; or

(2) (b) if the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, details of such redemption, payment or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part II, III or IV of Schedule 1 or Schedule 2 hereto recording any such redemption, payment or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such redemption, payment of an Installment Amount or purchase and cancellation, the principal amount of such Notes represented by this Global Note shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or the amount of such Installment Amount or by the amount of such installment so paid.

The Notes represented by this Global Note were represented originally by one or more Temporary Global Notes (each Tranche of Notes comprised in the Series of Notes to which this Global Note relates having been represented originally by one Temporary Global Note). Unless any such Temporary Global Note was exchanged in whole on the issue hereof, an interest in such Temporary Global Note may be further exchanged, on the terms and conditions set out therein, for an interest in this Global Note. The Issuer shall procure that:

(a) if the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, details of such exchange shall be entered in the records of the relevant Clearing Systems; or

(b) if the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, details of such exchange shall be entered in Schedule 2 hereto to reflect the increase in the aggregate principal amount of this Global Note due to each such exchange, whereupon the principal amount hereof shall be increased for all purposes by the amount so exchanged and endorsed.

In certain circumstances further notes may be issued which are intended on issue to be consolidated and form a single Series with the Notes. In such circumstances the Issuer shall procure that:

(3) (a) if the applicable Final Terms indicates that this Global Note is intended to be a New Global Note, details of such further notes may be entered in the records of the relevant Clearing Systems such that the nominal amount of Notes represented by this Global Note may be increased by the amount of such further notes so issued; or

(4) (b) if the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note, details of such further notes shall be entered in the relevant column in Part II, III or IV of Schedule 1 or Schedule 2 hereto recording such exchange and shall be signed by or on behalf of the Issuer, whereupon the nominal amount of the Notes represented by this Global Note shall be increased by the nominal amount of any such Temporary Global Note so exchanged.

This Global Note may be exchanged in whole, but not in part (free of charge), for security-printed Definitive Notes, in the circumstances provided for in the Terms and Conditions, and (if applicable) Coupons, Receipts and/or Talons in the form set out in Part I, Part II, Part III and Part IV, respectively, of Schedule 3 to the Amended and Restated Agency Agreement (on the basis that all the appropriate details have been included on the face of such Definitive Notes and (if applicable) Coupons, Receipts and/or Talon and the Final Terms have been incorporated on such Definitive Notes). Subject as aforesaid and to at least 40 days' written notice expiring after the Exchange Date (as defined in the Temporary Global Note referred to above) being given to the Agent by Euroclear and/or Clearstream, Luxembourg, acting on the instructions of any holder of an interest in the Global Note, this exchange will be made upon presentation of this Global Note by the bearer hereof on any day (other than a Saturday or Sunday) on which banks are open for business in London at the office of the Agent specified above. The aggregate principal amount of Definitive Notes issued upon an exchange of this Global

Note will be equal to the aggregate principal amount of this Global Note submitted by the bearer hereof for exchange (to the extent that such principal amount does not exceed the aggregate principal amount of this Global Note entered in the records of the relevant Clearing Systems (if the applicable Final Terms indicate that this Global Note is intended to be a New Global Note) or most recently entered in the relevant column in Part II, III or IV of Schedule 1 or Schedule 2 hereto (if the applicable Final Terms indicate that this Global Note is not intended to be a New Global Note), provided that, subject as aforesaid, the first notice given to the Agent by Euroclear and Clearstream, Luxembourg shall give rise to the issue of Definitive Notes in exchange for the total amount of the Notes represented by this Global Note.

On an exchange of the whole of this Global Note, this Global Note shall be surrendered to the Agent.

Until the exchange of the whole of this Global Note as aforesaid, the bearer hereof in all respects shall be entitled to the same benefits as if he were the bearer of Definitive Notes and (if applicable) Coupons, Receipts and/or Talons in the form set out in Part I, Part II, Part III and Part IV, respectively, or Schedule 3 to the Amended and Restated Agency Agreement (on the basis that all appropriate, details have been included on the fact of such Definitive Notes and (if applicable) Coupons, Receipts and/or Talons and the Final Terms have been incorporated on such Definitive Notes).

Notwithstanding any provision to the contrary contained in this Permanent Global Note, the holder of this Permanent Global Note shall be the only person entitled to receive payments in respect to the Notes represented by this Permanent Global Note and the Issuer will be discharged by payment to, or to the order of, the holder of this Permanent Global Note in respect of each amount so paid. Any failure to make the entries referred to in above shall not affect such discharge. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the beneficial holder of a particular principal amount of Notes represented by this Permanent Global Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each payment so made by the Issuer to, or to the order of, the holder of this Permanent Global Note. No person other than the holder of this Permanent Global Note shall have any claim against the Issuer in respect of any payments due on this Permanent Global Note.

This Permanent Global Note shall be governed by, and construed in accordance with, the laws of the State of New York, United States of America, without regard to principles of conflicts of laws.

This Permanent Global Note shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the Agent acting in accordance with the Amended and Restated Agency Agreement. If the applicable Final Terms indicates that this Global Note is intended to be held in a manner which would allow Eurosystem eligibility, this Global Note shall not become valid or obligatory for any purpose until it is duly effectuated by the entity appointed as common safekeeper by the relevant Clearing Systems.

IN WITNESS WHEREOF the Issuer has caused this Permanent Global Note to be duly signed on its behalf.

BANK OF AMERICA CORPORATION

By: _____
Duly authorized officer

CERTIFICATE OF AUTHENTICATION OF THE AGENT

This Permanent Global Note is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

CERTIFICATE OF EFFECTUATION

This Permanent Global Note is effectuated by or on behalf of the common safekeeper.

Clearstream Banking, société anonyme
As common safekeeper

By: _____
Authorized Signatory
For the purposes of effectuation only.

Schedule 1 to the
Permanent Global Note[2]

PART I

INTEREST PAYMENTS

| Interest Payment Date | Date of Payment | Total Amount of Interest Payable | Amount of Interest Paid | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|
| *First | | | | |

[2] Schedule 1 should only be completed where the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note.

* Continue numbering until the appropriate number of interest payment dates for the particular Tranche of Notes is reached.

PART II

INSTALLMENT PAYMENTS

| Installment Date | Date of Payment | Total of Installment Amounts Payable | Amount of Installment Amounts Paid | Remaining principal amount of this Global Note following such payments[3] | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|---|
| *First | | | | | |

3 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

* Continue numbering until the appropriate number of installment payment dates for the particular Tranche of Notes is reached.

PART III

REDEMPTIONS

| Date of Redemption | Total principal amount of this Global Note to be redeemed | Principal amount redeemed | Remaining principal amount of this Global Note following such redemption[4] | Confirmation of redemption by or on behalf of the Issuer |
|---|---|---|---|---|

[4] See most recent entry in Part II, III, IV of Schedule 1 or Schedule 2 in order to determine this amount.

PART IV

PURCHASES AND CANCELLATIONS

| Date of purchase and cancellation | Part of principal amount of this Global Note purchased and canceled | Remaining principal amount of this Global Note following such purchase and cancellation[5] | Confirmation of purchase and cancellation by or on behalf of the Issuer |
|---|---|---|---|

5 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

Schedule 2 to the
Permanent Global Note[6]

SCHEDULE OF EXCHANGES

The following exchanges of a part of this Global Note for Definitive Notes have been made:

| Date of exchange | Increase in principal amount of this Global Note due to exchanges of a Temporary Global Note for this Global Note[7] | Notation made by or on behalf of the Issuer |
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6 Schedule 2 should only be completed where the applicable Final Terms indicates that this Global note is intended to be a Classic Global Note.
7 If this Global Note has a maturity of one year from the Issue Date, the amount must be at least GBP £100,000 (or its equivalent in any other currency or currencies).

Schedule 4

**FORMS OF DEFINITIVE NOTE, COUPON, RECEIPT AND TALON**

PART I

**FORM OF DEFINITIVE NOTE**

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION IN THIS NOTE MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THIS NOTE IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THIS NOTE MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS NOTE IS A DEFINITIVE NOTE WITH INTEREST COUPONS. THE RIGHTS ATTACHING TO THIS DEFINITIVE NOTE ARE AS SPECIFIED IN THE AMENDED AND RESTATED AGENCY AGREEMENT (AS DEFINED HEREIN).

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

[1] [This language is applicable only to Notes with maturities of 183 days or less from the date of original issue.]

BANK OF AMERICA CORPORATION

[Specified Currency and Principal Amount of Tranche]
EURO MEDIUM-TERM NOTES DUE [year of Maturity Date/Redemption Month]

Series No. [ ]
Tranche No. [ ]

NOTE

COMMON CODE: ISIN:

This Note is one of a duly authorized issue of Euro Medium-Term Notes (the "Notes") of Bank of America Corporation (the "Issuer") denominated in the Specified Currency maturing on the Maturity Date or, as the case may be, on the Interest Payment Date. References herein to the Terms and Conditions shall be to the Terms and Conditions of the Notes endorsed herein as modified and supplemented by the information set out in the Final Terms and which are incorporated herein by reference, but in the event of any conflict between the provisions of the Terms and Conditions and the information set out in the Final Terms, the Final Terms will prevail.

This Note is issued subject to, and with the benefit of, the Terms and Conditions and an Amended and Restated Agency Agreement (the "Amended and Restated Agency Agreement," which expression shall be construed as a reference to that agreement as the same may be amended or supplemented from time to time) dated as of August 21, 2006, and as amended and supplemented by a supplemental agreement dated July 26 2007, and made between Bank of America Corporation and The Bank of New York (the "Agent").

For value received, the Issuer, subject to and in accordance with the Terms and Conditions, promises to pay to the bearer hereof on each Installment Date the amount payable on such Installment Date (if this Note is an Installment Note) and on the Maturity Date or, as the case may be, on the Interest Payment Date, or on such earlier date as this Note may become due and repayable in accordance with the Terms and Conditions, the amount payable on redemption of this Note, and to pay interest (if any) on this Note calculated and payable as provided in the Terms and Conditions together with any other sums payable under the Terms and Conditions.

This Note shall be governed by, and construed in accordance with, the laws of the State of New York, United States of America, without regard to principles of conflicts of laws.

This Note shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the Agent acting in accordance with the Amended and Restated Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this Note to be duly signed on its behalf.

BANK OF AMERICA CORPORATION

By: _____
Duly authorized officer

CERTIFICATE OF AUTHENTICATION OF THE AGENT

This Note is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

(REVERSE OF NOTE)

The Terms and Conditions of the Notes, attached to or endorsed upon this Note, are set forth in Schedule 4 of the Amended and Restated Agency Agreement dated as of August 21, 2006, as amended and supplemented by a supplemental agreement dated July 26 2007, and made between Bank of America Corporation and The Bank of New York (the "Agent").

PART II

FORM OF COUPON

THIS COUPON HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS COUPON NOR ANY INTEREST OR PARTICIPATION IN THIS COUPON MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THIS COUPON IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THIS COUPON MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS COUPON IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS COUPON SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

BANK OF AMERICA CORPORATION

[Specified Currency and Principal Amount of Tranche]
EURO MEDIUM-TERM NOTES DUE [Year of Maturity]

Series No. [ ]

COMMON CODE:

ISIN:

Part A

[For Fixed Rate Notes:

This Coupon is payable to bearer, separately negotiable and subject to the Terms and Conditions of the said Notes.

Coupon No._____
Coupon for
[ ]
due on
[ ],20[ ]]

Part B

[For Floating Rate Notes:-

Coupon No. _____

Coupon for the amount due in accordance with the Terms and Conditions on the said Notes on the Interest Payment Date falling in [20[ ]]

Coupon due in [ ], [20[ ]]

This Coupon is payable to bearer, separately negotiable and subject to such Terms and Conditions, under which it may become void before its due date.]

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][2]

BANK OF AMERICA CORPORATION

By: _____
Duly authorized officer

2 [Appears only on Coupons relating to Notes with maturities of 183 days or less from the date of original issue.]

(Reverse of Coupon)

AGENT

The Bank of New York
One Canada Square
London E14 5AL
United Kingdom

and/or such other or further Agent and other or further Paying Agents and/or specified offices as may from time to time be duly appointed by the Issuer and notice of which has been given to the Noteholders.

(On the front)

PART III

FORM OF RECEIPT

THIS RECEIPT HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS RECEIPT NOR ANY INTEREST OR PARTICIPATION IN THIS RECEIPT MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THIS RECEIPT IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THIS RECEIPT MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS RECEIPT IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS RECEIPT SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][3]

[3] [Appears only on Receipts relating to Notes with maturities of 183 days or less from the date or original issue.]

BANK OF AMERICA CORPORATION

[Specified Currency and Principal Amount of Tranche]

EURO MEDIUM-TERM NOTES DUE [Year of Maturity]

Series No. [ ]

COMMON CODE: ISIN:

Receipt for the sum of [ ] being the installment of principal payable in accordance with the Terms and Conditions endorsed on the Note to which this Receipt appertains (the "Conditions") on [ ].

This Receipt is issued subject to and in accordance with the Terms and Conditions which shall be binding upon the holder of this Receipt (whether or not it is for the time being attached to such Note) and is payable at the specified office of the Agent or any of the Paying Agents set out on the reverse of the Note to which this Receipt appertains (and/or any other or further Paying Agents and/or specified offices as may from time to time be duly appointed and notified to the Noteholders).

This Receipt must be presented for payment together with the Note to which it appertains. The Issuer shall have no obligation in respect of any Receipt presented without the Note to which it appertains or any unmatured Receipts.

BANK OF AMERICA CORPORATION

By: _____
Duly authorized officer

PART IV

FORM OF TALON

THIS TALON HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS TALON NOR ANY INTEREST OR PARTICIPATION IN THIS TALON MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THIS TALON IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THIS TALON MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS TALON IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS TALON SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][4]

4 [Appears only on Talons relating to Notes with maturities of 183 days or less from the date of original issue.]

(On the front)

[Specified Currency and Principal Amount of Tranche]
EURO MEDIUM-TERM NOTES DUE [Year of Maturity]

Series No. [ ]

COMMON CODE: ISIN:

On and after [ ] further Coupons [and a further Talon] appertaining to the Note to which this Talon appertains will be issued at the specified office of the Agent or any of the Paying Agents set out on the reverse hereof (and/or any other or further Paying Agents and/or specified offices as may from time to time be duly appointed and notified to the Noteholders) upon production and surrender of this Talon.

This Talon may, in certain circumstances, become void under the Terms and Conditions endorsed on the Notes to which this Talon appertains.

BANK OF AMERICA CORPORATION

By: _____
Duly authorized officer

(Reverse of Receipt and Talon)

AGENT

The Bank of New York
One Canada Square
London E14 5AL
United Kingdom

and/or such other or further Agent and other or further Paying Agents and/or specified offices as may from time to time be duly appointed by the Issuer and notice of which has been given to the Noteholders.

**Exhibit 4(g)**

BANK OF AMERICA, N.A.

Bank Notes with Maturities
of 7 days or more from Date of Issue

LETTER AGREEMENT
amending the
ISSUING AND PAYING AGENCY AGREEMENT

April 26, 2007

Deutsche Bank Trust Company Americas
Global Transaction Banking - Trust and Securities Services
25 DeForest Avenue
Mail Stop, SUM01-0105
Summit, New Jersey 07901

Re: U.S.$10,000,000,000 Increase of Capacity of the Program for the Issuance of Bank of America, N.A.'s Senior and Subordinated Bank Notes (the "Program")

Ladies and Gentlemen:

Reference is made to the Issuing and Paying Agency Agreement by and between Bank of America, N.A., a national banking association organized under the laws of the United States (the "Issuer"), and Deutsche Bank Trust Company Americas, a New York banking corporation (the "Issuing and Paying Agent"), with respect to the issue and sale by the Issuer of senior unsecured debt obligations ("Senior Notes") and subordinated unsecured debt obligations ("Subordinated Notes"), and which have maturities of 7 days or more (such Senior Notes and such Subordinated Notes are collectively referred to as the "Notes"), dated May 23, 2006 (the "Issuing and Paying Agency Agreement"). Capitalized terms used in this Letter Agreement which are not defined in this Letter Agreement shall have the meanings set forth in the Issuing and Paying Agency Agreement.

Pursuant to Section 4(c) of the Issuing and Paying Agency Agreement, (a) the Issuing and Paying Agent Agreement is hereby increased in total capacity of the Program from U.S.$50,000,000,000 to U.S.$60,000,000,000, and (b) references in the Issuing and Paying Agency Agreement to U.S.$50,000,000,000 are hereby amended to mean U.S.$60,000,000,000, effective as of the date hereof. The new amount and terms herein shall also be incorporated into the Authentication Order from the Issuer to the Issuing and Paying Agent and the Calculation Agency Agreement, dated May 23, 2006, by and between the Issuer and Deutsche Bank Trust Company Americas, as Calculation Agent, both effective as of the date hereof. Furthermore, the List of Issuer's Authorized Representatives (as set forth in Exhibit G to the Issuing and Paying Agency Agreement) and the Certificate that includes the List of Issuing and Paying Agent's Authorized Representatives (as set forth in Exhibit H to the Issuing and Paying Agency Agreement) shall be updated as set forth in Exhibits A and B hereto, respectively.

Each form of Notes attached as Exhibits C-1, C-2, D-1, D-2, and E-1 to the Issuing and Paying Agency Agreement, shall be updated solely as necessary to reflect the increased capacity described herein.

The form of the pricing supplement attached as Exhibit F-1 shall be updated as necessary to reflect the increased capacity described herein.

Pursuant to Section 19 of the Issuing and Paying Agency Agreement, the Issuing and Paying Agent may require, and shall be fully protected in relying upon, an opinion of counsel, which opinion may be rendered by counsel to the Issuer, stating that the execution of this Letter Agreement is authorized or permitted by the Issuing and Paying Agency Agreement, and that such amendment constitutes a valid and binding obligation of the Issuer enforceable in accordance with its terms and subject to customary exceptions.

Please acknowledge your acceptance of these provisions by executing a copy of this letter, and returning it to the undersigned.

Very truly yours,

BANK OF AMERICA, N.A.

By: /s/ B. KENNETH BURTON, JR.
Name: B. Kenneth Burton, Jr.
Title: Senior Vice President

Accepted:

DEUTSCHE BANK TRUST COMPANY AMERICAS

By: /s/ RICHARD L. BUCKWALTER
Name: Richard L. Buckwalter
Title: Director

By: /s/ ANNIE JAGHATSPANYAN
Name: Annie Jaghatspanyan
Title: Assistant Vice President

**Exhibit 4(ccc)**

**Australian and New Zealand**
**MTN Deed Poll**

**Bank of America Corporation**

**A$7,000,000,000 Australian and New Zealand**

**Medium-Term Note Program**

Allens Arthur Robinson
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000
Tel 61 2 9230 4000
Fax 61 2 9230 5333
www.aar.com.au

**Table of Contents**

THE NOTES ISSUED UNDER THE BANK OF AMERICA CORPORATION AUSTRALIAN AND NEW ZEALAND MEDIUM-TERM NOTE PROGRAM HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THE NOTES NOR ANY INTEREST OR PARTICIPATION IN THE NOTES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT, UNLESS THE NOTES ARE REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

THE NOTES ARE NOT SAVINGS ACCOUNTS OR DEPOSITS, ARE NOT OBLIGATIONS OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE NOTEHOLDERS NOR THE BENEFICIAL OWNERS OF THE NOTES SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST ON THE NOTES EXCEPT PURSUANT TO THE PROVISIONS OF THE NOTES.

**Date** July 12, 2007

**Parties** Granted by:

1. **Bank of America Corporation**, a corporation organised under the laws of the State of Delaware, United States of America, with its principal offices located at Bank of America Corporate Center, 100 North Tryon Street, Charlotte, North Carolina 28255-0065, United States of America (the ***Issuer***).

**Recitals**

A The Issuer has established an A$7,000,000,000 Australian and New Zealand Medium–Term Note Program (the ***Program***) under which it proposes to issue Notes from time to time on the terms of this Deed Poll, which replaces the Deed Poll dated May 18, 2006. Notes issued on or after the date of this Deed Poll are issued subject to the terms of this Deed Poll.

B Any Notes which have been issued on the terms of the Deed Poll dated May 18, 2006 remain subject to the terms of that deed poll and any agreements entered into on or about the date of that Deed Poll in connection with the A$3,000,000,000 Australian Medium-Term Note Program, including the Program Agreement dated May 18, 2006, the Agency and Registry Agreement dated May 18,2006 and the Offering Circular dated May 18, 2006.

C The Notes will be issued in registered form by inscription in the relevant Register to be maintained by the relevant Registrar on behalf of the Issuer.

D The Issuer enters into this Deed Poll for the benefit, amongst others, of the holders from time to time of Notes, the holders of the Issuer's Senior Indebtedness, in respect of Subordinated Notes and the Dealers.

**IT IS AGREED AND DECLARED** as follows.

## 1. Definitions and Interpretation

### 1.1 Definitions

Definitions in the applicable Pricing Supplement and in the Terms and Conditions apply in this Deed Poll unless the context otherwise requires or the relevant term is defined in this Deed Poll.

***Pricing Supplement*** means the pricing supplement executed by the Issuer and prepared in relation to the Notes of the relevant Tranche or Series (substantially in the form of annexure B of the Program Agreement) as a supplement, modification or replacement of the Terms and Conditions and giving details of that Tranche or Series.

***Program Agreement*** means the Program Agreement dated on or about the date of this Deed Poll between the Issuer and the Dealers named in it.

***Terms and Conditions*** means the terms and conditions applicable to a Note set out in the schedule, as supplemented, modified or replaced by the relevant Pricing Supplement.

**1.2 Interpretation**

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

(a) The singular includes the plural and the converse.

(b) A gender includes all genders.

(c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

(d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

(e) A reference to a clause, annexure or schedule is a reference to a clause of, or annexure or schedule to, this Deed Poll.

(f) A reference to a party to this Deed Poll or another agreement or document includes the party's successors and permitted substitutes or assigns.

(g) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

(h) A reference to ***writing*** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.

(i) A reference to ***conduct*** includes an omission, statement or undertaking, whether or not in writing.

(j) Mentioning anything after ***include***, ***includes*** or ***including*** does not limit what else might be included.

(k) All references to ***time*** shall, unless the context otherwise requires, be references to Sydney, Australia, time.

**1.3 Document or agreement**

A reference to:

(a) an ***agreement*** includes a security interest, Guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing; and

(b) a ***document*** includes an agreement (as so defined) in writing or a certificate, notice, instrument or document.

A reference to a specific agreement or document (including this deed) includes it as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by a Program Document.

**1.4 Registration and transfer**

References in this Deed Poll to:

(a) ***registration*** or ***recording*** include inscription, and ***register*** and ***record*** have a corresponding meaning; and

(b) ***transfer*** includes transmission.

**1.5 Inconsistencies**

In the event of an inconsistency, the provisions will prevail in the following order:

(a) the Pricing Supplement;

(b) this Deed Poll; and

(c) the Terms and Conditions.

**1.6 Banking Act 1959**

The Issuer is not authorised under the *Banking Act 1959* of the Commonwealth of Australia to carry on banking business and is not subject to prudential supervision by the Australian Prudential Regulation Authority.

**1.7 Reserve Bank of New Zealand Act 1989**

The Issuer is not a registered bank pursuant to the *Reserve Bank of New Zealand Act 1989.*

**2. The Notes**

**2.1 Creation of Notes**

(a) Notes are issued in registered form. Subject to the Program Agreement, the Issuer may create Notes at any time by procuring the relevant Registrar to inscribe the details of those Notes in the relevant Register in accordance with the relevant Terms and Conditions.

(b) The Terms and Conditions in relation to those Notes, once issued, shall include the provisions of the relevant Pricing Supplement.

(c) The execution of any Pricing Supplement shall not constitute the issue of a Note, the acknowledgement of any debt or any promise to pay by the Issuer. No Note will be created or issued except in accordance with subclause 2.2, and once created or issued the information contained in the relevant Register with respect to those Notes will have the effect provided under the Terms and Conditions.

**2.2 Constitution and title**

(a) The Notes are constituted by this Deed Poll and inscription in the relevant Register. The obligations of the Issuer are constituted by, and specified in, this Deed Poll. Each Note is a separate debt obligation of the Issuer and may be transferred separately from any other Note.

(b) Title to the Notes is conclusively evidenced for all purposes by inscription in the relevant Register. The making of, or giving effect to, a manifest error in an inscription in a Register

will not avoid the constitution, issue or transfer of a Note. The Issuer will procure the relevant Registrar to rectify any manifest error of which it becomes aware.

(c) No certificate or other evidence of title to a Note will be issued by or on behalf of the Issuer unless the Issuer determines otherwise or is required to do so under any applicable law or regulation.

**2.3 Denomination**

Each Note must be denominated in Australian or New Zealand dollars, in such amount or amounts as set out in clause 2.2 of the Terms and Conditions and specified in the relevant Pricing Supplement.

**2.4 Status**

(a) The Senior Notes will be unsecured and unsubordinated obligations of the Issuer and will rank equally with all other unsecured and unsubordinated indebtedness of the Issuer. The Subordinated Notes are unsecured and subordinated and subject in right of payment to the prior payment in full of all Senior Indebtedness of the Issuer.

(b) The indebtedness evidenced by the Subordinated Notes, subject to the extent set out in the Terms and Conditions, shall be subordinated in right of payment to the prior payment in full of all the Issuer's Senior Indebtedness. Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of such subordination irrespective of any amendment, modification, or waiver of any term of the Senior Indebtedness. There is no right of acceleration in the case of a default in the payment of interest on the Subordinated Notes or in the performance of any other obligation of the Issuer under the Subordinated Notes.

(c) The further provisions relating to Subordinated Notes are as set out in Condition 2.7(b) of the Terms and Conditions and otherwise in the Terms and Conditions.

(d) The ranking of Notes is not affected by the date of inscription in the relevant Register.

**2.5 Issuer to inform Registrar and Issuing and Principal Paying Agent**

On or before the Issue Date of a Note, the Issuer must give the relevant Registrar and the relevant Issuing and Principal Paying Agent a copy of the Pricing Supplement.

**3. Rights and Obligations of Noteholders**

**3.1 Rights of Noteholders**

(a) A Noteholder is entitled, in respect of each Note for which that person's name is inscribed in the relevant Register, to the payment of the principal amount and interest in accordance with the Terms and Conditions and the Pricing Supplement applicable to that Note, together with the other benefits given to Noteholders under this Deed Poll including, unless the Note is purchased and cancelled prior to the relevant Maturity Date in accordance with the Terms and Conditions, the payment of the Redemption Amount of such Note on the relevant Maturity Date as specified in the Terms and Conditions and the Pricing Supplement.

(b) The Issuer irrevocably undertakes to make all those payments on the due date, together with the payment of principal and interest in respect of the Notes in accordance with the Terms and Conditions and the Pricing Supplement applicable to those Notes.

**3.2 Deed poll and enforcement**

This Deed Poll is a deed poll. Each Dealer and each Noteholder and any person claiming through a Noteholder has the benefit of this Deed Poll and can enforce it even though they may not be in existence at the time this Deed Poll is executed. Each Noteholder may enforce its rights under this Deed Poll independently from the relevant Registrar and each other Noteholder.

**3.3 Noteholders bound**

Each Noteholder and any person claiming through a Noteholder who asserts an interest in a Note is bound by this Deed Poll. Persons claiming interests in a Note must do so in accordance with the rules of any clearing or other system for the holding of such interests, or in accordance with law, and obtain the interests in a Note provided by any such system or by law.

**3.4 Lodgement with Registrar**

(a) The Issuer shall deliver an executed counterpart of this Deed Poll to each Registrar for it to hold for the benefit of relevant Noteholders for so long as the Program remains in effect and thereafter until the date on which all the obligations of the Issuer under or in respect of any Notes (including, without limitation, its obligations under this Deed Poll) have been discharged in full. The Issuer acknowledges the right of every Noteholder to the production of this Deed Poll.

(b) Each Noteholder is taken to have irrevocably appointed and authorised the relevant Registrar to hold this Deed Poll in New South Wales or in New Zealand, on behalf of that Noteholder, with the powers expressly delegated to that Registrar under the relevant Agency and Registry Agreement and other powers reasonably incidental to those powers.

(c) Neither Registrar has any duties or responsibilities in that capacity except those expressly set out in the relevant Agency and Registry Agreement.

**3.5 Schedules and conditions**

The Notes are issued upon and subject to:

(a) the Terms and Conditions;

(b) the applicable Pricing Supplement; and

(c) the applicable Agency and Registry Agreement;

each of which are binding on the Issuer and the Noteholders and all persons claiming through or under them respectively.

**3.6 Issuing and Principal Paying Agent**

Each Noteholder is taken to acknowledge that:

(a) the relevant Issuing and Principal Paying Agent is the Issuer's agent, not theirs; and

(b) the relevant Issuing and Principal Paying Agent does not owe any fiduciary duty to any Noteholder.

**3.7 Name on Register**

The person whose name appears in the relevant Register will be treated by the Issuer, the relevant Issuing and Principal Paying Agent and the relevant Registrar as the absolute owner of the relevant Note. Neither the Issuer nor the relevant Registrar nor any other person is, except as required by order of a court of competent jurisdiction, or as required by law, obliged to take notice of any other claim to or in respect of any Notes.

**4. The Registrars and Issuing and Principal Paying Agents**

**4.1 Appointment**

The Issuer undertakes to ensure that a person acts at all times as registrar and issuing and principal paying agent in respect of the Notes and properly performs the functions required of a registrar and issuing and principal paying agent. The Issuer will promptly replace the relevant registrar or issuing and principal paying agent if it is not properly performing its duties.

**4.2 Duties**

Each Registrar and each Issuing and Principal Paying Agent has no duties or responsibilities except those expressly set out in each of the relevant Agency and Registry Agreement, the Terms and Conditions and this Deed Poll.

**5. Terms and Conditions**

**5.1 Terms and Conditions**

The Issuer agrees to its obligations as set out in the Terms and Conditions.

**6. Undertaking by Issuer**

The Issuer undertakes to procure the production by the relevant Registrar to a Noteholder (upon request by that Noteholder) of a certified copy or, if necessary, the original, of this Deed Poll.

**7. Governing Law and Jurisdiction**

**7.1 Governing law**

This Deed Poll is governed by the law in force in New South Wales. The subordination provisions contained in Condition 2.7 of the Terms and Conditions are governed by New York law.

**7.2 Jurisdiction**

Each person taking benefit of or bound by this Deed Poll irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts with jurisdiction in New South Wales. Each party

waives any right it has to object to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

**7.3 Process Agent**

The Issuer appoints BA Australia Limited (ABN 50 004 617 341) to act as its process agent in New South Wales. If that person ceases to have an office in Australia, the Issuer shall ensure that there is another person appointed immediately to receive process on its behalf.

**8. Power of Attorney**

Each attorney executing this Deed Poll states that he or she has no notice of revocation or suspension of his power of attorney.

**TERMS AND CONDITIONS OF THE NOTES**

*The following (other than the words in italics) are the Terms and Conditions of the Notes as supplemented, modified or replaced in relation to any Notes by the Pricing Supplement which will be applicable to a particular Tranche of Notes.*

The Notes are constituted by the Deed Poll dated on or about July 12, 2007 (the ***Deed Poll***) executed by Bank of America Corporation (the ***Issuer***) and are issued with the benefit of the applicable Agency and Registry Agreement. Copies of the Deed Poll and each of the Agency and Registry Agreements are available for inspection:

(a) in the case of the Australian Agency and Registry Agreement, at the office of the Australian Issuing and Principal Paying Agent at Level 4, 35 Clarence Street, SYDNEY NSW 2000, Australia; or

(b) in the case of the New Zealand Agency and Registry Agreement, at the office of the New Zealand Issuing and Principal Paying Agent at Level 2, 159 Hurstmere Road, Takapuna, Auckland 1020, New Zealand.

The registered holders of Notes (the ***Noteholders***) are entitled to the benefit of, are bound by and are deemed to have notice of, all the provisions contained in the Deed Poll and the relevant Agency and Registry Agreement.

**1. Interpretation**

**1.1 Definitions**

The following words have these meanings in these Terms and Conditions unless the contrary intention appears.

***Additional Amounts*** has the meaning given in Condition 7.

***Agency and Registry Agreement*** means either the Australian Agency and Registry Agreement or the New Zealand Agency and Registry Agreement or any other agency and registry agreement entered into by the Issuer in relation to the issue of Notes.

***ATO*** means the Australian Taxation Office.

***Austraclear*** means Austraclear Limited (ACN 002 060 773) or its successor or replacement from time to time.

***Austraclear New Zealand*** means the Reserve Bank of New Zealand, or its successor or replacement from time to time, in its capacity as the operator of the Austraclear New Zealand System.

***Austraclear New Zealand Regulations*** means the regulations known as the "Austraclear New Zealand System Rules" established by the Reserve Bank of New Zealand to govern the use of the Austraclear New Zealand System.

***Austraclear New Zealand System*** means the system operated by the Reserve Bank of New Zealand in accordance with the Austraclear New Zealand Regulations in New Zealand for holding securities and electronic recording and settling of transactions in those securities between members of that system.

***Austraclear Regulations*** means the regulations and operating manual of Austraclear to govern the use of the Austraclear System.

***Austraclear System*** means the system operated by Austraclear in accordance with the Regulations.

***Australian Agency and Registry Agreement*** means an agreement entitled Australian Agency and Registry Agreement dated on or about the date of these Terms and Conditions between the Issuer and the Australian Issuing and Paying Agent and the Australian Registrar for the issuing, paying agency and registry services on behalf of the Issuer for the Australian Notes and any other agreement for any of those services.

***Australian dollars*** or ***A$*** means the lawful currency of Australia from time to time.

***Australian Issuing and Principal Paying Agent*** means BTA Institutional Services Australia Limited in its capacity as issuing and principal paying agent for the Australian Notes or any other issuing and principal paying agent specified in the relevant Pricing Supplement or any other Program Document in respect of Australian Notes.

***Australian Notes*** means Notes denominated in Australian dollars, as specified in the applicable Pricing Supplement.

***Australian Register*** means the register of Noteholders maintained by the Australian Registrar on behalf of the Issuer in which is entered the name and address of Noteholders whose Australian Notes are carried on that Australian Register, the amount of Australian Notes held by each Noteholder and the Tranche, Series, date of issue and transfer of those Notes and any other particulars which the Issuer sees fit.

***Australian Registrar*** means BTA Institutional Services Australia Limited, in its capacity as registrar of the Australian Notes or such other person appointed by the Issuer to establish and maintain the Australian Register on the Issuer's behalf from time to time.

***BBSW*** means, in relation to an Interest Period, the rate per annum (expressed as a percentage) calculated by the Australian Issuing and Principal Paying Agent by taking the rates quoted on the Reuters Screen BBSW Page at approximately 10:10am, Sydney time, on the first day of that Interest Period for at least five banks quoting on that page, as being the mean buying and selling rate for a bill (which for the purpose of this definition means a bill of exchange of the type specified for the purpose of quoting on the Reuters Screen BBSW page) having a tenor equal to or closest approximating the Interest Period, eliminating the highest and lowest mean rates and taking the average of the remaining mean rates.

If in respect of the first day of an Interest Period, fewer than five banks have quoted rates on the Reuters BBSW Page, the rate for that Interest Period shall be calculated as above by taking the rates otherwise quoted by five banks on application by the Australian Issuing and Principal Paying Agent for such a bill of the same tenor. If in respect of the first day of an Interest Period, the rate for that Interest Period cannot be determined in accordance with the foregoing procedures, then the rates shall be the rate as reasonably determined by the Australian Issuing and Principal Paying Agent, having regard to comparable indices than available.

***BKBM*** as used herein shall mean, with respect to an Interest Period (in the following order of priority):

(a) the FRA settlement rate (rounded upwards, if necessary, to the nearest four decimal places) as displayed at or about 10.45am on the first day of the Interest Period on the Reuters Monitor Screen page BKBM (or its successor page) for bank accepted bills having a term approximately equal to the Interest Period;

(b) if there is no such rate displayed for bank accepted bills having a term approximately equal to the Interest Period, then the average of the mid-point of the bid and offer rates quoted by three Reference Banks for such bank-accepted bills at or about that time on that date; or

(c) if fewer than three quotations are provided as requested in paragraph (b) above, BKBM will be BKBM as determined for the previous Interest Period or, in the case of the first Interest Period, BKBM will be the rate per annum determined by the Calculation Agent to be the nearest practicable equivalent.

***Business Day*** means a day on which:

(a) commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency markets):

(i) in the case of Australian Notes in Sydney and Charlotte, North Carolina; or

(ii) in the case of New Zealand Notes in Auckland, Wellington and Charlotte, North Carolina,

and any additional business centres specified in the applicable Pricing Supplement;

(b) (i) in the case of Australian Notes, the Austraclear System is open for business, excluding a Saturday, Sunday or public holiday in Sydney; or

(ii) in the case of New Zealand Notes, Austraclear New Zealand System is open for business, excluding a Saturday, Sunday or public holiday in Auckland or Wellington; and

(c) if a Note is to be issued or paid on that day, a day on which each relevant clearing system (including the Austraclear System, Austraclear New Zealand System, Euroclear or Clearstream) is operating.

***Business Day Convention*** in respect of a Note, means the convention specified in the relevant Pricing Supplement for that Note and recorded in the relevant Register for adjusting any relevant date if it would otherwise fall on a day that is not a Business Day. The following terms, when used in conjunction with the term ***Business Day Convention*** and a date, shall mean that an adjustment will be made if that date would otherwise fall on a day that is not a Business Day so that:

(a) if ***Floating Rate Convention*** is specified, that date will be postponed to the next following day which is a Business Day, unless that day falls in the next calendar month, in which event:

(i) that date is brought forward to the first preceding day that is a Business Day; and

(ii) each subsequent Interest Payment Date is the last Business Day in the month which falls the number of months or other period specified as the Interest Period in the Pricing Supplement after the preceding applicable Interest Payment Date occurred;

(b) if ***Following*** is specified, that date will be the following Business Day;

(c) if ***Modified Following*** or ***Modified*** is specified, that date will be the following Business Day unless that day falls in the next calendar month, in which case that date will be the preceding Business Day;

(d) if ***Preceding*** is specified, that date will be the preceding Business Day; and

(e) if ***No Adjustment*** is specified, the date will not be adjusted in accordance with any Business Day Convention.

***Calculation Agent*** means, in relation to any Series of Australian Notes, the Australian Issuing and Principal Paying Agent, and in relation to any Series of New Zealand Notes, the New Zealand Issuing and Principal Paying Agent, or any other person appointed as calculation agent in relation to the Notes by the Issuer pursuant to the terms of the applicable Agency and Registry Agreement, and shall include any successor calculation agent appointed in respect of such Notes.

***Clearstream*** means Clearstream Banking, société anonyme or its successor.

***Coupon*** means any interest coupon appertaining to a Bearer Note.

***Couponholder*** means the holder of a Coupon.

***Custodian*** means the New Zealand Central Securities Depository Limited or any other entity appointed from time to time by Austraclear New Zealand, under the Austraclear New Zealand Regulations, as custodian trustee to hold securities on the Austraclear New Zealand System.

***Day Count Basis*** means, in respect of the calculation of an amount of interest on any Note for any period of time (***Calculation Period***), the day count basis specified in the relevant Pricing Supplement and:

(a) if ***Actual/365*** or ***Actual/Actual*** is specified, the actual number of days in the Calculation Period in respect of which payment is being made (being inclusive of the first day, but exclusive of the last day, of that Calculation Period) divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365); or

(b) if ***Actual/365 (Fixed)*** is specified, the actual number of days in the Calculation period in respect of which payment is being made divided by 365; or

(c) if ***Actual/360*** is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 360; or

(d) if ***30/360, 360/360*** or ***Bond Basis*** is specified, the number of days in the Calculation Period in respect of which payment is being made (being inclusive of the first day, but exclusive of the last day, of that Calculation Period) divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of the Calculation Period is the 31st day of a month but the first day of the Calculation Period is a day other than the 30h or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (ii) the last day of the Calculation Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); or

(e) if ***30E/360*** or ***Eurobond Basis*** is so specified, means the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with twelve 30-day months, without regard to the date of the first or last day of the Calculation Period unless, in the case of a Calculation Period ending on the Maturity Date, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month); or

(f) if ***RBA Bond Basis*** is specified, one divided by the number of Interest Payment Dates in a year; or

(i) such other basis as may be specified in the relevant Pricing Supplement as being the applicable basis for the calculation of the amount of interest in respect of a Series of Notes.

***Dealer*** means each person described as such who is an original party to the Program Agreement (and who has not been removed or retired in accordance with the terms of the Program Agreement), any person who accedes to the Program Agreement as a Dealer or any person appointed as a Dealer under a relevant Syndication Agreement.

***Early Redemption Amount*** means, in relation to any Note, the Redemption Amount payable on redemption at any time prior to its Maturity Date together with accrued interest up to but excluding the date of redemption, unless otherwise stated in the relevant Pricing Supplement.

***Euroclear*** means Euroclear Bank S.A./N.V., as operator of the Euroclear System or its successor.

***Event of Default*** means an event specified in Condition 9.

***Fixed Rate Note*** means a Note that bears interest at a fixed rate.

***Floating Rate Note*** means a Note that bears interest at a floating or variable rate.

***Interest Accrual Date*** means, in relation to any Note, the date specified in the Pricing Supplement as the date on and from which interest accrues on that Note.

***Interest Amount*** means, in relation to any Note, the amount of interest payable in respect of such Note as determined under Condition 3.4.

***Interest Payment Date*** means, in relation to any Note, each date specified in, or determined in accordance with the provisions of, the Pricing Supplement as a date on which a payment of interest on that Note is due and adjusted, if necessary, in accordance with the applicable Business Day Convention.

***Interest Period*** means, in relation to any Note, the period from and including an Interest Payment Date (or, in the case of the first period, the Interest Accrual Date) to but excluding the next Interest Payment Date.

***Interest Rate*** means, in relation to any Note, the rate of interest (expressed as a per cent per annum) payable in respect of that Note specified in or calculated or determined in accordance with the provisions of the Pricing Supplement.

***Issue Date*** means, in relation to any Note, the date recorded or to be recorded in the relevant Register as the date on which the Note is issued.

***Issue Price*** in relation to a Note, means the issue price specified in, or calculated or determined in accordance with the provisions of, the Pricing Supplement for that Note.

***Issuing and Principal Paying Agent*** means the Australian Issuing and Principal Paying Agent or the New Zealand Issuing and Principal Paying Agent.

***Maturity Date*** means, in relation to any Note, the date specified in the Pricing Supplement as the Maturity Date for that Note.

***Maximum Interest Rate*** has the meaning given in Condition 3.4.

***Meeting Provisions*** means the provisions for the convening of meetings and passing of resolutions by Noteholders set out in the Schedule to these Terms and Conditions.

***Minimum Interest Rate*** has the meaning given in Condition 3.4.

***New Zealand Agency and Registry Agreement*** means an agreement entitled New Zealand Agency and Registry Agreement dated on or about the date of these Terms and Conditions between the Issuer and the New Zealand Issuing and Principal Paying Agent and the New Zealand Registrar for the issuing, paying agency and registry services on behalf of the Issuer for the New Zealand Notes and any other agreement for any of those services.

***New Zealand dollars*** or ***NZ$*** means the lawful currency of New Zealand from time to time.

***New Zealand Issuing and Principal Paying Agent*** means Computershare Investor Services Limited, in its capacity as issuing and principal paying agent for New Zealand Notes, or any other issuing or principal paying agent specified in the relevant Pricing Supplement or any other Program Document in respect of New Zealand Notes.

***New Zealand Notes*** means Notes denominated in New Zealand dollars as specified in the applicable Pricing Supplement.

***New Zealand Register*** means the register of Noteholders maintained by the New Zealand Registrar on behalf of the Issuer in which is entered the name and address of Noteholders whose New Zealand Notes are carried on that New Zealand Register, the amount of New Zealand Notes held by each Noteholder and the Tranche, Series, date of issue and transfer of those Notes and any other particulars which the Issuer sees fit.

***New Zealand Registrar*** means Computershare Investor Services Limited, in its capacity as the registrar of New Zealand Notes or such other person appointed by the Issuer to establish and maintain the New Zealand Register on the Issuer's behalf from time to time.

***Note*** means a note in registered form issued in accordance with the Deed Poll and such Note may be a Senior Note or a Subordinated Note as indicated in the applicable Pricing Supplement.

***Noteholder*** means a person whose name is for the time being entered in the relevant Register as a holder of a Note and when a Note is entered into:

(a) in the case of the Austraclear System, includes Austraclear or any other entity acting on behalf of any member of the Austraclear System; or

(b) in the case of the Austraclear New Zealand System, includes Austraclear New Zealand or any other entity acting on behalf of any member of the Austraclear New Zealand System.

***Offering Circular*** means at any time the offering circular issued in connection with the issue, sale or purchase of Notes, as revised, supplemented or amended from time to time by the Issuer, and such documents as are from time to time incorporated into it by reference (but not including any information or documents superseded by any information subsequently included or incorporated).

***Optional Redemption Amount*** means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the applicable Pricing Supplement.

***Optional Redemption Date*** has the meaning given in Condition 5.3 and the specific date identified in the relevant Pricing Supplement.

***Outstanding Principal Amount*** means, in relation to any Note, the principal amount outstanding on that Note from time to time.

***Paying Agent*** means any paying agent in respect of the Notes appointed by the Issuer pursuant to the relevant Agency and Registry Agreement.

***Pricing Convention*** means unless otherwise specified in the relevant Pricing Supplement:

(a) in respect of a Floating Rate Australian Note, the FRN convention as published by the Australian Financial Markets Association (AFMA); or

(b) in respect of a Fixed Rate Australian Note, the Reserve Bank of Australia bond basis.

***Pricing Supplement*** means the pricing supplement executed by the Issuer and prepared in relation to the Notes of the relevant Tranche or Series (substantially in the form set out in the Offering Circular) as a supplement, modification or replacement of the Terms and Conditions and giving details of that Tranche or Series.

***Program Agreement*** means the agreement so entitled dated on or about the date of the Deed Poll between the Issuer and the Dealers named in that agreement.

***Program Document*** means each of:

(a) the Program Agreement;

(b) the Deed Poll;

(c) any Australian Agency and Registry Agreement;

(d) any New Zealand Agency and Registry Agreement;

(e) any Offering Circular;

(f) the relevant Notes;

(g) the relevant Syndication Agreement (if applicable); and

(h) the relevant Pricing Supplement.

***Put Option Notice*** means the notice which must be delivered to the Registrar, by any Noteholder to exercise its option to redeem a Note prior to its Maturity Date.

***Record Date*** means:

(a) for Australian Notes, the close of business in the place where the Australian Register is maintained on the eighth calendar day before the Interest Payment Date;

(b) for New Zealand Notes, the close of business in the place where the New Zealand Register is maintained on the tenth calendar day before the payment date; or

(c) any other date so specified in the Pricing Supplement.

***Redemption Amount*** means, in relation to any Note, the Outstanding Principal Amount or such other redemption amount as may be specified in or calculated or determined in accordance with the provisions of the Pricing Supplement.

***Reference Banks*** means ANZ National Bank Limited, ASB Bank Limited, Bank of New Zealand and Westpac Banking Corporation, or any other bank selected by the New Zealand Issuing and Principal Agent as being a leading bank in the New Zealand interbank market.

***Register*** means the Australian Register or the New Zealand Register.

***Registrar*** means the Australian Registrar or the New Zealand Registrar.

***Regulations*** means the Austraclear Regulations, the Austraclear New Zealand Regulations or the terms and conditions and operating procedures of Euroclear or Clearstream, from time to time.

***Securities Act*** means the United States Securities Act of 1933, as amended.

***Security Record***, for Australian Notes, has the meaning given to that term in the Austraclear Regulations and for New Zealand Notes, has the meaning given to the term "Security Account" in the Austraclear New Zealand Regulations.

***Senior Notes*** has the meaning given in Condition 2.7.

***Senior Indebtedness*** has the meaning given in Condition 2.7.

***Series*** means Notes having identical terms except that the Issue Date and the amount of the first payment of interest may be different in respect of different Tranches it comprises, or as otherwise agreed and referred to in the Pricing Supplement as being a Series.

***Subordinated Notes*** has the meaning given in Condition 2.7.

***Tenor*** of a Note means the number of days from, and including, its Issue Date to, but excluding, its Maturity Date. Notes will have a minimum Tenor of 365 days or any greater period agreed by the Issuer and the relevant Dealers, subject to all applicable laws or regulations.

***Tranche*** means Notes issued on the same Issue Date the terms of which are identical in all respects (except that a Tranche may comprise Notes in more than one denomination) or as otherwise agreed and referred to in the Pricing Supplement as being a Tranche.

***Transfer and Acceptance Form*** means such form as a Registrar adopts in accordance with the then current market practice to effect a transfer of Notes.

***US$*** means the lawful currency of the United States of America from time to time.

***United States*** means the United States of America or any of its territories or possessions.

***United States Alien*** has the meaning given in Condition 7.

**1.2 Deed Poll provisions**

Subclauses 1.2 and 1.3 of the Deed Poll apply to these Terms and Conditions except that each reference in them to ***this Deed Poll*** is to be read as if it were a reference to ***these Terms and Conditions***.

**1.3 Interpretation**

References in these Terms and Conditions to issues, sales, or transfers, including cognate expressions, of Notes, and related dealings in Notes, include issues, sales or transfers, and cognate

expressions, in interests or participations in Notes, and related dealings in such interests or participations.

**2. Form, Title and Status**

**2.1 Form**

(a) Each Note is issued in registered form. The holders of Notes are recorded in the relevant Register.

(b) Each Note is a separate debt obligation of the Issuer and may (subject to Condition 4.9) be transferred.

(c) If the Notes are not lodged in the Austraclear System or the Austraclear New Zealand System, appropriate adjustments to the certification procedure will be made to the satisfaction of the Issuer.

**2.2 Currency and amounts**

(a) Australian Notes will be denominated in and issued in such minimum denominations of Australian dollars as agreed between the Issuer and relevant Dealers and set out in the Pricing Supplement provided that the minimum denomination shall at all times be equal to or greater than A$100,000. In respect of an offer or invitation received in Australia, Notes may only be issued if the amount subscribed for, or the consideration, payable to the Issuer, by the relevant Noteholder is a minimum of A$500,000 (disregarding amounts, if any, lent by the Issuer or other person offering the Notes or its associates (within the meaning of those expressions in Part 6D.2 of the *Corporations Act 2001*)) unless the offer or invitation is otherwise in circumstances such that by virtue of s708 of the*Corporations Act 2001* no disclosure is required to be made under Part 6D.2 of that Act.

(b) New Zealand Notes will be denominated in and issued in minimum denominations of NZ$100,000 or such other denominations as agreed between the Issuer and the Dealers and set out in the Pricing Supplement. In respect of offers or invitations received in New Zealand, Notes may only be issued or sold if the consideration payable to the Issuer or holder by the relevant purchaser is a minimum of NZ$500,000 (disregarding any amount lent by the offeror, the Issuer or any associated person of the offeror or the Issuer) or such Notes are issued to persons whose principal business is the investment of money or who in the course of and for the purposes of their business, habitually invest money within the meaning of the Securities Act 1978 of New Zealand and the issue complies with all other applicable laws in New Zealand.

**2.3 Note owners**

(a) Subject to 2.3(c) below, the person whose name is inscribed in a Register as the registered owner of any Note from time to time will be treated by the Issuer, the relevant Issuing and Principal Paying Agent and the relevant Registrar as the absolute owner of such Note for all purposes whether or not any payment in relation to such Note is overdue and regardless of any notice of ownership, trust or any other interest inscribed in the relevant Register,

subject to rectification for fraud or error. Two or more persons registered as Noteholders are taken to be joint holders with right of survivorship between them.

(b) Subject to 2.3(c) below, upon a person acquiring title to a Note by virtue of becoming registered as the owner of that Note, all rights and entitlements arising by virtue of the Deed Poll in respect of that Note vest absolutely in the registered owner of the Note, so that no person who has previously been registered as the owner of the Note nor any other person has or is entitled to assert against the Issuer, or the relevant Registrar or the registered owner of the Note for the time being and from time to time any rights, benefits or entitlements in respect of the Note.

(c) Neither the Issuer nor any Registrar nor any other person is, except as required by order of a court of competent jurisdiction, or as required by law, obliged to take notice of any other claim to or in respect of Notes.

**2.4 Inscription conclusive**

Each inscription in a Register in respect of a Note is:

(a) sufficient and conclusive evidence to all persons and for all purposes that the person whose name is so inscribed is the registered owner of the Note;

(b) evidence for the benefit of the relevant Noteholder, that a separate and individual acknowledgement by the Issuer of its indebtedness to that person is constituted by the Deed Poll and of the vesting in such person of all rights vested in a Noteholder by the Deed Poll; and

(c) evidence that the person whose name is so inscribed is entitled to the benefit of an unconditional and irrevocable undertaking by the Issuer constituted by the Deed Poll that the Issuer will make all payments of principal and interest (if any) in respect of the Note in accordance with these Terms and Conditions.

**2.5 Manifest errors**

The making of, or the giving effect to, a manifest error in an inscription into the Register will not avoid the constitution, issue or transfer of a Note. The Registrar must correct any manifest error of which it becomes aware.

**2.6 No certificate**

(a) Except as permitted under paragraph (b), no certificate or other evidence of title shall be issued by or on behalf of the Issuer to evidence title to a Note unless the Issuer determines that certificates should be made available or that it is required to do so under any applicable law or regulation.

(b) The Issuer agrees, on request by a Noteholder, to procure the relevant Registrar to provide (and that Registrar agrees to provide) to the Noteholder, at that Noteholder's expense, a certified extract of the particulars entered on the relevant Register in relation to that Noteholder and the Notes held by it.

**2.7 Status**

The ranking of Notes is not affected by the date of registration of any Noteholder in the relevant Register. The Issuer is not authorised under the *Banking Act 1959 of the Commonwealth of Australia* (the ***Banking Act***) to carry on banking business and is not subject to prudential supervision by the Australian Prudential Regulation Authority. The Notes are not Deposit Liabilities under the Banking Act.

The Issuer is not a registered Bank pursuant to the Reserve Bank of New Zealand Act 1989.

***Status of the Senior Notes and the Subordinated Notes***

The Notes may be issued in one or more Series as unsecured debt securities, which may be either senior notes (***Senior Notes***) or subordinated notes (***Subordinated Notes***).

The Notes are not deposits and are not insured by the Federal Deposit Insurance Corporation.

Under the Program, there is no limitation on the Issuer's ability to issue additional Senior Indebtedness or Subordinated Notes.

**(a)** ***Status of Senior Notes***

The Senior Notes will be unsecured and unsubordinated obligations of the Issuer and will rank equally with all other unsubordinated and unsecured indebtedness of the Issuer. The Subordinated Notes are unsecured and subordinate and subject in right of payment to the prior payment in full of all Senior Indebtedness (as defined below) of the Issuer.

***Senior Indebtedness*** means any indebtedness for money borrowed (including all indebtedness of the Issuer for borrowed and purchased money of the Issuer, all obligations arising from off-balance sheet guarantees by the Issuer and direct credit substitutes and obligations of the Issuer associated with derivative products such as interest and foreign exchange rate contracts and commodity contracts) that is outstanding on the date of execution of each Agency and Registry Agreement, or is thereafter created, incurred, or assumed, for which the Issuer is at the time of determination responsible or liable as obligor, guarantor, or otherwise for payment, and all deferrals, renewals, extensions, and refundings of any such indebtedness or obligations other than the Subordinated Notes or any other indebtedness as to which the instrument creating or evidencing the same or pursuant to which the same is outstanding, provides that such indebtedness is subordinate in right of payment to any other indebtedness of the Issuer.

**(b)** ***Status of Subordinated Notes***

The indebtedness evidenced by the Subordinated Notes, subject to the extent set forth herein, shall be subordinated in right of payment to the prior payment in full of all the Issuer's Senior Indebtedness. Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of such subordination irrespective of any amendment, modification, or waiver of any term of the Senior Indebtedness. There is no right of acceleration in the case of a default in the payment of interest on the Subordinated Notes or in the performance of any other obligation of the Issuer under the Subordinated Notes.

The Issuer shall not make any payment on account of principal, premium, if any, interest, or any other amounts payable on its Subordinated Notes or purchase any of its Subordinated Notes, either directly or indirectly, if (1) any default or Event of Default with respect to any of its Senior Indebtedness shall have occurred and be continuing and (2) it shall have received written notice

thereof from the holders of at least 10.00% in principal amount of any kind or category of any of its Senior Indebtedness (or the representative or representatives of such holders).

Until all of the Issuer's Senior Indebtedness is paid in full, the holders of the Issuer's Subordinated Notes will be subrogated (equally and ratably with the holders of all of the Issuer's indebtedness which, by its express terms, ranks equally with its Subordinated Notes, and is entitled to like rights of subrogation) to the rights of the holders of the Issuer's Senior Indebtedness to receive payments or distributions of its assets.

If the Issuer repays any of its Subordinated Notes before the required date or in connection with a distribution of its assets to creditors pursuant to a dissolution, winding up, liquidation, or reorganization, any principal, premium, if any, interest, or any other amounts payable will be paid to the holders of the Issuer's Senior Indebtedness before any holders of its Subordinated Notes are paid. In addition, if such amounts were previously paid to the holders of its Subordinated Notes, the holders of its Senior Indebtedness shall have first rights to such amounts previously paid.

No modification or amendment of the subordination provisions of Subordinated Notes and any related coupons in a manner adverse to the holders of Senior Indebtedness may be made without the consent of the holders of all of the Issuer's outstanding Senior Indebtedness.

The preceding subordination provisions relating to the Issuer's Subordinated Notes are governed by New York law.

**3. Interest**

**3.1 Application**

Notes may be interest bearing on a fixed or floating rate basis, as specified in the applicable Pricing Supplement.

**3.2 Period of accrual of interest**

Interest accrues on Notes from the relevant Interest Accrual Date at the applicable Interest Rate. Interest ceases to accrue on such Notes from the relevant Maturity Date unless default is made in the payment of any principal amount in respect of such Notes. In that event, any overdue principal of a Note continues to bear interest at the default rate specified in the relevant Pricing Supplement, both before and after any judgment, until it is paid in full to the relevant Noteholder.

**3.3 Interest Payment Dates**

Interest is payable to Noteholders as set out in Condition 6.1 on the relevant Interest Payment Dates.

**3.4 Calculation of Interest Amount**

The Interest Amount must be calculated by the relevant Issuing and Principal Paying Agent, relevant Registrar or other person appointed as calculation agent by the Issuer and named as such in the relevant Pricing Supplement by applying the Interest Rate to the Outstanding Principal Amount of each applicable Note, multiplying such sum by the relevant Day Count Basis for the relevant Interest Period and rounding the resultant figure to the nearest cent (half a cent being rounded upwards) having regard to the relevant Pricing Convention (if any) subject, in all cases, to any specified

Minimum Interest Rate or Maximum Interest Rate as may also be specified in the applicable Pricing Supplement.

The applicable Pricing Supplement may specify a minimum rate at which the Notes may bear interest (a ***Minimum Interest Rate***). If the Interest Rate determined in accordance with the provisions of this Condition 3.4 is less than the specified Minimum Interest Rate, the Interest Rate shall be such Minimum Interest Rate. The applicable Pricing Supplement may specify a maximum rate at which the Notes may bear interest (the ***Maximum Interest Rate***). If the Interest Rate determined in accordance with the provisions of this Condition 3.4 is greater than the Maximum Interest Rate, the Interest rate shall be such Maximum Interest Rate.

**3.5 Notification of Interest Rate and Interest Amount**

The Issuer will procure that the relevant Issuing and Principal Paying Agent, relevant Registrar or other person appointed as calculation agent by the Issuer and named as such in the applicable Pricing Supplement will, if requested in writing by a Noteholder of any Note, notify that Noteholder of the Interest Rate, the Interest Amount and the relevant Interest Payment Date. In relation to any Note, the Interest Amount and the Interest Payment Date (but in no event, the Interest Rate) so notified may be subsequently amended (or appropriate alternative arrangements made by the relevant Issuing and Principal Paying Agent, relevant Registrar or other person appointed as calculation agent by the Issuer and named as such in the Pricing Supplement by way of adjustment) without notice if and to the extent that the Interest Period is extended or shortened.

**3.6 Notification, etc. to be final**

Except as provided in Condition 3.5, all notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 3 by the relevant Issuing and Principal Paying Agent, relevant Registrar or other person appointed as calculation agent by the Issuer and named as such in the Pricing Supplement are (in the absence of wilful default, bad faith or manifest error) binding on the Issuer, the relevant Issuing and Principal Paying Agent, the relevant Registrar and all Noteholders of Notes, and no liability to those Noteholders attaches to the relevant Issuing and Principal Paying Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions.

**3.7 Floating Rate Notes**

If the Pricing Supplement specifies the Interest Rate applicable to that Tranche of Notes as being Floating Rate, the Interest Rate applicable to such Notes during the Interest Period will be the sum of the margin specified in the Pricing Supplement and BBSW or BKBM (or such other rate as shall be set forth in the applicable Pricing Supplement).

**3.8 Business Days**

(a) (**Fixed Rate Notes**) In the event that any Interest Payment Date or Maturity Date on a fixed rate Note is not a Business Day, interest on such fixed rate Note will be paid on the next succeeding Business Day without any additional interest.

(b) (**Floating Rate Notes**) If a payment is due under a floating rate Note on a day which is not a Business Day, the date for payment will be adjusted according to the Business Day Convention applicable to that Note.

**4. Transfers**

**4.1 Transfer subject to Australian Agency and Registry Agreement**

For so long as any Australian Note is lodged in the Austraclear System:

(a) the right of a relevant Noteholder to be registered as the holder of that Note, and the transfer of any Australian Note, shall be governed by the Australian Agency and Registry Agreement and the Austraclear Regulations; and

(b) to the extent any provision of these Terms and Conditions in respect of an Australian Note are inconsistent with the Australian Agency and Registry Agreement, the Australian Agency and Registry Agreement shall prevail.

**4.2 Transfer subject to New Zealand Agency and Registry Agreement**

For so long as any New Zealand Note is lodged in the Austraclear New Zealand System:

(a) the right of a relevant Noteholder to be registered as the holder of that Note, and the transfer of any New Zealand Note, shall be governed by the New Zealand Agency and Registry Agreement and the Austraclear New Zealand Regulations; and

(b) to the extent that any provisions of these Terms and Conditions in respect of a New Zealand Note are inconsistent with the New Zealand Agency and Registry Agreement, the New Zealand Agency and Registry Agreement shall prevail.

**4.3 Austraclear**

(a) Unless the relevant Pricing Supplement otherwise provides, the Australian Notes will be lodged, subject to the agreement of Austraclear, into the Austraclear System.

(b) If the Australian Notes are lodged into the Austraclear System, the Australian Registrar will enter Austraclear in the Australian Register as the Noteholder of those Notes. While those Notes remain in the Austraclear System:

(i) all payments and notices required of the Issuer or the Australian Registrar in relation to those Notes will be made or directed to Austraclear in accordance with the relevant Regulations; and

(ii) all dealings (including transfers and payments) in relation to those Notes within the Austraclear System will be governed by the relevant Regulations and need not comply with these Terms and Conditions to the extent of any inconsistency.

(c) If Austraclear is entered in the Australian Register in respect of a Note, despite any other provision of these Terms and Conditions, the Issuer may not, and must procure that the Australian Registrar does not, register any transfer of that Note, and the relevant member of the Austraclear System to whose security account the Note is credited in respect of that Note (the ***Relevant Member***) has no right to request any registration or any transfer of that Note, except that:

(i) for any repurchase, redemption or cancellation (whether on or before the Maturity Date of the Note), a transfer of that Note from Austraclear to the Issuer may be entered in the Australian Register; and

(ii) if either:

(A) Austraclear gives notice to the Australian Registrar stating that the Relevant Member has stated to Austraclear that it needs to be registered in relation to the Note in order to pursue any rights against the Issuer; or

(B) Austraclear purports to exercise any power it may have under the Regulations from time to time or these Terms and Conditions, to require Notes to be transferred on the Australian Register to the Relevant Member,

the Note may be transferred on the Australian Register from Austraclear to the Relevant Member. In any of these cases, the Note will cease to be held in the Austraclear System.

(d) On admission to the Austraclear System, interests in the Notes may be held through Euroclear or Clearstream. In these circumstances, entitlements in respect of holdings of interests in the Notes in Euroclear are held in the Austraclear System by HSBC Custody Nominees (Australia) Limited as nominee of Euroclear, while entitlements in respect of holdings of interests in the Notes in Clearstream are held in the Austraclear System by ANZ Nominees Limited as nominee of Clearstream.

(e) The rights of a holder of interests in Notes held through Euroclear or Clearstream are subject to the respective rules and regulations for accountholders of Euroclear and Clearstream and their respective nominees and the rules and regulations of the Austraclear System.

(f) In addition, any transfer of interests in Notes which are held through Euroclear or Clearstream and to the extent such transfer will be recorded in the Austraclear System, will be subject to the *Corporations Act 2001* (Cth) and the other requirements set out in the Notes.

**4.4 Austraclear New Zealand**

(a) Unless the relevant Pricing Supplement otherwise provides, and subject to the agreement of Austraclear New Zealand, the New Zealand Notes will be lodged into the Austraclear New Zealand System.

(b) If the New Zealand Notes are lodged into the Austraclear New Zealand System, the New Zealand Registrar will enter Austraclear New Zealand in the New Zealand Register as the holder of those Notes. While those Notes remain in the Austraclear New Zealand System:

(i) all payments and notices required of the Issuer or the New Zealand Registrar in relation to those Notes will be made or directed to Austraclear New Zealand in accordance with the Austraclear New Zealand Regulations; and

(ii) all dealings (including transfers and payments) in relation to those Notes within the Austraclear New Zealand System will be governed by the Austraclear New Zealand Regulations and need not comply with these Terms and Conditions to the extent of any inconsistency.

(c) Where the Custodian is the Noteholder and the New Zealand Notes are lodged in the Austraclear New Zealand System, Austraclear New Zealand may, in its absolute discretion

and, to the extent not prohibited by the Austraclear New Zealand Regulations, instruct the New Zealand Registrar to transfer these Notes on the New Zealand Register to the person in whose Security Record that Note is recorded without any consent or action of such transferee and, as a consequence, remove that Note from the Austraclear New Zealand System.

(d) On admission on the Austraclear New Zealand System, interests in the Notes may be held through Euroclear or Clearstream. In these circumstances, entitlements in respect of holdings of interests in the Notes in Euroclear are held in the Austraclear New Zealand System by Westpac Nominees-NZ-Limited (or its successor) as nominee of Euroclear while entitlements in respect of holdings of interests in the Notes in Clearstream, are held in the Austraclear New Zealand System by ANZ Nominees Limited (or its successor) as sub-custodian of Clearstream.

(e) In addition, any transfer of interests in Notes which are held through Euroclear or Clearstream and to the extent such transfer will be recorded in the Austraclear New Zealand System, will be subject to the Securities Act 1978 of New Zealand and the other requirements set out in the Notes.

(f) The rights of a holder of interests in Notes held through Euroclear or Clearstream are subject to the respective rules and regulations for accountholders of Euroclear and Clearstream and their respective nominees and the Austraclear New Zealand Regulations.

If Austraclear or the Custodian is recorded in the relevant Register as the Noteholder, each person in whose Security Record a Note is recorded is taken to acknowledge in favour of the Issuer, the relevant Registrar, Austraclear or Austraclear New Zealand, and the relevant Noteholder:

(1) the Registrar's decision to act as the Registrar of that Note is not a recommendation or endorsement by the Registrar or the relevant Noteholder (or, if the Noteholder is the Custodian, Austraclear New Zealand) in relation to that Note, but only indicates that the Registrar considers that the holding of the Note is compatible with the performance by it of its obligations as Registrar under an Agency and Registry Agreement; and

(2) the relevant Noteholder does not rely on any fact, matter or circumstance contrary to paragraph (1).

**4.5 Transfers of Notes**

(a) Notes may only be transferred in accordance with all applicable laws and regulations of each relevant jurisdiction.

(b) Notes are transferable without the consent of the Issuer or the relevant Registrar.

(c) Australian Notes entered into the Austraclear System will be transferable only in accordance with the Austraclear Regulations.

(d) New Zealand Notes entered into the Austraclear New Zealand System will be transferable only in accordance with the Austraclear New Zealand Regulations.

**4.6 Transfer amounts**

(a) Australian Notes which are transferred in respect of offers or invitations received in Australia must be transferred for a consideration of not less than A$500,000 (disregarding

amounts, if any, lent by the Issuer or other person offering the Notes or its associates) unless the offer or invitation is such that by virtue of s708 of the *Corporations Act 2001* no disclosure is required to be made under Part 6D.2 of that Act.

(b) New Zealand Notes may only be transferred in respect of offers or invitations received in New Zealand for an aggregate consideration of not less than NZ$500,000 (but disregarding any part of the aggregate consideration paid or to be paid out of money lent by the person offering the New Zealand Notes, or an associate of that person), or to persons whose principal business is the investment of money or who, in the course of and for the purposes of their business, habitually invest money within the meaning of the Securities Act 1978 of New Zealand.

**4.7 Transfer and Acceptance Forms for Notes**

Subject to Condition 4.3 and Condition 4.4, a Note is transferable in whole (but not in part) by a duly completed and (if applicable) stamped Transfer and Acceptance Form obtainable from the relevant Registrar. Unless a contrary intention is expressed in a Transfer and Acceptance Form, all contracts relating to the transfer of Notes are governed by the laws applicable to the Notes. The Issuer is not obliged to stamp the Transfer and Acceptance Form.

**4.8 Registration requirements for transfer**

Every Transfer and Acceptance Form in respect of Notes must be:

(a) signed by the transferor and the transferee;

(b) delivered to the office of the relevant Registrar for registration;

(c) accompanied by such evidence as the relevant Registrar may reasonably require to prove the title of the transferor or the transferor's right to transfer those Notes; and

(d) duly stamped, if necessary.

**4.9 Registration of transfers**

Subject to this Condition 4, the relevant Registrar must register a transfer of Notes. Upon entry of the name, address and all other required details of the transferee in the relevant Register, the Issuer must recognise the transferee as the Noteholder entitled to the Notes that are the subject of the transfer. Entry of such details in the relevant Register constitutes conclusive proof of ownership by that transferee of those Notes. The transferor remains the owner of the relevant Notes until the required details of the transferee are entered in the relevant Register in respect of those Notes. Subject to Condition 4.11, the relevant Registrar must register the transfer of a Note whether or not the Transfer and Acceptance Form to which the transfer relates has been marked by that Registrar.

**4.10 No fee**

No fee or other charge is payable to the Issuer or a Registrar in respect of the transfer or registration of any Note.

**4.11 Marking of transfer**

Each Registrar may mark any Transfer and Acceptance Form in its customary manner. Such marking prohibits a dealing with the relevant Notes as specified in the marking notation for a period from the date of marking to the earliest of:

(a) 15 days from the date of marking;

(b) the date the relevant Registrar cancels the marking notation on the Transfer and Acceptance Form; and

(c) the date the relevant Registrar receives notification of the execution of the marked Transfer and Acceptance Form by the transferee.

**4.12 Destruction**

Any Transfer and Acceptance Form may, with the prior written approval of the Issuer, be destroyed by the relevant Registrar after the entry in the relevant Register of the particulars set out in the form. On receipt of such approval, the relevant Registrar must destroy the Transfer and Acceptance Form as soon as reasonably practicable and promptly notify the Issuer in writing of its destruction.

**4.13 Deceased persons/bankrupt persons/unincorporated associations**

(a) A person becoming entitled to a Note as a consequence of the death or bankruptcy of a Noteholder or of a vesting order or a person administering the estate of a Noteholder may transfer the Note or, if so entitled become registered as the Noteholder of the relevant Note upon producing such evidence as to that entitlement or status as the relevant Registrar considers sufficient.

(b) The relevant Registrar may decline to give effect to a transfer of any Notes entered in the relevant Register in the name of a deceased person who has two or more personal representatives unless the Transfer and Acceptance Form is executed by all of them.

(c) A transfer to an unincorporated association is not permitted.

**4.14 Aggregate transfers**

Where the transferor executes a transfer of less than all Notes registered in its name, and the specific Notes to be transferred are not identified, the relevant Registrar may (subject to the limit on minimum holdings) register the transfer in respect of such of the Notes registered in the name of the transferor as that Registrar thinks fit, provided the aggregate principal amount of the Notes registered as having been transferred equals the aggregate principal amount of the Notes expressed to be transferred in the transfer.

**4.15 Stamp duty**

(a) The Issuer will bear any stamp duty payable on the issue and subscription of the Notes.

(b) The Noteholder is responsible for any stamp duties or other similar taxes which are payable in any jurisdiction in connection with any transfer, assignment or any other dealing with the Notes.

**5. Redemption and Purchase**

**5.1 Maturity**

Unless previously redeemed or purchased and cancelled in accordance with these Terms and Conditions, each Note must be redeemed on its Maturity Date at its Redemption Amount.

**5.2 Redemption for tax reasons**

The Notes may be redeemed at the option of the Issuer 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), on giving not less than 30 nor more than 60 calendar days' notice (which notice shall be irrevocable) to the relevant Issuing and Principal Paying Agent, the relevant Registrar and to the Noteholders, in accordance with Condition 11, if:

(a) on the occasion of the next payment due under the Notes, the Issuer has or will become obligated to pay Additional Amounts as discussed in Condition 7 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 thereof or therein 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 Issue Date of the first Tranche of the Notes; and

(b) the Issuer cannot avoid such obligation by taking reasonable measures available to it,

provided that, no such redemption notice shall be given earlier than 90 calendar days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts if a payment in respect of the Notes were then due. Prior to the publication of any redemption notice pursuant to this Condition 5.2, the Issuer shall deliver a certificate to the relevant Issuing and Principal Paying Agent and the Registrar signed by the Chief Financial Officer or a Senior Vice President of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent, if any, to the redemption have occurred.

Notes redeemed pursuant to this Condition 5.2 will be redeemed at their Early Redemption Amount together (if appropriate) with interest accrued to (but excluding) the redemption date.

**5.3 Call Option—Redemption at the option of the Issuer**

If the applicable Pricing Supplement specifies that the Issuer has an option to redeem the Notes, and the Issuer gives:

(a) not less than 30 nor more than 60 calendar days' notice in accordance with Condition 11 to the Noteholders (or such other period as is specified in the applicable Pricing Supplement); and

(b) not less than seven Business Days (or such other period as is specified in the applicable Pricing Supplement) before giving notice as referred to in (a), notice to the relevant Issuing and Principal Paying Agent and the relevant Registrar,

(both of which notices shall be irrevocable), then the Issuer may redeem all or only some of the Notes then outstanding on the dates upon which redemption may occur (each, an ***Optional Redemption Date***) and at the Optional Redemption Amounts specified in, or determined in the

manner specified in, the applicable Pricing Supplement together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Dates. Any redemption must be of a principal amount equal to the minimum principal amount of the Notes permitted to be redeemed at any time (the ***Minimum Redemption Amount***) or any greater principal amount of the Notes permitted to be redeemed at any time (each, a ***Higher Redemption Amount***), both as indicated in the applicable Pricing Supplement. In the case of a partial redemption of Notes, the Notes (***Redeemed Notes***) will be redeemed in accordance with the Regulations or, if the Regulations make no relevant provision, then (so far as may be practicable) pro rata to their principal amounts, provided that the amount that remains outstanding in respect of each Note shall be equal to its minimum denomination or an integral multiple of its minimum denomination (subject always to the applicable Regulations). The Notes to be redeemed will be selected in accordance with the applicable Regulations not more than 60 calendar days prior (or such other period as is specified in the applicable Pricing Supplement) to the date fixed for redemption.

**5.4 Put Option—Redemption at the option of the Noteholders**

If the applicable Pricing Supplement specifies that the Noteholders have an option to require the Issuer to redeem the Notes, upon the Noteholder giving the Issuer, in accordance with Condition 11, not less than 30 nor more than 60 calendar days' notice or such other period of notice as is specified in the applicable Pricing Supplement (which notice shall be irrevocable), the Issuer, upon the expiration of such notice, will redeem (in accordance with, the terms specified in the applicable Pricing Supplement) in whole (but not in part), such Note on the Optional Redemption Date and at the Optional Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date.

In order to exercise its right to require redemption of any Notes, the Noteholder must deliver to the office of the relevant Registrar a duly signed and completed Put Option Notice in the form obtainable from that Registrar in which the holder must specify a bank account (or, if payment is by check, an address) to which payment is to be made under this Condition 5.4.

**5.5 Early Redemption Amounts**

For purposes of Condition 5.2 above, the Notes will be redeemed at the Early Redemption Amount calculated as follows:

(a) for Notes with a Redemption Amount equal to 100.00% of the principal amount, at the Redemption Amount thereof; or

(b) for Notes with a Redemption Amount different from the nominal amount, at the amount specified in, or determined in the manner specified in, the applicable Pricing Supplement or, if no such amount or manner is so specified in the Pricing Supplement, at their nominal amount.

**5.6 Repurchases**

The Issuer and any of its affiliates may at any time repurchase Notes at any price in the open market or otherwise.

**5.7 Cancellation**

All Notes which are redeemed will be cancelled.

**6. Payments**

**6.1 Payments to Noteholders of Notes**

(a) All payments under an Australian Note must be made by the Issuer or the Australian Issuing and Principal Paying Agent on its behalf:

(i) if the Australian Notes are lodged in the Austraclear System by crediting, on the relevant Interest Payment Date, Maturity Date or other date on which a payment is due, the amount then due to the account of the Noteholder, in accordance with the applicable Regulations; or

(ii) if the Australian Notes are not lodged in the Austraclear System, to the account notified by the relevant Noteholder to the Australian Registrar or, in the absence of that notification, in the manner (if any) specified in the applicable Pricing Supplement,

and in either case, without set-off or counterclaim or any other deduction unless required by law.

(b) All payments under a New Zealand Note must be made by the Issuer or the New Zealand Issuing and Principal Paying Agent on its behalf:

(i) if the New Zealand Notes are lodged in the Austraclear New Zealand System, by crediting on the relevant Interest Payment Date, Maturity Date or any other date on which a payment is due, the amount then due to the account of the relevant Noteholder in the country of the currency in which the New Zealand Note is denominated previously notified to the Issuer and the New Zealand Registrar or if requested by the relevant Noteholder, the accounts of the persons in whose Security Record a New Zealand Note is recorded in the country of the currency in which the New Zealand Note is denominated as previously notified by the relevant Noteholder to the Issuer and the New Zealand Registrar in accordance with the Austraclear New Zealand Regulations; or

(ii) if the New Zealand Notes are not lodged in the Austraclear New Zealand System or held in a clearing system, to the account notified by the relevant Noteholder to the New Zealand Registrar or, in the absence of that notification, in the manner (if any) specified in the applicable Pricing Supplement,

and in either case, without set-off or counterclaim or any other deduction unless required by law.

For the purposes of this Condition 6.1, the Noteholder to whom payment will be made is the Noteholder (or the first named of joint owners) shown as such in the relevant Register as at the relevant Record Date.

**6.2 Method of payment for Notes**

A payment made by electronic transfer is for all purposes taken to be made when the Issuer or the relevant Issuing and Principal Paying Agent gives an irrevocable instruction for the making of that payment by electronic transfer, being an instruction which would be reasonably expected to result, in the ordinary course of banking business, in the relevant funds reaching the account of the Noteholder on the same day as the day on which the instruction is given.

**6.3 Payments**

(a) Payments in Australian dollars will be made by transfer to an Australian dollar account maintained by the payee with, or by a cheque in Australian dollars drawn on, a bank in Sydney; *provided however*, that a cheque may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in, the United States.

(b) Payments in New Zealand dollars will be made by transfer to a New Zealand dollar account maintained by the payee with, or by a cheque in New Zealand dollars drawn on, a bank in Auckland or Wellington; *provided however*, that a cheque may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in, the United States.

**6.4 Business Days**

(a) If a payment is due under a Note on a day which is not a Business Day, the date for payment will be adjusted according to the Business Day Convention applicable to that Note.

(b) If payment is to be made to an account on a Business Day on which banks are not open for general banking business in the city in which the account is located, the Noteholder is not entitled to payment of such amount until the next Business Day on which banks in such city are open for general banking business and is not entitled to any interest or other payment in respect of any such delay.

**6.5 Payments subject to fiscal laws**

All payments are subject to Condition 7 and to any applicable fiscal or other laws and regulations.

**7. Taxation**

**7.1 Additional payments**

The Issuer will pay a United States Alien such additional amounts of interest (***Additional Amounts***) as may be necessary so that every net payment of the principal of and interest on any Note, after deduction or withholding for or on account of any present or future tax, assessment, or other governmental charge imposed upon such holder by the United States or any political subdivision or taxing authority thereof or therein (other than any territory or possession) upon or as a result of such payment, will not be less than the amount provided for in such Note; provided, however, that such obligation to pay Additional Amounts shall not apply to:

(a) any tax, assessment or other governmental charge which would not have been so imposed but for:

(i) the existence of any present or former connection between such holder (or between a fiduciary, settlor, beneficiary, member, or stockholder of, or a person holding a power over, such holder, if such holder is an estate, trust, partnership, or corporation) and the United States, including, without limitation, such holder (or such fiduciary, settlor, beneficiary, member stockholder, or person holding a power) being or having been a citizen or resident or treated as a resident of the United States or being or having been engaged in a trade or business in the United States or being or having been present in or 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;

(ii) such holder's present or former status as a personal holding company, foreign personal holding company, passive foreign investment company, private foundation, or other tax exempt entity, or controlled foreign corporation for United States tax purposes or a corporation which accumulates earnings to avoid United States federal income tax; or

(iii) such holder's status as a bank extending credit pursuant to a loan agreement entered into in the ordinary course of business;

(b) any tax, assessment, or governmental charge that would not have been so imposed but for the failure of the holder to comply with certification, identification, or information reporting requirements under United States tax law, without regard to any tax treaty, with respect to the payment, concerning the nationality, residence, identity, or connection with the United States of the holder or a beneficial owner of such Note if such compliance is required by United States tax laws, without regard to any tax treaty, as a precondition to relief or exemption from such tax, assessment, or governmental charge;

(c) any tax, assessment, or governmental charge that would not have been so imposed but for the presentation by the holder of such Note for payment on a date more than 30 calendar days after the date on which such payment became due and payable or the date on which payment of such Note is duly provided for, whichever occurs later;

(d) any estate, inheritance, gift, sales, transfer, excise, wealth, or personal property tax or any similar tax, assessment, or governmental charge;

(e) any tax, assessment, or governmental charge which is payable otherwise than by withholding by the Issuer or the relevant Issuing and Principal Paying Agent from the payment of the principal of or interest on any Note;

(f) any tax, assessment, or governmental charge imposed solely because the payment is to be made by the relevant Issuing and Principal Paying Agent or a particular office of that Issuing and Principal Paying Agent and would not be imposed if made by another Issuing and Principal Paying Agent or by another office of that Issuing and Principal Paying Agent;

(g) any tax, assessment, or other governmental charge imposed on interest received by a person holding, actually or constructively, 10.00% or more of the total combined voting power of all classes of stock of the Issuer entitled to vote;

(h) any tax, assessment or other government charge required to be withheld or deducted where such withholding or deduction is imposed on a payment to an individual and is required to

be made pursuant to European Council Directive 2003/48/EC (the***Directive***) or any law implementing or complying with, or introduced in order to conform to, or comply with such Directive;

(i) any Note presented for payment by or on behalf of a Noteholder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a member state of the European Union; or

(j) any combination of items (a), (b), (c), (d), (e), (f), (g), (h), or (i); nor shall Additional Amounts be paid with respect to any payment of the principal of or interest on any Note to a person other than the sole beneficial owner of such payment or that is a partnership or fiduciary to the extent either (i) such beneficial owner, member of such partnership or beneficiary or settlor with respect to such fiduciary would not have been entitled to the payment of Additional Amounts had such beneficial owner, member, beneficiary, or settlor been the Noteholder or (ii) the Noteholder does not provide a statement, in the form, manner and time required by applicable United States income tax laws, from such beneficial owner, member of such partnership or beneficiary or settlor with respect to such fiduciary concerning its nationality, residence, identity, or connection with the United States.

***United States Alien*** means any corporation, partnership, entity, individual, or fiduciary that is for United States federal income tax purposes (1) a foreign corporation, (2) a foreign partnership to the extent one or more of the members of which is, for United States federal income tax purposes, a foreign corporation, a non-resident alien individual, or a foreign estate or trust, (3) a non-resident alien individual, or (4) a foreign estate or trust.

Except as specifically provided in these Terms and Conditions and in any Agency and Registry Agreement, the Issuer shall not be required to make any payment with respect to any tax, assessment, or other governmental charge imposed by any government or any political subdivision or taxing authority.

Whenever any Additional Amounts are to be paid on Notes, the Issuer will give notice to the relevant Issuing and Principal Paying Agent and any other Paying Agents, as provided in the relevant Agency and Registry Agreement.

**8. Register**

**8.1 Registrar's role**

The Issuer agrees, subject to any relevant Pricing Supplement, to procure that each Registrar does the following things:

(a) establish and maintain in the case of the Australian Registrar, the Australian Register in Sydney and in the case of the New Zealand Registrar, the New Zealand Register in Auckland or such other city as the Issuer and the relevant Registrar may agree;

(b) enter or cause to be entered in the relevant Register:

(i) the principal amount of the Note;

(ii) the full name and address of the Noteholder;

(iii) in the case of the Australian Registrar, any declaration of non-residence, tax file number or Australian business number or exemption details and in the case of the New Zealand Registrar, any declaration of non-residence, tax file number, and confirmation of receipt from a Noteholder of a copy of a certificate of exemption from New Zealand resident withholding tax issued pursuant to section NF 9 of the *New Zealand Income Tax Act 2004* or its predecessor;

(iv) the Issue Date, Maturity Date and any interest rate and payment details of the Note (including, for the avoidance of doubt, the relevant Business Day Convention);

(v) the Tranche and Series of the Note;

(vi) any payment instructions notified by the Noteholder or provided by the Issuer or the relevant Issuing and Principal Paying Agent in respect of a Noteholder;

(vii) all subsequent transfers and changes of ownership of the Note;

(viii) the details of any marking which has been provided in respect of the Note; and

(ix) such other information as is required by all applicable laws or as the Issuer and relevant Registrar agree; and

(c) comply with the obligations expressed in the Deed Poll and the relevant Agency and Registry Agreement to be performed by the relevant Registrar.

**8.2 Registrar**

(a) In acting under the relevant Agency and Registry Agreement in connection with the Notes, each of the relevant Registrar and the relevant Issuing and Principal Paying Agent acts solely as agent of the Issuer and does not assume any obligations towards or relationship of agency or trust for or with any of the Noteholders save insofar as that any funds received by the relevant Registrar or the relevant Issuing and Principal Paying Agent in accordance with the relevant Agency and Registry Agreement shall, pending their application in accordance with the relevant Agency and Registry Agreement, be held by it in a segregated account for the persons entitled thereto.

(b) The Issuer reserves the right at any time to terminate the appointment of a Registrar in accordance with the relevant Agency and Registry Agreement and to appoint successor or additional registrars, provided, however, that the Issuer must at all times maintain the appointment of a registrar with its specified office in the Commonwealth of Australia, or New Zealand or the place of incorporation of the Issuer. Notice of any such termination of appointment will be given to the Noteholder in accordance with Condition 11.

**8.3 Multiple Noteholders**

(a) Subject to any applicable law, if more than 4 persons are the holders of a Note, the names of only 4 such persons will be entered in the relevant Register.

(b) Subject to any applicable law, if more than one person is the holder of a Note, the address of only one of them will be entered on the relevant Register. If more than one address is notified to the relevant Registrar, the address recorded in the relevant Register will be the address of the Noteholder whose name appears first in the relevant Register.

(c) Where two or more persons are entered in a Register as the joint holders of a Note, then they are taken to hold the Note as joint tenants with rights of survivorship.

**8.4 Noteholder change of address**

A Noteholder must promptly notify any change of address to the Registrar.

**8.5 Closing of Register**

The registration of the transfer of a Note may be suspended by a Registrar (and the relevant Register shall be closed for the purpose of determining entitlements to payment under a Note) after the close of business on the eighth calendar day or other day in accordance with the relevant Regulations prior to each Interest Payment Date (if any) and each Maturity Date of the Note or such other number of days as may be agreed by the Issuer and the relevant Registrar and not contrary to the relevant Regulations and notified promptly by the Issuer to the Noteholders and the Dealers.

**8.6 Transfer on death, bankruptcy or liquidation of Noteholder**

Each Registrar must register a transfer of a Note to or by a person who is entitled to do so in consequence of:

(a) the death or bankruptcy (in the case of natural persons) or the liquidation or winding up (in the case of a corporation) of a Noteholder; or

(b) the making of any vesting orders by a court or other judicial or quasi judicial body,

in accordance with any applicable laws and upon such evidence as the Issuer or the relevant Registrar may require.

**8.7 Trusts**

Without limitation, except as provided by statute or as required by order of a court of competent jurisdiction, no notice of any trust (whether express, implied or constructive) may be entered in a Register in respect of a Note and the relevant Registrar is not obliged to recognise any trust.

**9. Events of Default**

**9.1 Events of Default**

(a) Events of Default in relation to Senior Notes

The occurrence of any of the following events with respect to any Series of Senior Notes shall constitute an ***Event of Default*** with respect to such Series:

(i) the Issuer shall fail to pay the principal amount of any of such Notes when due whether at maturity or upon early redemption or otherwise; or

(ii) the Issuer shall fail to pay any instalment of interest, other amounts payable or Additional Amounts on any of such Notes for a period of 30 calendar days after the due date; or

(iii) the Issuer shall fail duly to perform or observe any other term, covenant, or agreement applicable to Senior Notes contained in any of such Notes or in the relevant Agency and Registry Agreement for a period of 90 calendar days after the

date on which written notice of such failure, requiring the Issuer to remedy the same, shall first have been given to the Issuer, the relevant Registrar and the relevant Issuing and Principal Paying Agent by the Noteholders of at least 33.00% in aggregate principal amount of such Notes at the time outstanding; provided, however, that in the event the Issuer within the aforesaid period of 90 calendar days shall commence legal action in a court of competent jurisdiction seeking a determination that the Issuer had not failed duly to perform or observe the term or terms, covenant or covenants, or agreement or agreements specified in the aforesaid notice, such failure shall not be an Event of Default unless the same continues for a period of 10 calendar days after the date of any final determination to the effect that the Issuer had failed to duly perform or observe one or more of such terms, covenants, or agreements; or

(iv) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case or proceeding under any applicable bankruptcy, insolvency, reorganisation, or other similar law now or hereafter in effect, or appointing a receiver, liquidator, conservator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer or for any substantial part of its property or ordering the winding-up or liquidation of its affairs and such decree or order shall remain unstayed and in effect for a period of 60 consecutive calendar days; or

(v) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganisation, or other similar law now or hereafter in effect, or shall consent to the entry or an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, conservator, assignee, trustee, custodian, sequestrator (or similar official) of the Issuer or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due or shall take any corporate action in furtherance of any of the foregoing.

(b) Events of Default in relation to Subordinated Notes

The occurrence of any of the following events with respect to any Series of Subordinated Notes shall constitute an ***Event of Default*** with respect to such Series:

(i) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case or proceeding under any applicable bankruptcy, insolvency, reorganisation, or other similar law now or hereafter in effect, or appointing a receiver, liquidator, conservator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer or for any substantial part of its respective property or ordering the winding-up or liquidation of its affairs and such decree or order shall remain unstayed and in effect for a period of 60 consecutive calendar days; or

(ii) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganisation, or other similar law now or hereafter in effect, or shall consent to the entry or an order for relief in

an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Issuer or for any substantial part of its respective property, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its respective debts as they become due or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default shall occur and be continuing, then the holder of any affected Note, at such holder's option, by written notice to the Issuer and each Registrar may declare the principal of such Note, the interest accrued or any other amounts then payable thereon (and Additional Amounts, if any, thereon) to be due and payable immediately and if any such Event of Default shall continue at the time of receipt of such written notice, such amounts shall become immediately due and payable, subject to the qualification in bold-type immediately below. Upon payment of such amount of principal, interest, or any other amounts payable (and Additional Amounts, if any), all of the Issuer's obligations in respect of payment of principal of, interest, or any other amounts payable on (and Additional Amounts, if any) such Note shall terminate. Interest on overdue principal, interest, or any other amounts payable (and Additional Amounts, if any) shall accrue from the date on which such principal, interest, or any other amounts payable (and Additional Amounts, if any) were due and payable to the date such principal, interest, or any other amounts payable (and Additional Amounts, if any) are paid or duly provided for, at the rate borne by the Notes (to the extent payment of such interest shall be legally enforceable).

**Payment of principal, the interest accrued, or any other amounts then payable thereon (and Additional Amounts, if any) of the Subordinated Notes may not be accelerated in the case of a default in the payment of principal, interest, or any other amounts then payable or the performance of any other covenant of the Issuer. Payment of the principal, the interest accrued, or any other amounts then payable thereon (and Additional Amounts, if any) of the Subordinated Notes may be accelerated only in the case of the bankruptcy or insolvency of the Issuer.**

If an Event of Default with respect to any of the Notes, or an event which, with the passing of time or the giving of notice, or both, would be an Event of Default, shall occur and be continuing, the Issuer shall notify the applicable Registrar and the applicable Issuing and Principal Paying Agent in writing of such Event of Default no later than the following Business Day after it becomes aware of such Event of Default, and the applicable Registrar upon receipt of such notice shall promptly notify all of the applicable Noteholders of such Event of Default. In the case of a Registrar, such notification to holders of Notes shall be by registered post to the address of the Noteholder recorded in the relevant Register.

If any Note shall become repayable due to an Event of Default and in accordance with this Condition 9, such Note shall be repaid at its Early Redemption Amount together, if appropriate, with accrued interest thereon, such interest to accrue and be paid in accordance with Condition 3.

**10. Time Limit for Claims**

The Notes will become void unless a demand for payment is made within a period of five years after the date on which such payment first becomes due (the ***Relevant Date***). However, if the full amount of the money payable has not been duly received by the relevant Issuing and Principal Paying Agent or other relevant Paying Agent on or prior to the Relevant Date, then the Relevant Date shall mean the date on which, after the full amount of such money has been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 11.

**11. Notices**

**11.1 Issuer, Registrars and the Issuing and Principal Paying Agents**

A notice or other communication to the Issuer, the relevant Registrar or the relevant Issuing and Principal Paying Agent in connection with a Note:

(a) must be in writing addressed as follows:

(i) if to the Issuer, to:

**Bank of America**

Address: Bank of America Corporate Center
NC1-007-07-06
100 North Tryon Street
Charlotte
North Carolina 28255-0065

Facsimile No: (1 704) 386 0270

Attention: Corporate Treasury – Securities Administration

(ii) if to the Australian Registrar and the Australian Issuing and Principal Paying Agent, to:

**BTA Institutional Services Australia Limited**

Address: Level 4
35 Clarence Street
Sydney NSW 2000

Facsimile No: (61 2) 8295 8649

Attention: Transaction Management Group

(iii) if to the New Zealand Registrar and the New Zealand Issuing and Principal Paying Agent, to:

**Computershare Investor Services Limited**

Address: Level 2
159 Hurstmere Road
Takapuna
Private Bag 92119
Auckland 1020
New Zealand

Facsimile No: (64 9) 488 8788

Attention: Account Manager

(b) is taken to be given or made on the date it is received which, in the case of a facsimile is deemed to be the time indicated in a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purpose of this Condition 11.

**11.2 Publication of notices to Noteholders**

A notice or other communication to a Noteholder in connection with a Note:

(a) must be in writing and may be given by prepaid post or delivery to the address of the Noteholder as shown in the relevant Register at the close of business 7 days prior to the despatch of the relevant notice or communication; and

(b) is taken to be given or made on the date the notice or other communication is so posted or delivered.

**12. Issuing and Principal Paying Agent and Agents**

**12.1 Issuing and Principal Paying Agent**

(a) BTA Institutional Services Australia Limited shall be the initial Australian Issuing and Principal Paying Agent.

(b) Computershare Investor Services Limited shall be in the initial New Zealand Issuing and Principal Paying Agent.

**12.2 Variation or termination of Paying Agents**

The Issuer is entitled to vary or terminate the appointment of any Issuing and Principal Paying Agent and any Paying Agent and to appoint a new Issuing and Principal Paying Agent or additional or other Paying Agents and approve any change in the specified office through which any Paying Agent acts, in each case without the consent of any Noteholder, provided that:

(a) there will at all times be an Australian Issuing and Principal Paying Agent and a New Zealand Issuing and Principal Paying Agent;

(b) if any Notes are listed on any stock exchange, there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange; and

(c) the Issuer will maintain a Paying Agent in a member state of the European Union that will not be obliged to withhold or deduct tax pursuant to the Directive (as defined in Condition 7.2(h)) or any law supplementing or complying with such Directive.

**12.3 Notice of Change**

Notice of any such change or change in the specified office of an Issuing and Principal Paying Agent will be given to the relevant Noteholders in accordance with Condition 11.

**13. Meetings of Noteholders**

Meetings of Noteholders may be convened in accordance with the Meeting Provisions. Any such meeting may consider any matters affecting the interests of the relevant Noteholders, including, without limitation, the variation of the terms of the Notes to the Issuer and the granting of approvals, consents and waivers, and the declaration of an Event of Default.

**14. Amendments**

Each of the Agency and Registry Agreements, the Terms and Conditions and the relevant Pricing Supplement may be amended, without the consent of any Noteholder for the following purposes:

(a) to evidence the succession of another entity to the Issuer, including a successor by merger and the assumption by any such successor of the covenants of the Issuer in the relevant Agency and Registry Agreement or the Notes;

(b) to add to the covenants of the Issuer for the benefit of the Noteholders or to surrender any right or power in these Terms and Conditions conferred upon the Issuer;

(c) to cure any ambiguity, or correct or supplement any defective or inconsistent provisions in these Terms and Conditions;

(d) to make any other provisions with respect to matters or questions arising under the Notes or any Agency and Registry Agreement, provided such action pursuant to this subclause (d) shall not adversely affect the interests of the Noteholders; and

(e) to permit further issuances of Notes in accordance with the terms of the Program Agreement.

Section 19 of the Schedule hereto sets forth additional provisions relating to the powers of the holders of the relevant Notes to amend the terms of such Notes and the Deed Poll.

Any such modification or amendment shall be binding on the Noteholders and any such modification or amendment shall be notified to the Noteholders in accordance with Condition 11 as soon as practicable thereafter.

**15. Merger, Consolidation, Sale, Conveyance and Assumption**

Any entity into which any Issuing and Principal Paying Agent or any Paying Agent may be merged or converted, or any entity with which any Issuing and Principal Paying Agent or any of the Paying Agents may be consolidated or any entity resulting from any merger, conversion, or consolidation to which any Issuing and Principal Paying Agent or any of the Paying Agents shall be a party, or any entity to which any Issuing and Principal Paying Agent or any Paying Agent shall sell or otherwise transfer all or substantially all the assets of any Issuing and Principal Paying Agent or any Paying Agent shall become, on the date when such merger, conversion, consolidation, or transfer becomes effective and to the extent permitted by any applicable laws, the relevant successor Issuing and Principal Paying Agent or Paying Agent under the relevant Agency and Registry Agreement without the execution or filing of any paper or any further act on the part of the parties to the relevant Agency and Registry Agreement, unless otherwise required by the Issuer, and after the effective date all references in the relevant Agency and Registry Agreement to the relevant Issuing and Principal

Paying Agent or such Paying Agent shall be deemed to be references to such entity. Written notice of any such merger, conversion, consolidation, or transfer shall be given immediately to the Issuer by the relevant Issuing and Principal Paying Agent or relevant Paying Agent.

**16. Additional Issues**

The Issuer may from time to time and without the consent of the Noteholders create and issue additional Notes having terms and conditions the same as (or the same in all respects except for the Issue Date, Interest Accrual Date and the Issue Price) Notes of an existing Series. These additional Notes shall be consolidated and form a single Series with the outstanding Notes of the existing Series.

**17. Governing Law and Jurisdiction**

**17.1 Governing law**

The Notes are governed by the law in force in New South Wales or any other jurisdiction as specified in the relevant Pricing Supplement. The subordination provisions contained in Condition 2.7 are governed by New York law. The New Zealand Agency and Registry Agreement is governed by New Zealand law.

**17.2 Jurisdiction**

The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. The Issuer waives any right it has to object to an action being brought in those courts, to claim that such action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

**17.3 Agent for Service of Process**

The Issuer irrevocably appoints BA Australia Limited (ABN 50 004 617 341) to receive, for it and on its behalf, service of process in any proceedings in the courts of New South Wales. If for any reason the relevant agent shall cease to be an agent for service of process, the Issuer shall immediately appoint a new agent for service of process in New South Wales and deliver notice of such appointment to the Noteholders in accordance with the procedures set out in Condition 11 within 30 days. Nothing shall affect the right to service process in any other manner permitted by law.

**Schedule**

**Provisions for Meetings of Noteholders**

1. As used in this Schedule, the following expressions shall have the following meanings, unless the context otherwise requires:

   (a) ***voting certificate*** shall mean an English language certificate issued by a Paying Agent and dated in which it is stated:

      (i) that on the date thereof Notes (not being Notes in respect of which a block voting instruction has been issued and is outstanding in respect of the meeting specified in such voting certificate and any adjourned such meeting) bearing specified serial numbers were deposited with such Paying Agent or (to the satisfaction of such Paying Agent) were held to its order or under its control and that no such Notes will cease to be so deposited or held until the first to occur of:

         (A) the conclusion of the meeting specified in such certificate or, if applicable, any adjourned such meeting; and

         (B) the surrender of the certificate to the Paying Agent who issues the same;

      (ii) that the bearer thereof is entitled to attend and vote at such meeting and any adjourned such meeting in respect of the Notes represented by such certificate;

   (b) ***block voting instruction*** shall mean an English language document issued by the relevant Registrar, and dated in which:

      (i) it is certified by the relevant Registrar that Notes (not being Notes in respect of which a voting certificate has been issued and is outstanding in respect of the meeting specified in such voting certificate and any adjourned such meeting) are registered in the relevant Register in the names of the specified Noteholders;

      (ii) it is certified that each holder of such Notes has instructed such Registrar that the vote(s) attributable to the Note or Notes so registered should be cast in a particular way in relation to the resolution or resolutions to be put to such meeting or any adjourned such meeting and that all such instructions are during the period commencing 48 hours prior to the time for which such meeting or any adjourned such meeting is convened and ending at the conclusion or adjournment thereof neither revocable nor capable of amendment;

      (iii) the total number of the Notes are listed distinguishing with regard to each such resolution between those in respect of which instructions have been so given that the votes attributable thereto should be cast against the resolution; and

      (iv) one or more persons named in such document (each hereinafter called a***proxy***) is or are authorised and instructed by such Registrar to cast the votes attributable to the Notes so listed in accordance with the instructions referred to in paragraph (iii) above as set out in such document.

The holder of any voting certificate or the proxies named in any block voting instruction shall for all purposes in connection with the relevant meeting or adjourned meeting of Noteholders be deemed to be the holder of the Notes to which such voting certificate or block voting instruction related and the relevant Registrar with which such Notes have been registered or the person holding the same to the order or under the control of the relevant Paying Agent shall be deemed for such purposes not to be the holder of those Notes.

(c) References herein to the ***Notes*** are to the Notes in respect of which the relevant meeting is convened.

2. The Australian Issuing and Principal Paying Agent may at any time and, upon a requisition in writing of the relevant Noteholders holding not less than 33% in principal amount of the Australian Notes for the time being outstanding, shall convene a meeting of the relevant Noteholders and if the Australian Issuing and Principal Paying Agent makes default for a period of seven days in convening such a meeting the same may be convened by the Issuer or the requisitionists. The New Zealand Issuing and Principal Paying Agent may at any time and, upon a requisition in writing of the relevant Noteholders holding not less than 33% in principal amount of the New Zealand Notes for the time being outstanding, shall convene a meeting of the relevant Noteholders and if the New Zealand Issuing and Principal Paying Agent makes default for a period of seven days in convening such a meeting the same may be convened by the Issuer or the requisitionists. Whenever an Issuing and Principal Paying Agent is about to convene any such meeting it shall forthwith give notice in writing to the Issuer and the Dealers of the day, time and place thereof and of the nature of the business to be transacted thereat. Every such meeting shall be held at such time and place in the case of the Australian Notes, in Sydney as the Australian Issuing and Principal Paying Agent may approve, or in the case of the New Zealand Notes, in Auckland as the New Zealand Issuing and Principal Paying Agent may approve.

3. Notice of every meeting of Noteholders shall be published on behalf and at the expense of the Issuer in accordance with Condition 11 of the Terms and Conditions of the Notes. Such notice shall set forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, and shall be published at least twice, the first publication to be not less than 21 nor more than 180 days prior to the date fixed for the meeting. Such notice shall include a statement to the effect that the relevant Registrar may be contacted for the purpose of obtaining voting certificates or appointing proxies not less than 24 hours before the time fixed for the meeting or that, in the case of corporations, they may appoint representatives by resolution of their directors or other governing body. A copy of the notice shall be sent by post to the Issuer (unless the meeting is convened by the Issuer).

4. In case at any time the Issuer or the holders of at least 33% in aggregate principal amount of the Notes outstanding shall have requested the relevant Issuing and Principal Paying Agent to call a meeting of Noteholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting and the relevant Issuing and Principal Paying Agent shall not have given the first notice of such meeting within 21 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Issuer or Noteholders of Notes in the amount above specified may determine the time and the place in either of the locations designated in paragraph 2 hereof for such meeting and may call such meeting by giving notice thereof as provided in paragraph 3 hereof.

5. Any person (who may but need not be a Noteholder) nominated in writing by the Issuer shall be entitled to the chair at every such meeting but if no such nomination is made or if at any meeting the person nominated shall not be present within 15 minutes after the time appointed for holding the meeting the Noteholders present shall choose one of their number to be Chairman. To be entitled to vote at any meeting of Noteholders, a person shall be (i) a Noteholder of one or more Notes, or (ii) a person appointed by an instrument in writing as proxy for a Noteholder or Noteholders by such Noteholder or Noteholders, which proxy need not be a Noteholder. The only persons who shall be entitled to be present or to speak at any meeting of Noteholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the relevant Issuing and Principal Paying Agent and its counsel and any representatives of the Issuer and its counsel.

6. At any such meeting, one or more persons present holding Notes or voting certificates or being proxies and holding or representing in the aggregate not less than a majority in principal amount of the Notes shall (except for the purpose of passing an Extraordinary Resolution) form a quorum for the transaction of business and no business (other than the choosing of a Chairman) shall be transacted at any meeting unless the requisite quorum be present at the commencement of business. The quorum at any such meeting for passing an Extraordinary Resolution shall (subject as provided below) be one or more persons present holding Notes or voting certificates or being proxies and holding or representing in the aggregate 67% in principal amount of the Notes for the time being outstanding, *provided that*, at any meeting the business of which includes any of the following matters (each of which shall only be capable of being effected after having been approved by an Extraordinary Resolution) namely:

   (a) modification of the Maturity Date of the Notes or reduction or cancellation of the principal amount payable upon maturity; or

   (b) reduction or cancellation of the amount payable or modification of the payment date in respect of any interest in respect of the Notes or variation of the method of calculating the Interest Rate in respect of the Notes; or

   (c) reduction of any Minimum Interest Rate or Maximum Interest Rate specified in the applicable Pricing Supplement of any Floating Rate Notes; or

   (d) modification of the majority required to pass an Extraordinary Resolution; or

   (e) the sanctioning of any such scheme or proposal as is described in paragraph 19(f) below; or

   (f) alternation of this proviso or the proviso to paragraph 7 below;

   the quorum shall be one or more persons present holding Notes or voting certificates or being proxies and holding or representing in the aggregate not less than two-thirds in principal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the holders of Notes will be binding on all holders of Notes whether or not they are present at the meeting.

7. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of the Noteholders (as provided in paragraph 4 hereof), be dissolved. In any other case the meeting shall be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting. Notice of the reconvening of any adjourned meeting shall be given as provided in paragraph 3 hereof except that such notice need be published only once but must be given not less than five days

prior to the date on which the meeting is scheduled to be reconvened. Subject to the foregoing, at the reconvening of any meeting adjourned for a lack of a quorum the persons entitled to vote 33% in principal amount of the Notes shall constitute a quorum for the taking of any action set forth in the notice of the original meeting. Notice of the reconvening of an adjourned meeting shall state expressly the percentage of the aggregate principal amount of the Notes that shall constitute a quorum. At a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid, any resolution and all matters (except as limited by Condition 13) shall be effectively passed and decided if passed or decided by the persons entitled to vote a majority in principal amount of the Notes represented and voting at such meeting, provided that such amount shall be not less than 33% in principal amount of the Notes outstanding. Any Noteholder who has executed and delivered an instrument in writing appointing a person as his proxy shall be deemed to be present for the purposes of determining a quorum and be deemed to have voted; *provided however*, that such Noteholder shall be considered as present or voting only with respect to the matters covered by such instrument in writing. Any resolution effectively passed or decision taken at any meeting of the Noteholders duly held in accordance with this paragraph 7 shall be binding on all Noteholders whether or not present or represented at the meeting and whether or not notation of such decision is made upon the Notes.

8. Notice of any adjourned meeting at which an Extraordinary Resolution is to be submitted shall be given in the same manner as notice of an original meeting but as if 10 were substituted for 21 in paragraph 3 above and such notice shall (except in cases where the proviso to paragraph 6 above shall apply when it shall state the relevant quorum) state that one or more persons present holding Notes or voting certificates or being proxies at the adjournment meeting whatever the principal amount of the Notes held or represented by them will form a quorum. Subject as aforesaid it shall not be necessary to give any notice of an adjourned meeting.

9. Every question submitted to a meeting shall be decided in the first instance by a show of hands and in case of equality of votes the Chairman shall both on a show of hands and on a poll have a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Noteholder or as a holder of a voting certificate or as a proxy.

10. At any meeting, unless a poll is (before or on the declaration of the results of the show of hands) demanded by the Chairman or the Issuer or by one or more persons present holding Notes or voting certificates or being proxies and holding or representing in the aggregate not less than two percent in principal amount of the Notes for the time being outstanding, a declaration by the Chairman that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

11. Subject to paragraph 13 below, if at any such meeting a poll is so demanded it shall be taken in such manner and subject as hereinafter provided either at once or after an adjournment as the Chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded as at the date of the asking of the poll. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the motion on which the poll has been demanded.

12. The Chairman may with the consent of (and shall if directed by) any such meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned

meeting except business which might lawfully (but for lack of required quorum) have been transacted at the meeting from which the adjournment took place.

13. Any poll demanded at any such meeting on the election of a Chairman or on any question of adjournment shall be taken at the meeting without adjournment.

14. Any director or officer of the Issuer and its lawyers and other professional advisers may attend and speak at any meeting. Save as aforesaid, no person shall be entitled to attend and speak nor shall any person be entitled to vote at any meeting of the Noteholders or join with others in requisitioning the convening of such a meeting unless he either produces the Note or Notes of which he is the holder or a voting certificate or is a proxy. Neither the Issuer, nor any of its subsidiaries shall be entitled to vote at any meeting in respect of Notes held by it for the benefit of any such company and no other person shall be entitled to vote at any meeting in respect of Notes held by it for the benefit of any such company. Nothing herein contained shall prevent any of the proxies named in any block voting instruction from being a director, officer or representative of or otherwise connected with the Issuer.

15. Subject as provided in paragraph 14 hereof at any meeting:

    (a) on a show of hands every person who is present in person and produces a Note or voting certificate or is a proxy shall have one vote; and

    (b) on a poll every person who is so present shall have one vote in respect of each minimum integral amount of in the case of the Australian Notes, Australian dollars, and in the case of the New Zealand Notes, New Zealand dollars.

    Without prejudice to the obligation of the proxies named in any block voting instructions, any person entitled to more than one vote need not use all his votes or cast all the votes to which he is entitled in the same way.

16. The proxies named in any block voting instruction need not be Noteholders.

17. Each block voting instruction together (if so requested by the Issuer) with proof satisfactory to the Issuer of its due execution on behalf of the relevant Paying Agent or the Registrar shall be deposited at such place as the relevant Issuing and Principal Paying Agent shall approve not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the proxies named in the block voting instruction propose to vote and in default the block voting instruction shall not be treated as valid unless the Chairman of the meeting decides otherwise before such meeting or adjourned meeting proceeds to business. A certified copy of each block voting instruction shall be deposited with the relevant Issuing and Principal Paying Agent before the commencement of the meeting or adjourned meeting, but the relevant Issuing and Principal Paying Agent shall not thereby be obliged to investigate or be concerned with the validity of or the authority of the proxies named in any such block voting instruction.

18. Any vote given in accordance with the terms of a block voting instruction shall be valid notwithstanding the previous revocation or amendment of the block voting instruction or of any of the Noteholders' instructions pursuant to which it was executed, *provided that* no intimation in writing of such revocation or amendment shall have been received from the relevant Registrar by the Issuer at its registered office (or such other place as may have been approved by the relevant Issuing and Principal Paying Agent of the purpose) by the time being 24 hours before the time appointed for holding the meeting or adjourned meeting at which the block voting instruction is to be used.

19. A meeting of the Noteholders shall in addition to the powers hereinbefore given have the following powers exercisable by Extraordinary Resolution (subject to the provisions relating to quorum contained in paragraphs 6 and 7 above) only namely:

    (a) Power to sanction any compromise or arrangement proposed to be made between the Issuer and the Noteholders or any of them.

    (b) Power to sanction any abrogation, modification, compromise or arrangement in respect of the rights of the Noteholders against the Issuer or against any of its property whether such rights shall arise under the Deed Poll, the Notes or otherwise.

    (c) Power to assent to any modification of the provisions contained in the Deed Poll, the Terms and Conditions or the Notes which shall be proposed by the Issuer.

    (d) Power to give any authority or sanction which under the provisions of the Deed Poll or the Notes is required to be given by Extraordinary Resolution.

    (e) Power to appoint any persons (whether Noteholders or not) as a committee or committees to represent the interest of the Noteholders and to confer upon such committee or committees any powers or descriptions which the Noteholders could themselves exercise by Extraordinary Resolution.

    (f) Power to sanction any scheme or proposal for the exchange or sale of the Notes for, or the conversion of the Notes into or the cancellation of the Notes in consideration of, shares, stock, notes, bonds, debentures, debenture stock or other obligations or securities of the Issuer or any other company formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock or other obligations or securities as aforesaid and partly for or into or in consideration of cash.

    (g) Power to approve the substitution of any entity in place of the Issuer (or any previous substitute) as the principal debtor in respect of the Notes.

20. Any resolution passed at a meeting of the Noteholders duly convened and held in accordance with the Deed Poll shall be binding upon all the Noteholders whether present or not present at such meeting and whether or not voting and each of them shall be bound to give effect thereto accordingly and the passing of any such resolution shall be conclusive evidence that the circumstances justify the passing thereof. Notice of the result of the voting on any resolution duly considered by the Noteholders shall be published in accordance with Condition 11 of the Terms and Conditions of the Notes by the Issuer within 14 days of such result being known, *provided that* the non-publication of such notice shall not invalidate such resolution.

21. The expression ***Extraordinary Resolution*** when used in the Deed Poll or the Terms and Conditions means a resolution passed at a meeting of the Noteholders duly convened and held in accordance with the provisions herein contained by a majority consisting of not less than 66-2/3% of the votes given on such poll.

22. Minutes of all resolutions and proceedings at every such meeting aforesaid if purporting to be signed by the Chairman of the meeting at which such resolutions were passed or proceedings had shall be conclusive evidence of the matters therein contained and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have

been duly held and convened and all resolutions passed or proceedings had thereat to have been duly passed or had.

23. The vote upon any resolution submitted to any meeting of Noteholders shall be by written ballots on which shall be subscribed the signatures of Noteholders or of their representatives by proxy (and the serial number or numbers of the Notes held or represented by them). The permanent chairperson of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record, at least in triplicate, of the proceedings of each meeting of Noteholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published as provided in paragraph 3 hereof and, if applicable, paragraph 8 hereof. Each copy shall be signed and verified by the affidavits of the chairperson and secretary of the meeting, and one such copy shall be delivered to the Issuer and another to the relevant Issuing and Principal Paying Agent to be preserved by the relevant Issuing and Principal Paying Agent, the copy delivered to the relevant Issuing and Principal Paying Agent to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

24. Subject to all the provisions contained herein, the relevant Issuing and Principal Paying Agent may without the consent of the Issuer or the Noteholders prescribe such further regulations regarding the requisition or the holding of meetings of Noteholders and attendance and voting thereat as the relevant Issuing and Principal Paying Agent may in its sole discretion think fit.

**EXECUTED** and delivered as a deed poll.

**Signed** and **Delivered** on behalf of **Bank of America Corporation** by its Senior Vice President in the presence of:

/s/ JULIANNA LOWE
Witness

**Julianna Lowe**
Print Name

Signature /s/ B. KENNETH BURTON, JR.

**B. Kenneth Burton, Jr.**
Print Name

**Exhibit 4(fff)**

# GLOBAL AGENCY AGREEMENT

dated as of July 25, 2007

among

BANK OF AMERICA, N.A.,

as Issuer,

DEUTSCHE BANK TRUST COMPANY AMERICAS,

as U.S. Paying Agent and U.S. Registrar,

DEUTSCHE BANK AG, LONDON BRANCH,

as London Paying Agent and London Issuing Agent, and

DEUTSCHE BANK LUXEMBOURG S.A.,

as European Registrar and European Transfer Agent

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EXHIBIT H – Form of Calculation Agency Agreement

EXHIBIT I – Administrative Procedures Memorandum

EXHIBIT J – Form of Certificate to be Presented by Euroclear or Clearstream, Luxembourg

EXHIBIT K – Form of Certificate of Beneficial Owner

**GLOBAL AGENCY AGREEMENT**, dated as of July 25, 2007, among:

(i) BANK OF AMERICA, N.A., a national banking organization organized under the laws of the United States of America, as issuer (the "*Bank*");

(ii) DEUTSCHE BANK TRUST COMPANY AMERICAS, as U.S. registrar (the "*U.S. Registrar*") and U.S. paying agent (the "*U.S. Paying Agent*"), which expressions shall also include any successors appointed in accordance with Section 27 of this Agreement;

(iii) DEUTSCHE BANK AKTIENGESELLSCHAFT, a corporation domiciled in Frankfurt am Main, Germany, operating in the United Kingdom under branch number BR000005, acting through its London branch at Winchester House, 1 Great Winchester Street, London EC2N 2DB ("*Deutsche Bank AG, London Branch*"), as London paying agent (the "*London Paying Agent*" and, together with the U.S. Paying Agent, the "*Paying Agents*" and each individually, a "*Paying Agent*"), and London issuing agent (the "*London Issuing Agent*"), which expressions shall also include any successors appointed in accordance with Section 27 of this Agreement; and

(iv) DEUTSCHE BANK LUXEMBOURG S.A., as European registrar (the "*European Registrar*" and, together with the U.S. Registrar, the "*Registrars*" and each a "*Registrar*") and European transfer agent (the "*European Transfer Agent*"), which expressions shall include any successors appointed in accordance with Section 27 of this Agreement.

**WHEREAS:**

A. The Bank has established the Global Bank Note Program described in the Offering Circular, dated the date hereof (as such document may hereafter be amended, supplemented or replaced by the Bank, including the material incorporated therein by reference, the "*Offering Circular*"), which will be supplemented by one or more product and/or pricing supplements setting forth additional terms and conditions of bank notes, pursuant to which the Bank may from time to time issue up to US$75,000,000,000 (or the equivalent thereof in other currencies) aggregate principal amount (issued on or after the date hereof) at any one time outstanding of its bank notes (the "*Notes*");

B. The Offering Circular describes the duties and obligations of certain agents with respect to the Notes.

**NOW, THEREFORE**, in consideration of the premises, and of the mutual covenants, representations, warranties and agreements contained herein, the parties agree as follows:

SECTION 1. Definitions and Interpretation.

(a) The following terms shall have the following meanings:

"*Administrative Procedures*" means the Administrative Procedures Memorandum set forth in Exhibit I hereto;

"*Agents*" means the collective reference to the Paying Agents, the Registrars, the London Issuing Agent and the European Transfer Agent;

"*Authorized Representative*" has the meaning given that term in Section 3(f) of this Agreement;

"*Bank*" has the meaning given that term in the preamble of this Agreement;

"*Bearer Global Note*" means a Temporary Bearer Global Note or a Permanent Bearer Global Note;

"*Bearer Notes*" means those Notes which are for the time being in bearer form;

"*Business Day*" means, unless otherwise specified in the applicable Pricing Supplement, a day that meets all the following requirements:

(i) for all Notes, is any weekday that is not a legal holiday in 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;

(ii) for any Note issued in registered form, also is a day on which commercial banks are open for business in New York, New York;

(iii) for any Note issued in bearer form or any Note where the base rate is LIBOR (as defined in the Note), also is a London Banking Day;

(iv) for any Note denominated in euro or any Note where the base rate is EURIBOR (as defined in the Note), also is a day on which the TARGET System or any successor is operating; and

(v) for any Note that has a specified currency other than U.S. dollars or euro, also is a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Principal Financial Center of the country of the specified currency (if other than London);

"*Calculation Agent*" has the meaning given that term in Section 2(f) hereof;

*"Clearstream, Luxembourg*" means Clearstream Banking, *société anonyme*, or any successor thereto;

"*Common Code*" has the meaning given that term in Section 6(a) of this Agreement;

"*Coupon*" means an interest coupon attached on issue to any interest-bearing Definitive Bearer Note, such coupon being substantially in the form set out in Exhibit E hereto or in such other form as may be agreed among the parties hereto, and includes, where applicable, the Talon(s) appertaining thereto;

"*Couponholders*" means the several persons who are from time to time holders of Coupons;

"*Defaulted Note*" has the meaning given that term in Section 12(d) of this Agreement;

"*Definitive Bearer Note*" means a definitive Bearer Note substantially in the form set out in Exhibit D hereto, or in such other form as may be agreed by the parties hereto, issued or to be issued by the Bank pursuant to this Agreement in exchange for the whole of Permanent Bearer Global Note;

"*Definitive Notes*" means Definitive Bearer Notes and/or, as the context requires, Definitive Registered Notes;

"*Definitive Registered Note*" means a Registered Note issued in definitive form in such form as may be agreed by the parties hereto upon the issuance, if any, of Registered Notes in definitive form pursuant to the terms hereof and the applicable Registered Global Note;

"*Distribution Agreement*" means the agreement dated the date hereof among the Bank and the Selling Agents party thereto concerning the sale of Notes to be issued by the Bank, and includes any amendment or supplement thereto;

"*DTC*" means The Depository Trust Company in New York, New York;

"*DTC Global Note*" means a Registered Global Note deposited with a custodian for, and registered in the name of a nominee of, DTC;

"*DTC Letters of Representations*" means the letters of representations among the Bank, the U.S. Paying Agent and DTC;

"e*uro*" or "€" means 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 Communities, as amended by the Treaty on European Union, as amended by the Treaty of Amsterdam;

"*Euroclear*" means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or any successor thereto;

"*Euroclear/Clearstream, Luxembourg Global Note*" means a Registered Global Note deposited with a common depositary for, and registered in the name of a nominee of, Euroclear and/or Clearstream, Luxembourg;

"*European Registrar*" has the meaning given that term in the preamble of this Agreement;

"*European Transfer Agent*" has the meaning given that term in the preamble of this Agreement;

"*Exchange Date*" has the meaning given that term in the form of Temporary Bearer Global Note set out in Exhibit B hereto;

"*FDIC*" means the United States Federal Deposit Insurance Corporation;

"*Global Note*" means a Registered Global Note, a Temporary Bearer Global Note or a Permanent Bearer Global Note;

"*ISIN*" has the meaning given that term in Section 6(a) of this Agreement;

"*London Banking Day*" means any day on which commercial banks are open for business (including dealings in the index currency specified in the applicable Pricing Supplement) in London, England;

"*London Issuing Agent*" has the meaning given that term in the preamble of this Agreement;

"*London Paying Agent*" has the meaning given that term in the preamble of this Agreement;

"*Note*" or "*Notes*" means any of the Bank's Senior Notes or Subordinated Notes, each with maturities of seven days or more from their respective dates of issue, which may be issued, authenticated and delivered under this Agreement;

"*Note Register*" has the meaning given that term in Section 11(a) of this Agreement;

"*Noteholders*" means the several persons who are for the time being holders of outstanding Notes (being, in the case of any Bearer Note, the bearer thereof and, in the case of any Registered Note, the registered owner thereof as reflected in the Note Register), except that for so long as any of the Notes are represented by a Temporary Bearer Global Note or Permanent Bearer Global Note, each person who is for the time being shown in the records of Euroclear and/or Clearstream, Luxembourg as the holder of a particular principal amount of such Notes (other than Clearstream, Luxembourg if Clearstream, Luxembourg shall be an account holder of Euroclear and other than Euroclear if Euroclear shall be an account holder of Clearstream, Luxembourg) (in which regard any certificate or other document issued by Euroclear and Clearstream, Luxembourg as to the principal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes except in the case of manifest error) shall be treated by the Bank and the Agents as a holder of such principal amount of such Notes for all purposes other than for the payment of principal, premium (if any) and interest on such Notes, the right to which shall be vested, as against the Bank and the Agents, solely in the bearer of the Global Note in accordance with and subject to its terms (and the expressions "*Noteholder,*" "*holder of Notes*" and related expressions shall be construed accordingly);

"*OCC*" means the United States Office of the Comptroller of the Currency;

"*Offering Circular*" has the meaning given that term in the preamble to this Agreement;

"*Officer's Certificate*" means a certificate of the Bank signed by an Authorized Representative and delivered to an Agent.

"*Optional Repayment Date*" has the meaning given that term in Section 17(a) of this Agreement;

"*Original Issue Date*" means, with respect to any Note, the original date of issue of such Note, being in the case of any Global Note, the date of issue of the Registered Global Note, Temporary Bearer Global Note or Permanent Bearer Global Note, as the case may be, which initially represented such Note;

"*Outstanding*" means, at any particular time, all Notes theretofore issued other than:

(1) those which have been redeemed in full in accordance with their terms and with this Agreement;

(2) those with respect to which the redemption date in accordance with their terms has occurred and the redemption monies therefor (including any premium and all interest (if any) accrued thereon to the redemption date and any interest (if any) payable after such date) have been duly paid to or deposited to the account of a Paying Agent as provided herein (and, where appropriate, notice has been given to the Noteholders in accordance with the terms thereof and Section 18 of this Agreement) and remain available for payment;

(3) those which have become void in accordance with their terms;

(4) those which have been canceled or delivered to the applicable Registrar or Paying Agent for cancellation;

(5) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes in accordance with their terms;

(6)(for the purposes only of determining the aggregate principal amount of Notes outstanding and without prejudice to the status of any Note for any other purpose) those Notes alleged to have been lost, stolen or destroyed and with respect to which replacement Notes have been issued in accordance with their terms; and

(7) Temporary Bearer Global Notes to the extent that they shall have been duly exchanged for Definitive Bearer Notes or Permanent Bearer Global Notes, Permanent Bearer Global Notes to the extent that they shall have been duly exchanged for Definitive Bearer Notes, and Registered Global Notes to the extent that they shall have been duly exchanged for Definitive Registered Notes, in each case pursuant to their respective terms;

"*Partly Paid Notes*" means Notes the issue price of which is payable in two or more installments;

"*Paying Agent*" has the meaning given that term in the preamble of this Agreement;

"*Payment Time*" has the meaning given that term in Section 13(a) of this Agreement;

"*Permanent Bearer Global Note*" means a global Bearer Note substantially in the form set out in Exhibit C hereto, comprising Notes issued or to be issued by the Bank in exchange for all or a part of a Temporary Bearer Global Note;

"*Person*" means any legal person, including any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency, instrumentality or political subdivision;

"*Pricing Supplement*" means the pricing supplement prepared by the Bank in relation to a particular Tranche of Notes as a supplement to the Offering Circular;

"*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 The City of New York, 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 The City of New York, Sydney, Toronto, Johannesburg and Zurich, respectively;

"*Program*" means the Global Bank Note Program described in the Offering Circular;

"*Receipt*" means a receipt attached on issue to a Definitive Bearer Note redeemable in installments for the payment of installments of principal, such receipt being substantially in the form set out in Exhibit G hereto or in such other form as may be agreed by the parties hereto;

"*Registered Global Note*" means a global Registered Note substantially in the form set out in Exhibit A-1 hereto or, in the case of certain short-term Registered Global Notes, Exhibit A-2 hereto, or in such other form as may be agreed by the parties hereto;

"*Registered Note*" means a Registered Global Note and/or, as the context requires, a Definitive Registered Note;

"*Registrar*" has the meaning given that term in the preamble of this Agreement;

"*Senior Note*" means a Note evidencing the senior obligations of the Bank;

"*Selling Agent*" means each of the entities appointed as agents from time to time pursuant to the Distribution Agreement and notice of whose appointment is given to the Agents;

"*Series*" means all Notes which are denominated in the same currency and which have the same Stated Maturity Date, interest payment basis and Interest Payment Dates, if any (all as indicated in the applicable Pricing Supplement) and the terms of which, except for the Original Issue Date and/or the issue price (each as indicated as aforesaid), are otherwise identical, including whether the Notes are listed, quoted and/or traded on a particular Stock Exchange;

"*Stock Exchange*" means any stock exchange(s), competent listing authority and/or quotation system on which any Notes may from time to time be listed, quoted and/or traded, and reference in this Agreement to the "*relevant Stock Exchange*" shall, in relation to any Notes, be reference to the Stock Exchange on which such Notes are from time to time, or will be, listed, quoted and/or traded;

"*Subordinated Note*" means a Note evidencing the subordinated obligations of the Bank;

"*Talons*" means the talons, if any, for further Coupons appertaining to an interest-bearing Definitive Bearer Note, each such talon being substantially in the form set out in Exhibit F hereto or in such other form as may be agreed by the parties hereto;

"*TARGET System*" means the Trans-European Automated Real-Time Gross Settlement Express Transfer System, or any successor thereto;

"*Temporary Bearer Global Note*" means a global Bearer Note substantially in the form set out inExhibit B hereto, or in such other form as may be agreed by the parties hereto;

"*Tranche*" means all Notes of the same Series with the same Original Issue Date and the same issue price;

"*U.S. Paying Agent*" has the meaning given that term in the preamble of this Agreement;

"*U.S. Registrar*" has the meaning given that term in the preamble of this Agreement; and

"*US$*" and "*U.S. Dollars*" means the lawful currency for the time being of the United States.

(b) Terms and expressions defined in the Notes and the Offering Circular shall have the same meanings in this Agreement, except where the context requires otherwise.

(c) Any references to Notes shall, unless the context otherwise requires, include any Registered Global Notes, Definitive Registered Notes, Temporary Bearer Global Notes, Permanent Bearer Global Notes, and Definitive Bearer Notes.

(d) Any Notes issued under the Program on or after the date of this Agreement shall be issued pursuant to this Agreement. Any Notes of the Bank issued prior to the date of this Agreement under any other agency agreement shall, in each case, continue to be governed by the agency agreement under which they were issued.

SECTION 2. Appointment of Agents.

(a) Deutsche Bank Trust Company Americas is hereby appointed as agent of the Bank, to act as U.S. Registrar and U.S. Paying Agent for purposes specified in this Agreement and all matters incidental thereto, including, *inter alia*, completing, authenticating and issuing Notes, upon the terms and subject to the conditions specified herein and in the Notes.

(b) Deutsche Bank AG, London Branch is hereby appointed as agent of the Bank, to act as London Paying Agent and London Issuing Agent for the purposes specified in this Agreement and all matters incidental thereto, including, *inter alia*, completing, authenticating and issuing Notes, upon the terms and subject to the conditions specified herein and in the Notes.

(c) Deutsche Bank Luxembourg S.A. is hereby appointed as agent of the Bank, to act as European Registrar and European Transfer Agent for the purposes specified in this Agreement and all matters incidental thereto, including completing, authenticating and issuing Notes, upon the terms and subject to the conditions specified herein and in the Notes.

(d) Each of the Agents shall have the powers and authority granted to and conferred upon them, specifically, in the Notes and hereunder to act on behalf of the Bank and such further powers and authority to act on behalf of the Bank as may be mutually agreed upon in writing.

(e) The obligations of the Agents shall be several, but not joint.

(f) Pursuant to the Calculation Agency Agreement set forth in Exhibit H hereto, the Bank has appointed Deutsche Bank Trust Company Americas as calculation agent (the "*Calculation Agent*") for floating-rate Notes and certain indexed Notes, for the purpose of calculating any variable interest rates or other bases for determining the payment of interest, premium or principal with respect to the Notes from time to time pursuant to the Calculation Agency Agreement. Notwithstanding the foregoing, the Bank may appoint a different calculation agent for any Series of Notes (which may be the Bank or any affiliate thereof or a Selling Agent purchasing such Notes or an affiliate thereof). The relevant Pricing Supplement will set forth the name of such calculation agent.

(g) The Bank may from time to time, in respect of the Program or in respect of any series of Notes, appoint one or more exchange rate agents, for the purpose of determining exchanges of currencies of payments under the Notes from time to time. The relevant Pricing Supplement will set forth the name of any applicable exchange rate agent.

SECTION 3. The Notes; Authorized Representatives.

(a) Except as otherwise provided herein with respect to the issuance of Definitive Notes, and subject to any maximum principal amount of a Global Note required by a depositary, each Note of the same Tranche issued by the Bank shall be represented by a single Global Note certificate; provided, however, that if agreed between the Bank and the U.S. Registrar, Notes of one or more Series issued in registered form with maturities of 270 days or less may be represented by one or more single Master Short-Term Registered Global Notes, as provided in Section 5(d) below. The Notes may contain such insertions, omissions, substitutions and other variations as the Bank determines to be required or permitted by this Agreement and may have such letters, numbers or other marks of identification and such legend or legends or endorsements placed thereon as any officer of the Bank executing such Notes may determine to be necessary or appropriate, as evidenced by such officer's execution of such Notes by manual or facsimile signature, including, without limitation, any legends or endorsements that may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any Stock Exchange on which the Notes may be listed or to conform to general usage.

(b) Only Notes that bear thereon a certificate of authentication executed by the applicable Registrar or the London Issuing Agent, as the case may be, in each case by two manual or facsimile signatures, and dated the date of authentication, will be valid.

(c) Unless indicated otherwise in the applicable Notes and the applicable Pricing Supplement, Notes issued in the United States will be issued in minimum denominations of US$250,000 and integral multiples of US$1,000 in excess of US$250,000, and Notes issued outside the United States will be issued in minimum denominations of €50,000 (or the equivalent thereof in other currencies).

(d) As of the date hereof, the Bank has authorized the offer and issuance from time to time of Notes with maturities of seven days or more up to a maximum principal amount at any time outstanding of US$75,000,000,000 (or the equivalent thereof in other currencies). Notwithstanding the foregoing, if the Bank authorizes the offer and issuance of additional Notes, such additional Notes may be sold to or through the Selling Agents pursuant to the terms of this Agreement and the Distribution Agreement, all as if the offer and issuance of such Notes were authorized as of the date hereof.

(e) The Bank shall from time to time deliver or cause to be delivered to each Registrar a supply of blank Registered Global Notes and to the London Issuing Agent a supply of blank Temporary Bearer Global Notes and Permanent Bearer Global Notes as the Bank shall determine. Each Note shall have been executed by the manual or facsimile signature of an Authorized Representative of the Bank. Each Registrar or the London Issuing Agent, as the case may be, will acknowledge receipt of the Notes delivered to it and will hold such blank Notes in safekeeping in accordance with its customary practice and shall, as applicable, complete, authenticate and deliver such Notes in accordance with the provisions hereof. Notwithstanding the foregoing, if so agreed between the Bank and the applicable Registrar or London Issuing Agent, as applicable, the Bank may deliver to such Registrar or London Issuing Agent, as applicable, a single master Registered Global Note, Temporary Bearer Global Note or Permanent Bearer Global Note, as applicable, that shall have been executed by the manual or facsimile signature of an Authorized Representative of the Bank. Thereafter, upon each issuance of Notes as notified to such Registrar or London Issuing Agent in accordance with the terms hereof, such Registrar or London Issuing Agent, as the case may be, shall use a duplicate copy of such master Global Note for purposes of completing and authenticating Notes pursuant to the provisions of Section 5, Section 6, or Section 7 hereof, as applicable.

(f) From time to time, the Bank shall provide each Registrar and the London Issuing Agent with a certificate executed by an officer of the Bank certifying the incumbency and specimen signatures of those officers of the Bank authorized to execute Notes on behalf of the Bank by manual or facsimile signature and to give instructions and notices on behalf of the Bank hereunder (each an "*Authorized Representative*" and collectively, the "*Authorized Representatives*"). Until the applicable Registrar or the London Issuing Agent receives a subsequent certificate, such Registrar or the London Issuing Agent, as the case may be, shall be entitled to conclusively rely on the last such certificate delivered to them for the purposes of determining the identities of Authorized Representatives of the Bank. Any Note bearing the manual or facsimile signatures of persons who are Authorized Representatives of the Bank on the date such signatures are affixed shall bind the Bank after the completion, authentication and delivery thereof by the applicable Registrar or the London Issuing Agent, as the case may be, notwithstanding that such persons shall have ceased to hold office on the date such Note is so completed, authenticated and delivered by the applicable Registrar or the London Issuing Agent, as the case may be.

SECTION 4. Issuance Instructions.

(a) Upon the issuance of Notes hereunder, the Bank shall deliver instructions as to the completion of the Notes (as described below) to a duly authorized representative of the U.S. Registrar, the European Registrar or the London Issuing Agent, as applicable, as named by such Agent and of which the Bank shall be notified in writing. Such instructions shall be delivered from time to time through the use of a facsimile transmission (confirmed by guaranteed delivery of overnight or recognized international courier) from any Authorized Representative. Such instructions shall include the following (each term as used or defined in the related form of Note attached to such instructions), as applicable:

1. Issue Price, Principal Amount of the Note, CUSIP, Common Code or ISIN numbers, as applicable, and whether such Note is a Senior Note or a Subordinated Note.
2. Currency of issuance.
3. Form of Note (whether registered or bearer).
4. (a) Fixed Rate Notes:
   (i) Interest Rate,
   (ii) Interest Payment Dates, and
   (iii) Regular Record Dates.
   (b) Floating Rate Notes:
   (i) Base Rate or Rates,
   (ii) Initial Interest Rate,
   (iii) Spread and/or Spread Multiplier, if any,
   (iv) Interest Reset Date or Dates,
   (v) Interest Periods,
   (vi) Interest Payment Dates,
   (vii) Regular Record Dates,
   (viii) Index Maturity,

(ix) Maximum and Minimum Interest Rates, if any, and

(x) Calculation Agent, if other than Deutsche Bank Trust Company Americas.

(c) Indexed Notes:

(i) Base Rates,

(ii) Initial Interest Rate(s),

(iii) Underlying index, credit or formula,

(iv) Interest (or Other Amounts Payable) Reset Date(s),

(v) Interest (or Other Amounts Payable) Period(s),

(vi) Interest (or Other Amounts Payable) Payment Date(s),

(vii) Regular Record Dates,

(viii) Maximum and Minimum Interest Rates, if any,

(ix) Any terms relating to the exchange of such Notes, and

(x) Calculation Agent, if other than Deutsche Bank Trust Company Americas.

5. Price to purchasers, if any, of the Note (or whether the Note is being offered at varying prices relating to prevailing market prices at time of resale as determined by the applicable Selling Agent).

6. Trade date.

7. Settlement date.

8. Original Issue Date.

9. Stated Maturity.

10. Minimum and authorized denominations.

11. If applicable, an Amortization Table specifying the rate at which an Amortizing or Indexed Note, as applicable, is to be amortized, and with respect to an Indexed Note, specifying the applicable reference rate, if any, or lock-out date, if any.

12. Redemption provisions, if any, including the initial redemption date, initial redemption percentage, annual redemption reduction percentage, whether partial redemption is permitted and the method of determining Notes to be redeemed.

13. Prepayment option date(s) and prepayment option price(s), if any.

14. Extension provisions, if any, of an extendible Note, including length of extension period(s), number of extension periods, final maturity date and other applicable terms.

15. Provisions relating to a Note subject to extension at the option of the Bank.

16. Net proceeds to the Bank.

17. The Selling Agent's commission or underwriting discount and the relevant delivery information of the Selling Agent for settlement.

18. Whether such Notes are being sold to the Selling Agent as principal or to an investor or other purchaser through the Selling Agent acting as agent for the Bank, or by the Bank itself.

19. Whether such Note is being issued as an Original Issue Discount Note (or otherwise issued with original issue discount for U.S. federal income tax purposes) and the terms thereof.

20. Whether such Notes are Dual Currency Notes and, if so, the alternative currency for payments on the Notes.

21. Whether such Notes are Amortizing Notes and, if so, the terms thereof.

22. Exchange rate agent, if applicable.

23. Applicable exemption from registration under the OCC's regulations.

24. Relevant depositary or clearing system.

25. Whether Additional Amounts will be paid.

26. Whether the Notes may be redeemed for tax reasons and, if so, the terms thereof.

27. Such other information specified with respect to the Notes (whether by addendum, text to be included under "Other Provisions" on the face of such Note, or otherwise).

(b) All instructions regarding the completion, authentication and delivery of Notes shall be given by an Authorized Representative by facsimile transmission or by other acceptable written means in accordance with the Administrative Procedures. In addition, the Selling Agent who has arranged to purchase or procure the purchase of Notes from the Bank shall notify the applicable Registrar or the London Issuing Agent, as the case may be, by facsimile transmission or by other acceptable written means no later than 3:00 p.m. London time, in the case of the London Issuing Agent or the European Registrar, and no later than 3:00 p.m. New York City time, in the case of the U.S. Registrar, three Business Days prior to the proposed issue date, that payment by the Selling Agent to the Bank of the purchase price of any Note has been or will be duly made and (if applicable) of details of the securities account to which payment is to be made.

(c) Each instruction given to the U.S. Registrar, the European Registrar or the London Issuing Agent in accordance with this Section 4 shall constitute a representation and warranty to such Agent by the Bank that the issuance and delivery of the Notes is in accordance with the terms and conditions described in this Agreement and the Offering Circular and the applicable Pricing Supplement, and the Notes have been duly and validly authorized by the Bank and, when completed, authenticated and delivered pursuant hereto, the Notes will constitute the valid and legally binding obligations of the Bank enforceable against the Bank in accordance with their terms, subject to bankruptcy, insolvency, reorganization, receivership, conservatorship, moratorium or other laws relating to or affecting enforcement of creditors' rights generally, to general equity principles or to 12 U.S.C. § 1818(b)(6)(D) (or any successor statute), 12 C.F.R. § 5.47 (or any successor regulation) and similar bank regulatory powers now or hereafter in effect.

(d) Any instruction given by the Bank to an Agent under this Agreement shall be in the form of an Officer's Certificate or other signed letter or memorandum. Any "signed letter or memorandum" means a document signed by an Authorized Representative and delivered to such Agent.

SECTION 5. Issue of Registered Global Notes.

(a) Upon receipt of instructions from an Authorized Representative in accordance with Section 4 hereof and the Administrative Procedures regarding the completion, authentication and delivery of one or more Registered Global Notes, the U.S. Registrar (in the case of DTC Global Notes) or the European Registrar (in the case of Euroclear/Clearstream, Luxembourg Global Notes) shall cause to be withdrawn from safekeeping the necessary and applicable Registered Global Note(s) and, in accordance with such written instructions, shall:

(A) complete such Registered Global Note(s);

(B) attach the relevant Pricing Supplement, as supplied by the Bank;

(C) register such Registered Global Note(s) in the name of Cede & Co., or another nominee of DTC, and/or in the name of a nominee of Euroclear and/or Clearstream, Luxembourg, as specified in such instructions;

(D) authenticate such Registered Global Note(s); and

(E) (i) deliver, in accordance with the Administrative Procedures, such Registered Global Note(s) to a custodian of DTC in accordance with such instructions against receipt from the custodian of confirmation that such custodian is holding the Registered Global Note(s) so delivered in safe custody for the account of DTC and instruct DTC to credit the Notes represented by such Registered Global Note(s), unless otherwise agreed in writing between the U.S. Registrar and the Bank, to the U.S. Registrar's participant account at DTC; and/or

(ii) deliver, in accordance with the Administrative Procedures, such Registered Global Note(s) to the specified common depositary of Euroclear and Clearstream, Luxembourg in accordance with such instructions against receipt from the common depositary of confirmation that such common depositary is holding the Registered Global Note(s) so delivered in safe custody for the account of Euroclear and/or Clearstream, Luxembourg and instruct Euroclear or Clearstream, Luxembourg or both of them (as the case may be) to credit the Notes represented by such Registered Global Note(s), unless otherwise agreed in writing between the European Registrar and the Bank, to the London Issuing Agent's distribution account; and

(F) ensure that the Notes of such series are assigned a CUSIP number or other identifying code, which will be provided to the applicable Registrar by the Bank;

provided, that instructions regarding the completion and authentication of such Note(s) are received by the applicable Registrar in accordance with the Administrative Procedures.

(b) The U.S. Registrar shall provide DTC, and the European Registrar shall provide Euroclear and/or Clearstream, Luxembourg, with such notifications, instructions or other information to be given by the U.S. Registrar or the European Registrar, as the case may be, to DTC, Euroclear and/or Clearstream, Luxembourg as may be required by this Agreement and the DTC Letters of Representations and in accordance with the standard procedures of any such clearing system.

(c) Notwithstanding the foregoing, in the event that Registered Notes of a Series are issued outside the United States in accordance with the provisions of Regulation S under the U.S. Securities Act of 1933, as amended, as indicated in the applicable Pricing Supplement, the European Registrar shall complete, authenticate and deliver a Registered Global Note initially in temporary form, to be exchangeable for a Registered Global Note in permanent form, in accordance with and subject to such requirements and conditions as agreed between the Bank, the European Registrar and the relevant Selling Agent(s).

(d) Notwithstanding the foregoing, in the event that Registered Notes of a Series issued with a maturity of 270 days or less are represented by one or more single Master Short-Term Registered Note certificates, the procedures set forth in Section 5(a)(A) and Section 5(a)(B) above shall be satisfied by the electronic entry by the U.S. Registrar, on behalf of the Bank, of the terms of each short-term Note so issued (as such terms are provided to the U.S. Registrar by the Bank pursuant to Section 4(a) and as set forth in the applicable Pricing Supplement) in the DTC MMI System under the U.S. Registrar's participant number, and upon such entry, such Master Short-Term Registered Note, together with such electronic records, will evidence the obligations of the Bank under any such Note.

SECTION 6. Issue of Temporary Bearer Global Notes.

(a) Upon receipt of instructions from an Authorized Representative in accordance with Section 4 hereof and the Administrative Procedures regarding the completion, authentication and delivery of one or more Temporary Bearer Global Notes, the London Issuing Agent shall cause to be withdrawn from safekeeping the necessary and applicable Temporary Bearer Global Note and, in accordance with such written instructions, shall:

(A) complete such Temporary Bearer Global Notes(s);

(B) attach the relevant Pricing Supplement, as supplied by the Bank;

(C) authenticate such Temporary Bearer Global Note(s);

(D) deliver, in accordance with the Administrative Procedures, such Temporary Bearer Global Note(s) to the specified common depositary of Euroclear and Clearstream, Luxembourg in accordance with such instructions against receipt from the common depositary of confirmation that such common depositary is holding the Temporary Bearer Global Note(s) so delivered in safe custody for the account of Euroclear and/or Clearstream, Luxembourg and instruct Euroclear or Clearstream Luxembourg or both of them (as the case may be) to credit the Notes represented by such Temporary Bearer Global Note(s), unless otherwise agreed in writing between the London Issuing Agent and the Bank, to the London Issuing Agent's distribution account; and

(E) ensure that the Notes of each Tranche are assigned a common code ("*Common Code*") and International Security Identification Number ("*ISIN*") by Euroclear and Clearstream, Luxembourg which are different from the Common Code and ISIN assigned to Notes of any other Tranche of the same Series until 40 days after the completion of the distribution of the Notes of such Tranche as notified by the London Issuing Agent to the relevant Selling Agent;

provided, that instructions regarding the completion and authentication of such Note(s) are received by the London Issuing Agent in accordance with the Administrative Procedures.

(b) The London Issuing Agent shall provide Euroclear and/or Clearstream, Luxembourg with such notifications, instructions or other information to be given by the London Issuing Agent to Euroclear and/or Clearstream, Luxembourg in accordance with the standard procedures of Euroclear and/or Clearstream, Luxembourg.

SECTION 7. Determination of Exchange Date and Issue of Permanent Bearer Global Notes.

(a) (i) The London Issuing Agent will determine the Exchange Date for each Temporary Bearer Global Note in accordance with the terms thereof. Forthwith upon determining the Exchange Date in respect of any Tranche, the London Issuing Agent shall notify such determination to the Bank, the relevant Selling Agent(s), Euroclear and Clearstream, Luxembourg.

(ii) The London Issuing Agent shall deliver, upon notice from Euroclear or Clearstream, Luxembourg, a Permanent Bearer Global Note or a Definitive Bearer Note, as the case may be, in accordance with the terms of the Temporary Bearer Global Note, in each case against certification of non-U.S. beneficial ownership as required by U.S. treasury regulations, substantially in the form set forth in Exhibit J hereto, to the effect that it has received from or in respect of a person entitled to a particular principal amount of the Bearer Notes (as shown by its records) a certificate in or substantially in the form of the certificate set forth in Exhibit K hereto, unless such certification has already been given. Upon any exchange of a portion of a Temporary Bearer Global Note for an interest in a Permanent Bearer Global Note, the London Issuing Agent is hereby authorized on behalf of the bank:

(A) for the first Tranche of any Series of Notes, to cause to be withdrawn from safekeeping the necessary and applicable Permanent Bearer Global Note and, in accordance with the terms of the Temporary Bearer Global Note, to complete a Permanent Bearer Global Note in accordance with the terms of the Temporary Bearer Global Note applicable to such Tranche;

(B) to attach the relevant Pricing Supplement applicable to such Tranche as supplied by the Bank;

(C) for the first Tranche of any Series of Notes, to authenticate such Permanent Bearer Global Note;

(D) for the first Tranche of any Series of Notes, to deliver, in accordance with the Administrative Procedures, such Permanent Bearer Global Note to the specified common depositary that is holding the Temporary Bearer Global Note applicable to such Tranche for the time being on behalf of Euroclear and/or Clearstream, Luxembourg either in exchange for such Temporary Bearer Global Note or, in the case of a partial exchange, on entering details of such partial exchange of the Temporary Bearer Global Note in the relevant spaces in Schedule 2 of both the Temporary Bearer Global Note and the Permanent Bearer Global Note, and in either case against receipt from the common depositary of confirmation that such common depositary is holding the Permanent Bearer Global Note in safe custody for the account of Euroclear and/or Clearstream, Luxembourg; and

(E) in the case of a subsequent Tranche of any Series of Notes, to attach the Pricing Supplement applicable to such Tranche to the Permanent Bearer Global Note applicable to such Series and to enter details of any exchange in whole or in part as stated above.

(b) The London Issuing Agent shall provide Euroclear and/or Clearstream, Luxembourg with such notifications, instructions or other information to be given by the London Issuing Agent to Euroclear and/or Clearstream, Luxembourg in accordance with the standard procedures of Euroclear and/or Clearstream, Luxembourg.

SECTION 8. Issue of Definitive Bearer Notes.

(a) Unless otherwise provided in the applicable terms of the Note, interests in a Bearer Global Note will be exchangeable in whole, but not in part, for Definitive Bearer Notes with Coupons attached: (i) in the case of a Permanent Bearer Global Note, on not less than 60 days' written notice of exchange to the London Issuing Agent from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in the Permanent Bearer Global Note), (ii) if an Event of Default (as defined in the Note) with respect to the Bearer Global Note occurs and is continuing, (iii) if the Bank is notified that either Euroclear or Clearstream, Luxembourg 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 Bearer Global Note or has announced an intention to permanently cease business or has in fact done so and no alternative clearance system approved by the applicable noteholders is available, or (iv) the Bank, after notice to the London Issuing Agent, determines to issue Notes in definitive bearer form. Upon the occurrence of these events, the London Issuing Agent shall cause to be withdrawn from safekeeping the necessary and applicable Definitive Bearer Note(s) and, in accordance with the terms of the relevant Permanent Bearer Global Note, shall:

(A) complete, if applicable, an equal aggregate principal amount of Definitive Bearer Notes of authorized denominations and of like tenor and with identical terms as the Permanent Bearer Global Note in accordance with the terms thereof;

(B) cause the European Registrar to authenticate such Definitive Bearer Note(s); and

(C) deliver in accordance with the Administrative Procedures such Definitive Bearer Note(s) to or to the order of Euroclear and/or Clearstream, Luxembourg in exchange for such Permanent Bearer Global Note.

The London Issuing Agent shall notify the Bank forthwith upon receipt of a request for the issuance of Definitive Bearer Note(s) in accordance with the provisions of a Permanent Bearer Global Note. In the case of Temporary Bearer Global Notes, such exchange shall only be made on or after the Exchange Date against certification of non-U.S. beneficial ownership in accordance with Section 7(a)(ii).

(b) The Bank shall deliver to the London Issuing Agent, pursuant to a request for the issue of Definitive Bearer Notes under the terms of the relevant Permanent Bearer Global Note, a sufficient number of Definitive Bearer Notes (with, if applicable, Receipts, Coupons and Talons attached) executed by an Authorized Representative to enable the London Issuing Agent to comply with its obligations under this Section 8.

SECTION 9. Issue of Definitive Registered Notes.

(a) Definitive Registered Notes shall be issued in exchange for interests in a Registered Global Note only if permitted by applicable law and (i) in the case of a DTC Global Note, DTC notifies the Bank that it is unwilling or unable to continue to act as depositary for the DTC Global Note, or if DTC ceases to be a clearing agency registered under the Securities Exchange Act of 1934, as amended, if so required by applicable law or regulation, and, in either

case, a successor depositary is not appointed by the Bank within 90 days after receiving such notice or becoming aware that DTC is no longer so registered, (ii) in the case of any other Registered Global Note, if the Bank is notified that the clearing system(s) through which the Registered Global 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 Note or has announced an intention to cease business permanently or has in fact done so and no alternative clearing system approved by the applicable noteholders is available, (iii) the Bank in its discretion elects to issue Definitive Registered Notes or (iv) after the occurrence of an Event of Default with respect to any Registered Global Note of a Series, the beneficial owners representing a majority in principal amount of such Registered Global Note advise the relevant clearing system through its participants to cease acting as depositary for such Registered Global Note. If a Master Short-Term Registered Note certificate represents more than one series of Notes, one or more of such series may be issued in the form of Definitive Registered Notes, and such certificate may continue to represent the other series that are not so issued in definitive form.

(b) Upon the occurrence of any event specified in Section 9(a) which pursuant to the terms of a Registered Global Note requires the issue of Definitive Registered Notes in exchange for the Registered Global Note, the applicable Registrar shall cause to be withdrawn from safekeeping the necessary and applicable Definitive Registered Note(s) and, in accordance with the terms of the Registered Global Note, shall:

(A) complete an equal aggregate principal amount of Definitive Registered Note(s) of authorized denominations and of like tenor with identical terms as the Registered Global Note in accordance with the terms of the Registered Global Note;

(B) register such Definitive Registered Notes in the name or names of such persons as the relevant clearing system shall instruct the applicable Registrar in writing;

(C) authenticate such Definitive Registered Notes; and

(D) deliver such Definitive Registered Notes to the relevant clearing system or pursuant to such clearing system's written instructions in exchange for such Registered Global Note.

(c) The Bank shall deliver to the applicable Registrar, upon the occurrence of any event specified in Section 9(a) which pursuant to the terms of a Registered Global Note requires the issue of Definitive Registered Notes, a sufficient number of Definitive Registered Notes executed by an Authorized Representative to enable such Registrar to comply with its obligations under this Section 9.

SECTION 10. Exchanges.

(a) Upon any exchange of a Permanent Bearer Global Note in whole, but not in part, for Definitive Bearer Notes, the London Issuing Agent shall cancel or arrange for the cancellation of such Permanent Bearer Global Note. Upon any exchange of all or a part of an interest in a Temporary Bearer Global Note for an interest in a Permanent Bearer Global Note or for Definitive Bearer Notes, as the case may be, the London Issuing Agent shall procure that the

Temporary Bearer Global Note shall be endorsed by or on behalf of the London Issuing Agent to reflect the reduction of its nominal amount by the aggregate nominal amount so exchanged and, where applicable, the Permanent Bearer Global Note shall be endorsed by or on behalf of the London Issuing Agent to reflect the increase in its nominal amount as a result of any exchange for an interest in the Temporary Bearer Global Notes. Until exchanged in full, the holder of an interest in any Bearer Global Note shall in all respects be entitled to the same benefits as the holder of Notes, Receipts, Coupons and Talons authenticated and delivered hereunder, except as set forth herein or therein. The London Issuing Agent is hereby authorized on behalf of the Bank and instructed (i) to endorse or to arrange for the endorsement of the relevant Temporary Bearer Global Note to reflect the reduction in the principal amount represented thereby by the amount so exchanged and, if appropriate, to endorse the Permanent Bearer Global Note to reflect any increase in the principal amount represented thereby, and in either case, to sign in the relevant space on the relevant Temporary or Permanent Bearer Global Note recording the exchange and the reduction or increase and (ii) in the case of a total exchange, to cancel or arrange for the cancellation of the relevant Temporary Bearer Global Note.

(b) Any exchange of all or part of an interest in a Temporary Bearer Global Note for an interest in a Permanent Bearer Global Note or any exchange of all or part of an interest in a Temporary or Permanent Bearer Global Note for Definitive Bearer Notes shall be made only outside of the United States and its possessions.

SECTION 11. Note Register; Registration, Transfer and Exchange; Persons Deemed Owners

(a) The U.S. Registrar, as registrar for certain Registered Notes, and the European Registrar, as registrar for certain Registered Notes, shall maintain at their respective principal offices at Deutsche Bank Trust Company Americas, 60 Wall Street – 27th Floor, New York, New York 10005, at Deutsche Bank Luxembourg, S.A., 2 Boulevard Konrad-Adenauer, L-1115 Luxembourg, or such other locations as may be agreed from time to time, the note register (the "*Note Register*"). The term "Note Register" shall mean the definitive register in which shall be recorded the names, addresses and taxpayer identification numbers of the holders of Registered Notes, the serial and CUSIP numbers (or Common Code/ISIN Numbers, as the case may be) of the Registered Notes, the Original Issue Dates of the Registered Notes and details with respect to the transfer and exchange of Registered Notes.

(b) Upon surrender for the purpose of registration of transfer at the offices of the U.S. Registrar, the European Transfer Agent or any other transfer agent maintained for that purpose of any Registered Note, accompanied by a written instrument of transfer in form satisfactory to the U.S. Registrar, the European Transfer Agent or such other transfer agent, executed by the registered holder, in person or by such holder's attorney thereunto duly authorized in writing, with such evidence of due authorization and guaranty as may reasonably be required by such U.S. Registrar, European Transfer Agent or such other transfer agent, such Registered Note shall be transferred upon the Note Register, and the U.S. Registrar or the European Registrar, as the case may be, shall complete, authenticate and deliver, in the name of the designated transferee or transferees, one or more new Registered Notes of authorized denominations, of an equal aggregate principal amount and of like tenor with identical terms and provisions; *provided, however*, that Registered Notes may be delivered for the purpose of registration of transfer by mail at the risk and expense of the transferor. Transfers and exchanges of Registered Notes shall be subject to such restrictions as shall be set forth herein and in the text of the Notes and such reasonable regulations as may be prescribed by the Bank. Successive registrations and registrations of transfers as aforesaid may be made from time to time as desired, and each such registration shall be noted on the Note Register.

(c) Notwithstanding anything to the contrary contained in Section 11(b), if the Notes of any Series are for the time being represented by both a DTC Global Note and a Euroclear/Clearstream, Luxembourg Global Note and an authorized representative of DTC presents the DTC Global Note to the U.S. Registrar, the European Transfer Agent or any other transfer agent maintained for that purpose, accompanied by a written instrument of transfer in form satisfactory to the U.S. Registrar, the European Transfer Agent or such transfer agent, executed by DTC or by DTC's attorney thereunto duly authorized in writing, for the purpose of registration of transfer of all or any portion of DTC's interest in such DTC Global Note to Euroclear and/or Clearstream, Luxembourg, such DTC Global Note or the relevant interest therein shall be transferred upon the Note Register, and the U.S. Registrar shall endorse the DTC Global Note to reflect the reduction of its principal amount by the aggregate principal amount so transferred and the appropriate Euroclear/Clearstream, Luxembourg Global Note shall be endorsed by the European Registrar to reflect the increase of its principal amount by the aggregate principal amount so transferred. The applicable Registrar is hereby authorized on behalf of the Bank (i) to endorse or to arrange for the endorsement of the relevant DTC Global Note to reflect the reduction in the principal amount represented thereby by the amount so transferred and to endorse the appropriate Euroclear/Clearstream, Luxembourg Global Note to reflect the increase in the principal amount represented thereby by the amount so transferred and, in either case, to sign in the relevant space on the relevant Note recording such reduction or increase and (ii) in the case of a total exchange, to cancel or arrange for the cancellation of the DTC Global Note.

(d) Notwithstanding anything to the contrary contained in Section 11(b), if the Notes of any series are for the time being represented by both a DTC Global Note and a Euroclear/Clearstream, Luxembourg Global Note and an authorized representative of Euroclear or Clearstream, Luxembourg presents the Euroclear/Clearstream, Luxembourg Global Note to the European Registrar, the European Transfer Agent or any other transfer agent maintained for that purpose, accompanied by a written instrument of transfer in form satisfactory to the European Registrar, the European Transfer Agent or such transfer agent, executed by Euroclear or Clearstream, Luxembourg, as the case may be, or by Euroclear's or Clearstream, Luxembourg's attorney thereunto duly authorized in writing, for the purpose of registration of transfer of all or any portion of Euroclear's or Clearstream, Luxembourg's interest in such Euroclear/Clearstream, Luxembourg Global Note to DTC, such Euroclear/Clearstream, Luxembourg Global Note or the relevant interest therein shall be transferred upon the Note Register, and the European Registrar shall endorse the Euroclear/Clearstream, Luxembourg Global Note to reflect the reduction of its principal amount by the aggregate principal amount so transferred and the appropriate DTC Global Note shall be endorsed by the U.S. Registrar to reflect the increase of its principal amount by the aggregate principal amount so transferred. The applicable Registrar is hereby authorized on behalf of the Bank (i) to endorse or to arrange for the endorsement of the relevant Euroclear/Clearstream, Luxembourg Global Note to reflect the reduction in the principal amount represented thereby by the amount so transferred and to endorse the appropriate DTC Global Note to reflect the increase in the principal amount represented thereby by the amount so transferred and, in either case, to sign in the relevant space on the relevant Note recording such reduction or increase and (ii) in the case of a total exchange, to cancel or arrange for the cancellation of the Euroclear/Clearstream, Luxembourg Global Note.

(e) At the option of the holder of a Definitive Registered Note, such Definitive Registered Note may be exchanged for other Definitive Registered Notes of any authorized denominations of an equal aggregate principal amount and of like tenor with identical terms and provisions, upon surrender of the Definitive Registered Note to be exchanged at the offices of the applicable Registrar, the European Transfer Agent or any other transfer agent maintained for that purpose. Whenever any Definitive Registered Notes are so surrendered for exchange, the applicable Registrar shall complete, authenticate and deliver the Definitive Registered Notes which the holder of the Definitive Registered Note making the exchange is entitled to receive. Except as provided in Section 9 hereof or in the applicable Pricing Supplement and Note, owners of beneficial interests in a Registered Global Note shall not be entitled to have Notes registered in their names, shall not receive or be entitled to receive physical delivery of Definitive Registered Notes and shall not be considered the owners or holders thereof under this Agreement.

(f) Notwithstanding the foregoing, neither the U.S. Registrar, the European Registrar, the European Transfer Agent nor any other transfer agent maintained for that purpose shall register the transfer or exchange of (i) any Registered Note that has been called for redemption in whole or in part, except the unredeemed portion of any Registered Note being redeemed in part, (ii) any Registered Note during the period beginning at the opening of business 15 days before the mailing of a notice of such redemption and ending at the close of business on the day of such mailing, or (iii) any Registered Global Note if the Registrar, the European Transfer Agent or such transfer agent learns that such proposed transfer or exchange would violate any legend contained on the face of such Registered Global Note.

(g) All Registered Notes issued upon any registration of transfer or exchange of Registered Notes shall be valid obligations of the Bank, evidencing the same debt, and entitled to the same benefits as the Registered Notes surrendered upon such registration of transfer or exchange.

(h) Bearer Notes and any Coupons are transferable by delivery. At the option of the holder of a Definitive Bearer Note, such Definitive Bearer Note may exchanged for other Definitive Bearer Notes of any authorized denominations of an equal aggregate principal amount and of like tenor with identical terms and provisions, upon surrender of the Definitive Bearer Note to be exchanged at the offices of the European Transfer Agent or any other transfer agent maintained for that purpose. Whenever any Definitive Bearer Notes are so surrendered for exchange, the European Transfer Agent shall complete, authenticate and deliver the Definitive Bearer Notes which the holder of the Definitive Bearer Note making the exchange is entitled to receive.

(i) No service charge shall be made to a holder of Registered Notes for any transfer or exchange of Registered Notes, but the Bank or the applicable Registrar or any Agent, as the case may be, may require payment of a sum sufficient to cover any stamp or other tax, duty, assessment or governmental charge that may be imposed in connection therewith.

(j) The Bank and the Agents and any agent of the Bank or the Agents may treat the holder in whose name a Registered Note is registered on the Note Register as the owner of such Registered Note for all purposes, whether or not such Registered Note be overdue, and neither the Bank, the Agents, nor any such agent shall be affected by notice to the contrary except as required by applicable law.

(k) The Bank and Agents and any agent of the Bank or the Agents may deem and treat the holder of a Bearer Note as the absolute owner of such Bearer Note for all purposes, whether or not such Bearer Note be overdue, and neither the Bank, the Agents nor any such agent shall be affected by notice to the contrary, except as required by law.

SECTION 12. Terms of Issue.

(a) The applicable Registrar and the London Issuing Agent shall cause all Notes delivered to and held by it under this Agreement to be maintained in safe custody and shall ensure that such Notes are issued only in accordance with the provisions of this Agreement and the relevant Note in authorized denominations and otherwise in accordance with the instructions received by it.

(b) Subject to the procedures set out in the Administrative Procedures, the applicable Registrar and the London Issuing Agent shall be entitled to treat a facsimile communication from a person purporting to be (and whom the Registrar or London Issuing Agent believes in good faith to be) an Authorized Representative as sufficient instructions and authority of the Bank for the applicable Registrar and the London Issuing Agent to act in accordance with Section 5, Section 6, Section 8, Section 9 or Section 12 of this Agreement, as applicable.

(c) Unless otherwise agreed in writing between the Bank and the applicable Registrar or London Issuing Agent, as applicable, each Note credited to the applicable Registrar's or London Issuing Agent's distribution account with DTC, Euroclear or Clearstream, Luxembourg following the delivery of a Registered Global Note to a custodian of DTC or a common depositary for Euroclear and Clearstream, Luxembourg in accordance with clause (v) of Section 5(a) of this Agreement or the delivery of a Temporary Bearer Global Note to a common depositary for Euroclear and Clearstream, Luxembourg in accordance with clause (iv) of Section 6(a) of this Agreement, as the case may be, shall be held pursuant to the order of the Bank. The applicable Registrar or London Issuing Agent shall ensure that the principal amount of Notes which the relevant purchaser has agreed to purchase is:

(A) debited from the applicable Registrar's or London Issuing Agent's account; and

(B) credited to the account of such purchaser with DTC or Euroclear or Clearstream, Luxembourg, as the case may be;

in each case, only upon receipt by the applicable Registrar or London Issuing Agent on behalf of the Bank of the full purchase price due from the relevant purchaser with respect to such Notes.

(d) If on the relevant settlement date, the purchaser does not pay the full purchase price due from it with respect to any Note (the "*Defaulted Note*") and, as a result, the Defaulted Note remains in the applicable Registrar's or London Issuing Agent's distribution account with DTC or Euroclear and/or Clearstream, Luxembourg after such settlement date, the applicable Registrar or London Issuing Agent shall continue to hold the Defaulted Note pursuant to the order of the Bank. The applicable Registrar or London Issuing Agent shall notify the Bank forthwith of the failure of the purchaser to pay the full purchase price due from it with respect to any Defaulted Note and subsequently, unless otherwise instructed by the Bank, shall cancel or arrange the cancellation of such Defaulted Note.

(e) In the event of an issue of Notes which is to be listed, quoted and/or traded on a Stock Exchange, subject to timely receipt of issuance instructions from the Bank in accordance with the terms of the Administrative Procedures, the London Paying Agent shall promptly, and in any event prior to the settlement date with respect to such issue, send the Pricing Supplement with respect to such Notes to the relevant listing agent. The Agents shall take such actions as may be requested from time to time in writing by the Bank or the relevant listing agent to permit the Notes, if applicable, to be listed, quoted and/or traded on such Stock Exchange.

(f) The Administrative Procedures shall not be amended by the Bank without the prior written approval of the relevant Agent or Agents, as applicable.

(g) If a Paying Agent pays an amount (the "*Advance*") to the Bank on the basis that a payment has been or will be received from a Selling Agent and if the payment is not received by the Paying Agent on the date the Paying Agent pays the Bank, the Paying Agent shall notify the Bank by facsimile that the payment has not been received and the Bank shall repay to the Paying Agent the Advance and shall pay interest (at a rate determined in good faith by the Paying Agent to represent its cost of funding the Advance) on the Advance (or the unreimbursed portion thereof) from (and including) the date such Advance is made to (but excluding) the earlier of repayment of the Advance and receipt by the Paying Agent of the payment.

SECTION 13. Payments.

(a) The U.S. Paying Agent (in the case of Registered Global Notes issued through DTC and Definitive Registered Notes) or the London Paying Agent (in the case of Registered Global Notes issued through Euroclear or Clearstream, Luxembourg, Temporary Bearer Global Notes, Permanent Bearer Global Notes and Definitive Bearer Notes) shall provide the Bank not later than 10 Business Days prior to the date on which any payment is to be made to the U.S. Paying Agent or the London Paying Agent, as the case may be, pursuant to this Section 13(a), a list of principal payments, interest payments or other payments to be made with respect to each Note on any Interest Payment Date or any maturity date or date of redemption or repayment and the total of such amounts, and the Bank shall (i) before 4:00 p.m. (New York time) on the second Business Day prior to the date on which any payment with respect to any Notes becomes due, confirm to the U.S. Paying Agent or the London Paying Agent, as the case may be, by facsimile or by other means acceptable to the Bank and the U.S. Paying Agent or the London Paying Agent, as the case may be, that it has given instructions for the transfer of the relevant funds to the U.S. Paying Agent or the London Paying Agent, as the case may be, and the name and account of the bank through which such payment is being made and provide details of the person or department in such bank to which communications to such bank should be addressed and (ii) not later than the Payment Time (as defined below) on the Business Day on which any payment

with respect to any Notes becomes due, transfer to an account specified by the U.S. Paying Agent or the London Paying Agent, as the case may be, such amount in the relevant currency as shall be sufficient for the purposes of such payment in funds settled through such payment system as the U.S. Paying Agent or the London Paying Agent, as the case may be, and the Bank may agree. As used in this subsection (a), the term "*Payment Time*" means 10:00 a.m. New York time or, in the case of a payment in a currency other than U.S. Dollars, London time.

(b) Subject to the U.S. Paying Agent or the London Paying Agent, as the case may be, being satisfied in its sole reasonable discretion that payment will be duly made as provided in Section 13(a) of this Agreement, the relevant Paying Agent may, but shall not be required to, pay or cause to be paid all amounts due with respect to the Notes on behalf of the Bank in the manner provided in the Notes. If any payment provided for in Section 13(a) hereof is made late but otherwise in accordance with the provisions of this Agreement, each Paying Agent shall nevertheless make payments with respect to the Notes as aforesaid following its actual receipt of such payment.

(c) If for any reason the U.S. Paying Agent or the London Paying Agent, as the case may be, considers in its sole reasonable discretion that the amounts to be received by the U.S. Paying Agent or the London Paying Agent, as the case may be, pursuant to Section 13(a) hereof will be, or the amounts actually received by it pursuant thereto are, insufficient to satisfy all claims with respect to all payments then falling due with respect to the Notes, the U.S. Paying Agent or the London Paying Agent, as the case may be, shall then forthwith notify the Bank of such insufficiency and, until such time as the U.S. Paying Agent or the London Paying Agent, as the case may be, has received the full amount of all such payments in available funds, no Paying Agent shall be obligated to pay any such claims.

(d) The London Paying Agent shall ensure that payments of both principal and interest in respect of any Temporary Bearer Global Note will be made only to the extent that certification of non-U.S. beneficial ownership as required by U.S. treasury regulations has been received from Euroclear and/or Clearstream, Luxembourg in accordance with the terms thereof.

(e) While any Notes are represented by a Temporary or Permanent Bearer Global Note(s), all payments due in respect of such Notes shall be made to, or to the order of, the holder of the Temporary or Permanent Bearer Global Note(s), subject to, and in accordance with, the provisions of the Temporary or Permanent Bearer Global Note, as applicable. The London Paying Agent shall cause the appropriate Schedule to the relevant Temporary or Permanent Bearer Global Note to be annotated so as to evidence the amounts and dates of such payments of principal and/or interest, as applicable.

(f) All payments in respect of any Temporary Bearer Global Note, Permanent Bearer Global Note or Definitive Bearer Note shall be made outside the United States and its possessions. Payments on any Bearer Notes will not be made (i) at any office or agency of the Bank in the United States or its possessions; (ii) by check mailed to any address in the United States or its possessions; or (iii) by wire transfer to an account maintained with a bank located in the United States or its possessions; provided, however, that payments in U.S. Dollars with respect to Bearer Notes may be made at the specified office of a paying agent in the United States or its possessions if (I) the Bank has appointed paying agents with specified offices

outside the United States and its possessions with the reasonable expectation that such paying agents will be able to make payment of the full amount of principal, premium, if any, interest, or any other amounts payable on the Bearer Notes in the manner provided in this Section 13 when due in U.S. Dollars at such specified offices; (II) payment of the full amount due of such principal, premium, if any, interest, or any other amounts payable, at all such specified offices outside the United States and its possessions is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. Dollars; and (III) such payment is then permitted under United States law without involving, in the opinion of the Bank, adverse tax consequences for the Bank.

(g) If the amount of principal and/or interest then due for payment is not paid in full (otherwise than by reasons of a deduction required by law to be made therefrom), the U.S. Paying Agent or the London Paying Agent, as the case may be, shall make a record of such shortfall on the Note and such record shall, in the absence of manifest error, be prima facie evidence that the payment in question has not to that extent been made.

SECTION 14. Determination and Notifications with Respect to Notes

(a) The London Paying Agent shall prepare and deliver such monthly reports as may be required in connection with Outstanding Series of Notes to the Bank of England and the Ministry of Finance of Japan and, if agreed between the Bank and the London Paying Agent, shall take all necessary action to comply with such other reporting requirements of any competent authority in respect of any relevant currency as it may be directed, in writing, from time to time with respect to Notes Outstanding hereunder.

(b) For purposes of monitoring the aggregate principal amount of Notes Outstanding at any time under the Program, the U.S. Dollar equivalent of the principal amount of each Series of Notes denominated in another currency, each Series of Dual Currency Notes, each Series of Indexed Notes, each Series of Zero Coupon Notes and each Series of Partly Paid Notes shall be determined as follows:

(A) the U.S. Dollar equivalent of Notes denominated in a currency other than U.S. Dollars shall be determined as of the Original Issue Date for such Notes on the basis of the spot rate for the sale of U.S. Dollars against the purchase of the Specified Currency quoted by a foreign exchange dealer selected by the Bank on the relevant day of calculation;

(B) the U.S. Dollar equivalent of Dual Currency Notes and Indexed Notes shall be determined in the manner specified in clause (i) above by reference to the original principal amount of such Notes;

(C) the U.S. Dollar equivalent of original issue discount Notes and any other Notes issued at a discount or premium shall be determined in the manner specified in clause (i) above by reference to the net proceeds received by the Bank for the relevant issue; and

(D) the U.S. Dollar equivalent of Partly Paid Notes shall be determined in the manner specified in clause (i) above by reference to the principal amount thereof regardless of the amount paid up on such Notes.

The Exchange Rate Agent shall promptly notify the Bank and the Paying Agents of each determination made as aforesaid.

SECTION 15. Notice of Any Withholding or Deduction.

If, with respect to any payments, the Bank is compelled to withhold or deduct any amount for or on account of taxes, duties, assessments or governmental charges as specifically contemplated under the terms of the Notes, the Bank shall give notice thereof to each Paying Agent and the applicable Registrar, if applicable, as soon as it becomes aware of the requirement to make such withholding or deduction and shall give to each Paying Agent and the applicable Registrar, if applicable, such information as such Paying Agent or the applicable Registrar, as the case may be, shall require to enable them to comply with such requirement. At the request of the Bank, any such Paying Agent or Registrar which is a foreign person shall take such actions as are necessary in order to constitute an authorized foreign agent of the Bank pursuant to Treasury regulation Section 1.1441-7(c), including making available such of its books and records and personnel which are relevant to the carrying out of its duties under this Section 15, when required in connection with any tax audit undertaken by the U.S. Internal Revenue Service.

SECTION 16. Redemption of Notes.

(a) Unless otherwise provided in the applicable Pricing Supplement, if any Notes are to be redeemed prior to their Stated Maturity Date in accordance with their terms, the Bank shall notify the applicable Agents not less than five days prior to the date on which the Bank will give notice of such redemption to the Noteholders of the Bank's election to so redeem such Notes in whole or in part. Any remaining principal amount of Notes redeemed in part shall be at least the minimum authorized denomination set forth in such Notes or as otherwise provided in the applicable Note or required by the applicable laws and regulations for currencies other than the U.S. Dollar. Immediately prior to the date on which any notice of redemption is to be given as to any Notes, the Bank shall deliver to the applicable Agent a certificate stating that the Bank is entitled to effect such redemption and setting forth in reasonable detail a statement of facts showing that all conditions precedent to such redemption have occurred or been satisfied and shall comply with all notice requirements provided for in the applicable Notes.

(b) Whenever less than all the Notes at any time outstanding are to be redeemed, the Series of Notes to be so redeemed shall be selected by the Bank. If less than all the Notes with identical terms at any time outstanding are to be redeemed on any redemption date, the Notes to be so redeemed shall be selected by the applicable Registrar or the London Issuing Agent, as the case may be, by lot or in any usual manner approved by it, in the case of redeemed Notes represented by Definitive Notes, and in accordance with the rules and procedures of DTC, Euroclear or Clearstream, Luxembourg, as applicable, in the case of redeemed Notes represented by a Global Note. The applicable Registrar or the London Issuing Agent, as the case may be, shall promptly notify the Bank in writing of the Notes selected for redemption and, in the case of Notes selected for partial redemption, the principal amount thereof to be redeemed.

(c) Unless otherwise specified in the applicable Note, notice of redemption shall be given by the applicable Registrar, a Paying Agent or the London Issuing Agent, as designated in the particular instance by the Bank, at the Bank's expense, not more than 60 nor less than 30 calendar days prior to the redemption date to each holder of a Note to be redeemed. Notices in respect of Registered Notes to be redeemed shall be given by first-class mail, postage prepaid, to each holder's address appearing in the Note Register. In the case of Bearer Notes to be redeemed, the London Issuing Agent (or the Bank, in the case of Bearer Notes listed on a Stock Exchange) shall publish the notice required in connection with any such redemption, pursuant to Section 18 hereof, and shall at the same time also publish a separate list of serial numbers of any Notes previously selected and not presented for redemption. All notices of redemption shall identify the Notes to be redeemed (including CUSIP, Common Code and ISIN numbers, as applicable), the date fixed for redemption, the redemption price, the manner in which redemption will be effected and, in the case of a partial redemption, the serial numbers (and principal amounts) of the Notes to be redeemed.

(d) Upon notice of redemption having been given as described above, the Notes so to be redeemed shall, on the redemption date, become due and payable at the redemption price specified in such Notes, and upon payment by the Bank of the full redemption price specified in such Notes, from and after such redemption date, such Notes shall cease to bear interest. Upon surrender of any such Notes for redemption in accordance with such notice, the relevant Paying Agent shall pay or cause to be paid such Notes at the redemption price specified in such Notes, together with unpaid interest accrued on such Notes at the applicable interest rate of such Notes to, but excluding, the redemption date.

(e) Any Definitive Registered Note or Definitive Bearer Note which is to be redeemed only in part shall be surrendered to the applicable Registrar or the London Issuing Agent, respectively, and the applicable Registrar or the London Issuing Agent, as the case may be, shall complete, authenticate and deliver to a holder of such Note, without service charge, a new Definitive Registered Note or Definitive Bearer Note of any authorized denomination as requested by such holder, in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal amount of the Note so surrendered.

SECTION 17. Repayment of Notes.

(a) In order for any Note, in accordance with its terms, to be repaid in whole or in part at the option of the holder thereof, such Note must be delivered by the holder thereof, with the form entitled "Option to Elect Repayment" (set forth in such Note) duly completed, to the relevant Paying Agent at the address set forth in such form, or at such place or places of which the Bank shall from time to time notify the holders of the Notes, not more than 60 nor less than 30 days prior to the date fixed for the repayment of such Notes (the "*Optional Repayment Date*").

(b) Upon surrender of any Note for repayment in accordance with the provisions set forth above and in such Note, the Note to be repaid shall, on the Optional Repayment Date, become due and payable, and the relevant Paying Agent shall pay or cause to be paid such Note on the Optional Repayment Date at a price, unless otherwise specified in such Note,

equal to 100% of the principal amount thereof, together with accrued and unpaid interest to, but excluding, the Optional Repayment Date.

(c) If less than the entire principal amount of any Note is to be repaid, the holder thereof shall specify the portion thereof (which shall be in increments of US$1,000 or the equivalent thereof in other currencies, or as otherwise provided in the applicable Note or required by the applicable laws and regulations for currencies other than the U.S. Dollar) which such holder elects to have repaid and shall surrender such Note to the relevant Paying Agent. The applicable Registrar or the London Issuing Agent, as the case may be, shall complete, authenticate and deliver to the holder of such Note, without service charge, a new Note or Notes in an aggregate principal amount equal to and in exchange for the unrepaid portion of the principal of the Note so surrendered and in such denominations as shall be specified by such holder, which shall be at least the minimum authorized denomination as set forth in such Note.

SECTION 18. Notices to Holders.

(a) On behalf of and at the request and expense of the Bank, the applicable Registrar or, in the case of the Notes issued by the London Issuing Agent, the London Issuing Agent shall give or cause to be given all notices required to be given by the Bank in accordance with the terms of the Notes.

(b) All notices with respect to Registered Notes shall be mailed by the U.S. Registrar by first-class mail, postage prepaid, to the holders thereof at their addresses appearing in the Note Register.

(c) All notices with respect to Bearer Notes shall be given to the London Issuing Agent not later than five Business Days prior to any publication date, and shall be published by the London Issuing Agent in one leading English language daily newspaper with general circulation in London or, if that is not possible, one other English language newspaper with general circulation in Europe as the Bank shall decide and, if directed by the Bank in writing, the London Issuing Agent shall, in accordance with such direction, also publish notices in a manner that complies with the rules and regulations of any Stock Exchange on which such Bearer Notes are then listed, quoted and/or traded. Any such notice shall be deemed to have been given on the date of the first publication. Couponholders shall be deemed for all purposes to have notice of the contents of any notice given to Noteholders in accordance with this paragraph.

(d) Notwithstanding any provision to the contrary contained in this Agreement, and until such time as any Definitive Bearer Notes are issued, so long as Temporary Bearer Global Notes or Permanent Bearer Global Notes are held in their entirety on behalf of Euroclear and Clearstream, Luxembourg, the London Issuing Agent may substitute for such publication required by Section 18(c) the delivery of the relevant notice to Euroclear and Clearstream, Luxembourg for communication by them to the beneficial owners of interests in the Temporary Bearer Global Notes and Permanent Bearer Global Notes; *provided, however*, that, so long as the rules of any Stock Exchange so require and if so directed in writing by the Bank, such publication will nevertheless be made as described in Section 18(c) in respect of Bearer Notes listed on such Stock Exchange. Any such notice shall be deemed to have been given to the beneficial owners of interests in the Temporary Bearer Global Notes and Permanent Bearer Global Notes on the seventh day after the day on which said notice was given to Euroclear and Clearstream, Luxembourg.

SECTION 19. Cancellation of Notes, Receipts, Coupons and Talons.

(a) All Notes which are purchased by or on behalf of the Bank or any of its affiliates, together (in the case of Definitive Bearer Notes) with all unmatured Receipts, Coupons or Talons (if any) attached thereto or surrendered therewith, may, at the election of the Bank, be canceled by the Bank. Where any Notes, Receipts, Coupons or Talons are purchased and canceled as aforesaid, the Bank shall make sure that all relevant details are promptly given to the applicable Paying Agent and that all Notes, Receipts, Coupons or Talons so canceled are delivered to the applicable Paying Agent. All Notes which are redeemed, all Receipts or Coupons which are paid and all Talons which are exchanged (which in the case of Bearer Notes, Receipts, Coupons or Talons shall be delivered outside the United States and its possessions) shall be canceled by the Paying Agent by which they are redeemed, paid or exchanged. Each of the Paying Agents shall give to the applicable Registrar written details of all payments made by it and shall deliver a certificate of destruction for all canceled Notes, Receipts, Coupons and Talons to the applicable Registrar or to any Paying Agent authorized from time to time in writing by the applicable Registrar to accept delivery of canceled Notes, Receipts, Coupons and Talons.

(b) A certificate stating:

(A) the aggregate principal amount of Notes which have been redeemed and the aggregate amount paid in respect thereof;

(B) the number of Notes canceled, together (in the case of Definitive Bearer Notes) with details of all unmatured Receipts, Coupons or Talons (if any) attached thereto or delivered therewith;

(C) the aggregate amount paid with respect to interest on the Notes;

(D) the total number by maturity date of Receipts, Coupons and Talons so canceled; and

(E) (in the case of Definitive Bearer Notes) the serial numbers of such Notes,

shall be given to the Bank by the applicable Paying Agent as soon as reasonably practicable and in any event within three months after the date of such repayment or, as the case may be, payment or exchange.

(c) Subject to being duly notified in due time, the applicable Paying Agent shall give a certificate to the Bank, within three months of the date of purchase and cancellation of Notes as aforesaid, stating:

(A) the principal amount of Notes so purchased and canceled;

(B) the serial numbers of such Notes; and

(C) the total number by maturity date of the Receipts, Coupons and Talons (if any) appertaining thereto and surrendered therewith or attached thereto.

(d) The applicable Paying Agent shall destroy (in accordance with its customary procedures) all canceled Notes, Receipts, Coupons and Talons (unless otherwise previously instructed by the Bank) and, forthwith upon destruction, furnish the Bank with a certificate of the serial numbers of the Notes and the number by maturity date of Receipts, Coupons and Talons so destroyed.

(e) Without prejudice to its obligations pursuant to Section 19(b), the applicable Paying Agent shall keep a full and complete record of all Notes, Receipts, Coupons and Talons (other than serial numbers of Coupons, except those which have been replaced pursuant to Section 20 hereof) and of all replacement Notes, Receipts, Coupons or Talons issued in substitution for mutilated, defaced, destroyed, lost or stolen Notes, Receipts, Coupons or Talons pursuant to Section 20 hereof. The applicable Paying Agent shall at all reasonable times make such record available to the Bank and any person authorized by the Bank for inspection and for the taking of copies thereof or extracts therefrom.

(f) All records and certificates made or given pursuant to this Section 19 and Section 20 hereof shall make a distinction between Notes, Receipts, Coupons and Talons of each Series and Tranche, as appropriate.

(g) The London Issuing Agent is authorized by the Bank and instructed to endorse or to arrange for the endorsement of the relevant Temporary or Permanent Bearer Global Note to reflect the reduction in the nominal amount represented by it by the amount so redeemed, repurchased and cancelled.

SECTION 20. Issue of Replacement Notes, Receipts, Coupons and Talons.

(a) The Bank will cause a sufficient quantity of additional forms of Notes, Receipts, Coupons and Talons to be available, upon request, to the London Issuing Agent (in the case of Bearer Notes, Receipts, Coupons and Talons) and to the applicable Registrar (in the case of Registered Notes) at their specified office for the purpose of issuing replacement Notes, Receipts, Coupons and Talons as provided below.

(b) The London Issuing Agent or the applicable Registrar will, subject to and in accordance with the terms of the Notes and the following provisions of this Section 20, authenticate and cause to be delivered any replacement Notes, Receipts, Coupons and Talons which the Bank may determine to issue in place of Notes, Receipts, Coupons and Talons which have been lost, stolen, mutilated, defaced or destroyed.

(c) In the case of a mutilated or defaced Definitive Bearer Note, the London Issuing Agent shall ensure that (unless otherwise covered by such indemnity as the Bank may require) any replacement Note will only have attached to it Receipts, Coupons and Talons corresponding to those (if any) attached to the mutilated or defaced Note which is presented for replacement.

(d) Neither the applicable Registrar nor the London Issuing Agent shall issue any replacement Note, Receipt, Coupon or Talon unless and until the applicant therefor shall have:

(A) paid such costs as may be incurred in connection therewith, including any tax or other governmental charge that may be imposed in relation thereto;

(B) furnished it with such evidence (including evidence as to the serial number of such Note, Receipt, Coupon or Talon) and indemnity (which may include a bank guarantee) as the Bank and the applicable Registrar or the London Issuing Agent, as the case may be, may require; and

(C) in the case of any mutilated or defaced Note, Receipt, Coupon or Talon, surrendered the same to the applicable Registrar or the London Issuing Agent, as the case may be.

(e) The applicable Registrar or the London Issuing Agent, as the case may be, shall cancel any mutilated or defaced Notes, Receipts, Coupons and Talons with respect to which replacement Notes, Receipts, Coupons and Talons have been issued pursuant to this Section 20 and shall furnish the Bank with a certificate stating the serial numbers of the Notes, Receipts, Coupons and Talons so canceled and, unless otherwise instructed by the Bank in writing, shall destroy (in accordance with its customary procedures) such canceled Notes, Receipts, Coupons and Talons and furnish the Bank with a destruction certificate containing the information specified in Section 19(d) hereof.

(f) The applicable Registrar or the London Issuing Agent, as the case may be, on issuing any replacement Note, Receipt, Coupon or Talon, shall forthwith inform the Bank and the Paying Agents of the serial number of such replacement Note, Receipt, Coupon or Talon issued and (if known) of the serial number of the Note, Receipt, Coupon or Talon in place of which such replacement Note, Receipt, Coupon or Talon has been issued. Whenever replacement Receipts, Coupons or Talons are issued pursuant to the provisions of this Section 20(f), the London Issuing Agent shall also notify the Paying Agents of the maturity dates of the lost, stolen, mutilated, defaced or destroyed Receipts, Coupons or Talons and of the replacement Receipts, Coupons or Talons issued.

(g) The applicable Registrar or the London Issuing Agent, as the case may be, shall keep a full and complete record of all replacement Notes, Receipts, Coupons and Talons issued and shall make such record available at all reasonable times to the Bank and any persons authorized by the Bank for inspection and for the taking of copies thereof or extracts therefrom.

(h) Whenever any Definitive Bearer Note, Receipt, Coupon or Talon for which a replacement Note, Receipt, Coupon or Talon has been issued and with respect to which the serial number is known is presented to any of the Paying Agents for payment, the relevant Paying Agent shall immediately send notice thereof to the Bank, the European Registrar, the London Issuing Agent and the other paying agents, if any, and shall not make payment in respect thereto, until instructed by the Bank.

SECTION 21. Copies of Documents Available for Inspection.

The Paying Agents, the Registrars and the London Issuing Agent shall, for as long as any Note remains outstanding, hold copies of this Agreement, the Offering Circular (as amended or supplemented from time to time), each Pricing Supplement (except that a Pricing Supplement

relating to unlisted Notes will only be available for inspection by a holder of such a Note upon production of evidence satisfactory to the relevant Paying Agent as to the identity of such holder), the Bank's Articles of Association and By-Laws, as amended or restated, and any documents incorporated by reference into the Offering Circular available for inspection during normal business hours. For this purpose, the Bank shall furnish the Agents with sufficient copies of each of such documents.

SECTION 22. Commissions and Expenses.

The Bank shall pay to the Agents such fees and commissions as the Bank and each of the Agents may separately agree from time to time in writing with respect to the services of the Agents hereunder together with any properly documented expenses (including legal, printing, postage, tax, cable and advertising expenses) incurred by the Agents without negligence, bad faith, or willful misconduct, in connection with their said services. Nothing in this Agreement shall obligate the Agents to take any action which would involve any such expenses, unless and until such Agent shall have received payment in respect thereof. At the request of the Agents, the parties to this Agreement may, from time to time during the continuance of this Agreement, review the commissions agreed initially pursuant to this Section 22 with a view to determining whether the parties can mutually agree upon any changes to such commissions.

SECTION 23. Indemnity.

The Bank agrees to indemnify each of the Agents (including their respective directors, officers, attorneys, employees and agents) for, and to hold it harmless against, any loss, liability or expense (including reasonable attorneys fees and disbursements) incurred without negligence, bad faith or willful misconduct on its part, arising out of or in connection with this Agreement or the Administrative Procedures and/or the performance of such Agent's duties hereunder and under the Administrative Procedures, including the properly incurred costs and expenses of defending it against any claim of liability in the premises. An Agent may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any related loss, liability or expense. These indemnification obligations shall survive the termination of this Agreement, including any termination under U.S. state or federal banking law or other insolvency law, to the extent enforceable under applicable law, and shall survive the resignation or removal of any Agent while remaining applicable to any action taken or omitted by such Agent while acting pursuant to this Agreement.

SECTION 24. Repayment by the Paying Agents.

(a) The relevant Paying Agent shall, forthwith on written demand, repay to the Bank sums equivalent to any amounts paid by the Bank to such Paying Agent for the payment of principal (and premium, if any) or interest with respect to any Registered Notes and remaining unclaimed at the end of two years after the principal of such Registered Notes shall have become due and payable (whether at the Stated Maturity Date or otherwise) and monies sufficient therefor shall have been duly made available for payment, provided that there is not any outstanding, bona fide and proper claim with respect to such amounts. Upon such repayment all liability of such Paying Agent with respect to such funds shall thereupon cease.

(b) Bearer Notes, Receipts and Coupons shall become void unless presented for payment within a period of two years from the date on which the related payment of principal or interest first becomes due (the "*Relevant Date*"). However, if the full amount of the money payable has not been duly received by the relevant Paying Agent on or prior to the Relevant Date, then the Relevant Date shall mean the date on which, after the full amount of such money has been so received, notice to that effect is duly given to the noteholders. The relevant Paying Agent shall, forthwith on written demand, repay to the Bank sums equivalent to any amounts paid by the Bank to such Paying Agent for the payment of principal (and premium, if any) or interest with respect to any such Bearer Note, Receipt or Coupon and remaining unclaimed at the time such Bearer Note, Receipt or Coupon becomes void and all liability with respect thereto shall thereupon cease. No Coupon sheet issued upon exchange of a Talon shall include a Coupon on which the claim for payment would be void pursuant to this Section 24(b) or otherwise pursuant to the term of the Note.

SECTION 25. Conditions of Appointment.

(a) Each Agent shall be entitled to deal with money paid to it by the Bank for the purpose of this Agreement in the same manner as other money paid to a banker by its customers except:

(A) that it shall not exercise any right of set-off, lien or similar claim in respect thereof;

(B) as provided in Section 25(b) below;

(C) that it shall not be liable to account to the Bank for any interest thereon except as otherwise agreed in writing between the Bank and an Agent; and

(D) no monies held by any Agent need be segregated from other funds except as may be required by law.

(b) In acting hereunder and in connection with the Notes, the Agents shall act solely as agents of the Bank and will not thereby assume any obligations towards or relationship of agency or trust for or with any of the owners or holders of the Notes, Receipts, Coupons or Talons, except that all funds held by the Paying Agents for payment to the Noteholders shall be held for the benefit of such holders or owners and applied as set forth herein, but need not be segregated from other funds, except as required by law.

(c) No Agent (which for purposes of this Section 25(c) includes its officers and employees) shall be liable to the Bank for any act or omission hereunder except in the case of negligence, bad faith or willful misconduct. The duties and obligations of the Agents and their respective officers and employees shall be determined by the express provisions of this Agreement, and such Agents, officers or employees shall not be liable except for the negligent performance of such duties and obligations as are specifically set forth herein and no implied covenants shall be read into this Agreement against them. No Agent or its officers or employees shall be required to ascertain whether any issuance or sale of Notes (or any amendment or termination of this Agreement) is in compliance with any other agreement to which the Bank is a party (whether or not any of the Agents is also a party to such other agreement).

(d) THE AGENTS' DUTIES ARE MINISTERIAL IN NATURE AND IN NO EVENT SHALL ANY AGENT BE LIABLE, DIRECTLY OR INDIRECTLY, TO ANY PERSON OR ENTITY FOR ANY (i) LOSS, LIABILITY, DAMAGES OR EXPENSES (OTHER THAN, IN THE CASE OF THE BANK ONLY, THOSE WHICH RESULT DIRECTLY FROM SUCH AGENT'S NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT) OR (ii) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), EVEN IF SUCH AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, INCLUDING, WITHOUT LIMITATION, FOR BREACH OF THIS CONTRACT OR TORT (INCLUDING NEGLIGENCE).

(e) Each Agent shall be entitled to consult with counsel of its choosing and shall have no liability to the Bank in respect of any action taken or omitted by such Agent in good faith in reliance on an opinion of counsel (including in-house counsel) or an Officer's Certificate.

(f) Notwithstanding anything to the contrary in this Agreement, no Agent shall be responsible for any misconduct or negligence on the part of any agent, correspondent, attorney or receiver appointed with due care by it hereunder.

(g) Any of the Agents and any of their officers, directors and employees may become the owner of, or acquire any interest in, any Notes, Receipts, Coupons or Talons with the same rights that it or he would have if such Agent(s) concerned were not appointed hereunder, and may engage or be interested in any financial or other transaction with the Bank and may act on, or as depositary, trustee or agent for, any committee or body of holders of Notes, Receipts, Coupons or Talons or in connection with any other obligations of the Bank as surely as if such Agent(s) were not appointed hereunder.

SECTION 26. Communication Between the Parties.

A copy of all demands, notifications and communications relating to the subject matter of this Agreement between any Noteholders, Receiptholders or Couponholders and any of the Agents shall be sent to the Bank by the relevant Agent. Upon the receipt by any Agent of a demand or notice from any Noteholder in accordance with this Agreement or the applicable Notes, such Agent shall forward a copy thereof to the Bank.

SECTION 27. Changes in Agents.

(a) The Bank agrees that, until no Note is outstanding or until monies for the payment of all amounts with respect to all outstanding Notes have been made available to the Paying Agents (whichever is the later):

(A) so long as any Notes are listed, quoted and/or traded on any Stock Exchange, there will at all times be such paying, issuing, listing and other agents having a specified office in each location required by the rules and regulations of the relevant Stock Exchange; and

(B) with respect to Bearer Notes, (1) there will at all times be a Paying Agent, a London Issuing Agent and a Transfer Agent with a specified office in a city in Europe unless, in respect of any Paying Agent, payments are permitted to be made in the United States and the Bank shall have appointed a Paying Agent in the United States; and (2) in the event that any European Directive on the taxation of savings, or any law implementing or complying with, or introduced in order to conform to, such Directive is introduced, the Bank will use all reasonable efforts to ensure, to the extent practicable, that it will maintain a paying agent in a Member State of the European Union that will not be obliged to withhold or deduct tax from payment in respect of the Notes pursuant to any such Directive or law supplementing or complying with such Directive.

Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Noteholders in accordance with Section 18 hereof.

(b) Subject to Section 27(d), the Bank may terminate the appointment of any Agent at any time and/or appoint one or more further relevant Agents by giving to the relevant Agent at least 45 days' notice in writing to that effect.

(c) Subject to Section 27(d), all or any of the Paying Agents or the European Transfer Agent may resign their respective appointments hereunder at any time by giving the Bank at least 90 days' written notice to that effect.

(d) Any termination under Section 27(b) or resignation under Section 27(c) shall only take effect upon the appointment by the Bank as hereinafter provided of a successor Agent and (other than in cases of insolvency of such Agent) on the expiration of the notice to be given under Section 29 hereof. The Bank agrees with each Agent that if, by the day falling 10 days before the expiration of any notice under Section 27(c), the Bank has not appointed a replacement agent, then the relevant Agent shall be entitled, on behalf of the Bank, to appoint in its place any reputable financial institution of good standing as it may reasonably determine to be capable of performing the duties of such Agent hereunder, and the Bank shall not unreasonably object to such appointment. If the relevant Agent is unable to appoint a replacement agent, the relevant Agent may petition any court of competent jurisdiction for the appointment of a replacement agent.

(e) In case at any time any Agent resigns, or is removed, or becomes incapable of acting, or is adjudged bankrupt or insolvent, or files a voluntary petition for corporate reorganization under any applicable United States federal or state or any foreign bankruptcy, insolvency or similar law or makes an assignment for the benefit of its creditors, or consents to the appointment of an administrator, liquidator, custodian or other similar official of all or substantially all of its property, or admits in writing its inability to pay or meet its debts as they mature, or if a receiver, custodian or other similar official of it or of all or substantially all of its property is appointed, or if an order of any court is entered for relief against it under the provisions of any applicable bankruptcy, insolvency or similar law, or if any public officer takes charge or control of any such Agent or of its property or affairs, for the purpose of rehabilitation, conservation, or liquidation, such Agent promptly shall notify the Bank and the other Agents in

writing of the occurrence of such event, and a successor Agent may be appointed by the Bank by an instrument in writing filed with the successor Agent. Upon the appointment as aforesaid of a successor Agent and acceptance by the latter of such appointment and (other than in the case of insolvency of the Agent) upon expiration of the notice to be given under Section 29 hereof, the Agent so superseded shall cease to be an Agent hereunder.

(f) Prior to its resignation or removal becoming effective, the relevant Agent:

(A) shall, in the case of a Paying Agent, forthwith transfer all monies held by it hereunder, and shall transfer the records referred to in Sections 11(a), 19(e) and 20(g) hereof, as applicable, to the successor Paying Agent or other Agent hereunder; and

(B) shall be entitled to the payment by the Bank of its commissions and fees for the services theretofore rendered hereunder in accordance with the terms of Section 22 hereof.

(g) Upon its appointment becoming effective, any new Paying Agent, London Issuing Agent, Registrar or European Transfer Agent shall, without further act, deed or conveyance, become vested with all the authority, rights, powers, trusts, immunities, duties and obligations of such predecessor with like effect as if originally named as a Paying Agent, London Issuing Agent, Registrar or European Transfer Agent, respectively, hereunder.

(h) The Bank may from time to time, in respect of the Program or in respect of any Series of Notes, appoint one or more additional paying agents by giving to the Agents at least three days' notice to that effect. Upon its written acceptance of such appointment, each such additional paying agent shall have the powers and authority granted to and conferred upon it herein, and such further powers and authority, acceptable to it, to act on behalf of the Bank as the Bank may grant to or confer upon it in writing.

SECTION 28. Merger and Consolidation.

Any entity into which any Agent may be merged, or any entity with which any Agent may be consolidated, or any entity resulting from any merger or consolidation to which any Agent shall be a party, or any entity to which any Agent shall sell or otherwise transfer all or substantially all of the assets or corporate trust business of such Agent shall, on the date when such merger, consolidation or transfer becomes effective and to the extent permitted by any applicable laws, become the successor to such Agent under this Agreement without the execution or filing of any paper or any further act on the part of the parties hereto, unless otherwise required by the Bank, and after the said effective date all references in this Agreement to such Agent shall be deemed to be references to such entity. Notice of any such merger, consolidation or transfer shall forthwith be given to the Bank by the relevant Agent.

SECTION 29. Notifications.

Following receipt of notice of resignation from any Agent and forthwith upon appointing a successor or other Agent, as the case may be, or on giving notice to terminate the appointment of any Agent, the Bank shall give or cause to be given not more than 60 days' nor less than 30 days' notice thereof to the Noteholders in accordance with Section 18 hereof.

SECTION 30. Change of Specified Office.

If any Agent determines to change its specified office it shall give to the Bank and the other Agents written notice of such determination giving the address of the new specified office, which shall be in the same city, and stating the date on which such change is to take effect, which shall not be less than 45 days thereafter. The Bank shall within 15 days of receipt of such notice (unless the appointment of the relevant Agent is to terminate pursuant to Section 27 hereof on or prior to the date of such change) give or cause to be given not more than 45 days' nor less than 30 days' notice thereof to the Noteholders in accordance with Section 18 hereof.

SECTION 31. Notices.

Any notice or communication given to any party hereunder shall be sufficiently given or served if sent by facsimile transmission to the relevant number specified on the signature page hereof and, if so sent, shall be deemed to have been delivered upon transmission, provided such transmission is confirmed when an acknowledgment of receipt is received (in the case of facsimile transmission).

SECTION 32. Taxes and Stamp Duties.

The Bank agrees to pay any and all stamp and other documentary taxes or duties (other than any interest or penalties arising as a result of a failure by any other person to account promptly to the relevant authorities for any such duties or taxes after such person shall have received from the Bank the full amount payable in respect thereof) which may be payable in connection with the execution, delivery, performance and enforcement of this Agreement.

SECTION 33. Currency Indemnity.

If, under any applicable law and whether pursuant to a judgment being made or registered against the Bank or for any other reason, any payment under or in connection with this Agreement is made or is to be satisfied in a currency (the "*other currency*") other than that in which the relevant payment is expressed to be due under this Agreement, the Bank shall arrange to supply the other currency to the relevant Agent, in accordance with the payment timeframes specified in Section 13(a) of this Agreement.

SECTION 34. Amendments.

(a) The Bank and the Agents may modify, amend or supplement this Agreement without the consent of any holder of Notes, Talons, Receipts or Coupons;provided, however, that no such amendment or modification may adversely affect the rights of the holders of a series of outstanding Notes without the prior consent of the holders of a majority in principal amount of outstanding Notes of such series.

(b) The Notes, and any Talons, Receipts and Coupons attached to the Definitive Bearer Notes, may be amended by the Bank without the consent of any holder thereof (upon notice to the parties hereto):

(A) to evidence succession of another party to the Bank, and such party's assumption of the Bank's obligations under the Notes, Talons, Receipts or Coupons, upon the occurrence of a merger or consolidation, or a transfer, sale or lease of assets, as described in Section 34(c);

(B) to add additional covenants, restrictions or conditions for the protection of the holder of the Note, Receipt or Coupon;

(C) to relax or eliminate the restrictions on payment of principal and interest in respect of Bearer Notes, Receipts or Coupons in the United States, provided that such payment is permitted by United States tax laws and regulations then in effect and provided that no adverse tax consequences would result to the holders of the Bearer Notes, Receipts or Coupons;

(D) to cure ambiguities in the Notes, Talons, Receipts or Coupons, or correct defects or inconsistencies in the provisions thereof;

(E) to reflect the replacement of the London Issuing Agent, the U.S. Registrar, the European Registrar, the U.S. Paying Agent, the London Paying Agent, or the European Transfer Agent or the assumption by the Bank or a substitute Agent of some or all of any such Agent's responsibilities under this Agreement;

(F) to evidence the replacement or change of address of the relevant depositary or clearing system;

(G) in the case of any Notes which are extendible, subject to extension at the option of the Bank, amortizing or indexed, or upon prepayment or redemption of the Notes, to reduce the principal amount of the Note to reflect the payment, prepayment or redemption of a portion of the outstanding principal amount of the Note;

(H) in the case of any Notes which are extendible, subject to extension at the option of the Bank, amortizing or indexed, to reflect any change in the Stated Maturity Date of the Note in accordance with the terms of the Note;

(I) to reflect the issuance in exchange for the Note, in accordance with the terms thereof, of one or more Definitive Notes; or

(J) to permit further issuances of Notes in accordance with the terms of the Distribution Agreement;

*provided, however*, that no such modification or amendment may, without the consent of the holder of each outstanding Note affected thereby, and, in the case of Subordinated Notes, the OCC or other then applicable primary federal regulator (to the extent such consent is required under applicable law or regulation): (1) change the Stated Maturity Date, except in the case of Notes which are extendible, subject to extension at the option of the Bank, amortizing or indexed as provided in the Note; (2) extend the time of payment for the premium (if any) or interest on the Note, except in the case of Notes which are extendible, subject to extension at the option of the Bank, amortizing or indexed as provided in the Note; (3) change the coin or currency in

which the principal of, premium (if any), interest or other amounts payable (if any) on the Note or any Coupons appertaining thereto is payable; (4) reduce the principal amount of the Note or the interest rate thereon, except in the case of Notes which are extendible, subject to extension at the option of the Bank, amortizing or indexed or upon prepayment or redemption as provided in the Note; (5) change the method of payment of a Global Note to other than wire transfer in immediately available funds; (6) impair the right of the holder thereof to institute suit for the enforcement of payments of principal of, premium (if any), or interest or other amounts payable (if any) on the Note; (7) change any Note's definition of "Event of Default" or otherwise eliminate or impair any remedy available thereunder upon the occurrence of any Event of Default (as defined in such Note); or (8) modify the provisions therein governing the amendment of that Note. Any instrument given by or on behalf of any holder of a Note in connection with any consent to any such modification, amendment or waiver shall be irrevocable once given and shall be conclusive and binding on all subsequent holders of such Note. Any modifications, amendments or waivers to this Agreement or the provisions of the Notes, Talons, Receipts and Coupons shall be conclusive and binding on all holders of Notes, Talons, Receipts and Coupons, whether or not notation of such modifications, amendments or waivers is made upon the Notes, Receipts, Coupons and Talons. It will not be necessary for the consent of the holders of Notes to approve the particular form of any proposed amendment, but it shall be sufficient if such consent shall approve the substance thereof; provided that the Agents shall have no responsibility for preparing any summary or other notice of such substance to be provided to holders of Notes in connection with any amendment hereto.

(c) The Bank 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 surviving entity in such consolidation or merger, or the Person that acquires by conveyance or transfer, or that leases, the properties and assets of the Bank substantially as an entirety, shall be a bank, corporation, limited liability company or partnership organized and validly existing under the laws of the United States, any state thereof or the District of Columbia, and shall expressly assume the due and punctual payment of the principal of, premium, if any, and interest or other amounts payable (if any) on the Notes, and the performance or observance of every provision of the Notes on the part of the Bank to be performed or observed; and (ii) immediately after giving effect to such transaction, no Event of Default with respect to the Bank as set forth in such Note, and no event which, after notice or the lapse of time or both, would become an Event of Default with respect to the Bank, shall have happened and be continuing.

(d) The Bank shall not modify the terms of subordination of any Subordinated Note, nor amend the original Stated Maturity Date of any Subordinated Note issued hereunder, without first obtaining the written consent to such modification or amendment from the OCC and any applicable state regulator, to the extent required by applicable law or regulation.

SECTION 35. References to Additional Amounts.

All references in this Agreement to principal, premium and interest in respect of any Note shall, unless the context otherwise requires, be deemed to mean and include all Additional Amounts, if any, payable in respect thereof as set forth in such Note.

SECTION 36. Descriptive Headings.

The descriptive headings in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof.

SECTION 37. Governing Law.

This Agreement, the Notes, and any Receipts, Coupons or Talons appertaining thereto shall be governed by, and shall be construed in accordance with, the laws of the State of New York, United States of America and all applicable United States federal laws and regulations.

SECTION 38. Counterparts.

This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

SECTION 39. USA Patriot Act.

The parties hereto acknowledge that, in accordance with Section 326 of the USA Patriot Act, the Agents, like all financial institutions and in order to help fight the funding of terrorism and money laundering, are required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Agents. The parties hereto agree that they will provide the Agents with such information about such parties as the Agents may request in order for the Agents to satisfy the requirements of the USA Patriot Act.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

The Bank

BANK OF AMERICA, N.A.

By: /s/ B. KENNETH BURTON, JR.
Name: B. Kenneth Burton, Jr.
Title: Senior Vice President

Bank of America, N.A.
Bank of America Corporate Center
100 North Tryon Street
NC1-007-07-06
Corporate Treasury Division
Charlotte, North Carolina 28255
Telephone: (704) 387-3776
Facsimile: (704) 386-0270
Attention: B. Kenneth Burton, Jr.

Together with a copy to:

Bank of America Corporation
Legal Department
NC1-002-29-01
101 South Tryon Street
Charlotte, North Carolina 28255
Telephone: (704) 386-4238
Facsimile: (704) 387-0108
Attention: Teresa M. Brenner, Esq.

and

Helms, Mulliss & Wicker, PLLC
201 North Tryon Street
Charlotte, North Carolina 28202
Telephone: (704) 343-2030
Facsimile: (704) 343-2300
Attention: Boyd C. Campbell, Jr., Esq.

The U.S. Registrar and U.S. Paying Agent

DEUTSCHE BANK TRUST COMPANY AMERICAS

By: Deutsche Bank National Trust Company

By: /s/ DAVID CONTINO
Name: David Contino
Title: Assistant Vice President

By: /s/ IRINA GOLOVASHCHUK
Name: Irina Golovashchuk
Title: Assistant Vice President

DEUTSCHE BANK TRUST COMPANY AMERICAS
c/o Deutsche Bank National Trust Company
Global Transaction Banking
Trust & Securities Services
25 DeForest Avenue
MS: 01-0105
Summit, New Jersey 07901
Telephone: (908) 608-3191
Facsimile: (732) 578-4635

The London Paying Agent and London Issuing Agent

DEUTSCHE BANK AG, LONDON BRANCH

By: /s/ ANGELINE GARVEY
Name: Angeline Garvey
Title: Director

By: /s/ ANNA HOGG
Name: Anna Hogg
Title: Vice President

DEUTSCHE BANK AG, LONDON BRANCH
Winchester House
1 Great Winchester Street
London EC2N 2DB
Attention: Trust and Securities Services
Telephone: +44 (0) 20 7545 8000
Facsimile: +44 (0) 20 7547 5782

The European Registrar and European Transfer Agent

DEUTSCHE BANK AG, LONDON BRANCH

By: /s/ ANGELINE GARVEY
Name: Angeline Garvey
Title: Director

By: /s/ ANNA HOGG
Name: Anna Hogg
Title: Vice President

DEUTSCHE BANK LUXEMBOURG S.A.
2 Boulevard Konrad-Adenauer
L-1115 Luxembourg
Attention: Coupon Paying Department
Telephone: +352 421 221
Facsimile: +352 473 136

**AGENCY AGREEMENT**

***relating to***

**B OF A ISSUANCE B.V.**

**U.S. $6,000,000,000**

**Structured Securities Program**

***among***

**B OF A ISSUANCE B.V.**
**as Issuer**

***and***

**BANK OF AMERICA CORPORATION**
**as Guarantor**

***and***

**THE BANK OF NEW YORK**
**as Principal Agent**

***and***
**THE BANK OF NEW YORK, FRANKFURT**
**as German Paying Agent**

**and**

**THE BANK OF NEW YORK (LUXEMBOURG) S.A.**
**as Paying Agent and Luxembourg Listing Agent**

**DATED AS OF SEPTEMBER 7, 2007**

INDEX

THIS AGENCY AGREEMENT (this "Agreement") dated as of September 7, 2007 is made by and among:

(i) B of A Issuance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "Issuer");

(ii) Bank of America Corporation, a Delaware corporation (the "Guarantor," and together with the Issuer, the "Offerors");

(iii) The Bank of New York, a national banking association organized under the laws of the United States (the "Agent" and the "Principal Agent");

(iv) The Bank of New York acting through its office at Frankfurt am Main, Niedenau 61–63, 60325 Frankfurt am Main, Germany (the "German Paying Agent"); and

(v) The Bank of New York (Luxembourg) S.A., a société anonyme organized under the laws of Luxembourg (the "Paying Agent" and the "Luxembourg Listing Agent").

WHEREAS, the Issuer proposes to issue Notes, Certificates and Warrants (the "Securities"), in an amount up to U.S. $6,000,000,000 (or its equivalent in other currencies) outstanding at any one time (calculated in accordance with the provisions of Clause 8(7) hereto), as provided in a Program Agreement of even date (as amended and supplemented from time to time, the "Program Agreement") by and among the Issuer, the Guarantor and Banc of America Securities Limited (the "Arranger") and as described in a Base Prospectus (as defined in the Program Agreement);

WHEREAS, the Securities will be guaranteed by the Guarantor as provided in the guarantee agreement (the "Guarantee") in favor of holders of the Securities executed by the Guarantor of even date;

WHEREAS, the Securities will be issued in the denominations and amounts specified in the applicable Final Terms (as defined in the Program Agreement); and

WHEREAS, unless otherwise determined by the Issuer and specified in the applicable Terms and Conditions, beneficial interests in each Tranche of Notes and Certificates initially will be represented by a Temporary Global Security, exchangeable, as provided in such Temporary Global Security, for beneficial interests in a Permanent Global Security, beneficial interests in each Tranche of Warrants initially will be represented by a Permanent Global Security, and beneficial interests in a Global Security may be exchangeable for Definitive Securities, in each case, as further described herein and in accordance with the Terms and Conditions of the Global Securities.

NOW, THEREFORE, it is agreed as follows:

1. Definitions and Interpretation

(1) Terms and expressions defined in the Program Agreement or the Securities or used in the applicable Terms and Conditions shall have the same meanings in this Agreement, except where the context requires otherwise.

(2) Without prejudice to the foregoing in this Agreement:

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the person;

"Agent" means the Principal Agent or any other agent as the context may require;

"Calculation Agency Agreement" means the Calculation Agency Agreement dated on or about the date hereof in relation to the Program among the Issuer, the Guarantor and one or more agents named therein, as Calculation Agent (each, a "Calculation Agent");

"Certificate" means any certificate issued or to be issued by the Issuer pursuant to this Agreement and includes the Global Certificates, as well as any applicable Definitive Certificates and Coupons;

"CGN" and "Classic Global Note" mean a Temporary Global Note or a Permanent Global Note (other than a German Global Note), in either case where the applicable Final Terms specify the Notes as being in CGN form;

"Clearstream, Frankfurt" means Clearstream Banking AG, Frankfurt;

"Coupons" means the interest coupons substantially in the form set out in Schedule 10 hereto and translated into German in case the binding language of the Terms and Conditions is German provided that tax legends shall be in English to the extent required by U.S. tax laws (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) which are or will be attached to an interest-bearing Definitive Security, if issued, on issue;

"Definitive Certificate" means a Certificate in definitive form issued or to be issued under certain circumstances pursuant hereto substantially in the form set out in Schedule 9 hereto and translated into German in case the binding language of the Terms and Conditions is German provided that tax legends shall be in English to the extent required by U.S. tax laws (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer);

"Definitive Note" means a Note in definitive form issued or to be issued under certain circumstances pursuant hereto substantially in the form set out in Schedule 9 hereto and translated into German in case the binding language of the Terms and Conditions is German provided that tax legends shall be in English to the extent required by U.S. tax laws (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer);

"Definitive Security" means a Definitive Certificate, Definitive Note or Definitive Warrant;

"Definitive Warrant" means a Warrant in definitive form in such form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer issued or to be issued under certain circumstances pursuant hereto;

"Delivery Agency Agreement" means the Delivery Agency Agreement dated on or about the date hereof in relation to the Program among the Issuer, the Guarantor and one or more agents named therein as Delivery Agent (each, a "Delivery Agent");

"Eurosystem-eligible NGN" means a NGN which is intended to be held in a manner which would allow Eurosystem eligibility, as stated in the applicable Final Terms;

"German Global Certificate" means a German Permanent Global Certificate or a German Temporary Global Certificate;

"German Global Note" means a German Permanent Global Note or a German Temporary Global Note;

"German Global Securities" means a German Temporary Global Security or a German Permanent Global Security;

"German Global Warrant" means a global warrant in such form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer;

"German Permanent Global Certificate" means a permanent global certificate substantially in the form set out in Schedule 2 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) issued or to be issued (if indicated in the applicable Final Terms) by the Issuer pursuant to this Agreement in exchange for the German Temporary Global Certificate issued in respect of Certificates of the same series;

"German Permanent Global Note" means a permanent global note substantially in the form set out in Schedule 2 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) issued or to be issued (if indicated in the applicable final terms) by the Issuer pursuant to this Agency Agreement in exchange for the German Temporary Global Note issued in respect of Notes of the same series;

"German Permanent Global Security" means a German Permanent Global Note, a German Permanent Global Certificate or a German Global Warrant;

"German Temporary Global Certificate" means a temporary global certificate substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer);

"German Temporary Global Note" means a temporary global note substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer);

"German Temporary Global Security" means a German Temporary Global Note or a German Temporary Global Certificate;

"Global Certificate" means a Temporary Global Certificate or a Permanent Global Certificate;

"Global Note" means a Temporary Global Note or a Permanent Global Note;

"Global Security" means a Temporary Global Security or a Permanent Global Security;

"Global Warrant" means a global warrant in such form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer issued or to be issued by the Issuer pursuant to this Agreement or a German Global Warrant;

"Instruments" means, collectively, the Certificates and the Warrants;

"London Business Day" means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in London;

"NGN" and "New Global Note" mean a Temporary Global Note or a Permanent Global Note (other than a German Global Note), in either case where the applicable Final Terms specify the Notes as being in NGN form;

"Note" means any note issued or to be issued by the Issuer pursuant to this Agreement and includes the Global Notes, as well as any applicable Definitive Notes and Coupons;

"outstanding" means, in relation to the Securities, all the Securities issued other than (a) those which have been redeemed in accordance with the applicable Terms and Conditions, (b) those in respect of which the redemption date in accordance with the Terms and Conditions has occurred and the redemption consideration (including any interest accrued on such Securities (if the Securities are Notes or Certificates) to the date for such

redemption and any interest or other amounts payable or deliverable under the Terms and Conditions after such date) have been duly paid to the Principal Agent as provided in this Agreement or delivered pursuant to the Delivery Agency Agreement and remain available for payment or delivery against presentation and surrender of Securities and/or Receipts and/or Coupons, as the case may be, (c) those which have become void, (d) those which have been purchased and canceled, (e) those mutilated or defaced Securities which have been surrendered in exchange for replacement Securities, (f) (for purposes only of determining how many Securities are outstanding and without prejudice to their status for any other purpose) those Securities alleged to have been lost, stolen or destroyed and in respect of which replacement Securities have been issued, and (g) any Temporary Global Security to the extent that it shall have been exchanged for a Permanent Global Security, in each case pursuant to their respective provisions; provided that for the purposes of (i) ascertaining the right to attend and vote at any meeting of the Holders and (ii) the determination of how many Securities are outstanding, those Securities which are beneficially held by, or are held on behalf of, the Issuer or any of its Affiliates shall (unless and until ceasing to be so held) be deemed not to remain outstanding;

"Paying Agents" means the Principal Agent and the Paying Agents referred to above and such other paying Agent or Agents as may be appointed from time to time hereunder;

"Permanent Global Certificate" means a permanent global certificate substantially in the form set out in Schedule 4 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) issued or to be issued (if indicated in the applicable Final Terms) by the Issuer pursuant to this Agreement in exchange for the Temporary Global Certificate issued in respect of Certificates of the same Series or a German Permanent Global Certificate, as applicable;

"Permanent Global Note" means a permanent global note substantially in the form set out in Schedule 4 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) issued or to be issued (if indicated in the applicable Final Terms) by the Issuer pursuant to this Agreement in exchange for the Temporary Global Note issued in respect of Notes of the same Series or a German Permanent Global Note, as applicable;

"Permanent Global Security" means a Permanent Global Note, a Permanent Global Certificate, or a Global Warrant;

"Receipt" means the installment payment certificate substantially in the form set out in Schedule 11 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) (as may be translated into German) provided that tax legends shall be in English to the extent required by U.S. tax laws which may be attached to a Definitive Security providing for payment of installments, if issued, on issue;

"Restricted Period" shall be determined as set forth in Clause 4(2), unless otherwise indicated;

"Talon" means the renewal certificate for interest coupons substantially in the form set out in Schedule 12 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) (as may be translated into German) provided that tax legends shall be in English to the extent required by U.S. tax laws which are or will be attached to an interest-bearing Definitive Security, if issued, on issue;

"Temporary Global Certificate" means a temporary global certificate substantially in the form set out in Schedule 3 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) or a German Temporary Global Certificate, as applicable;

"Temporary Global Note" means a temporary global note substantially in the form set out in Schedule 3 hereto (or in such other form as may be agreed between the Issuer, the Guarantor, the Agent and the relevant Dealer) or a German Temporary Global Note, as applicable;

"Temporary Global Security" means a Temporary Global Note or a Temporary Global Certificate;

"Terms and Conditions" shall be the respective consolidated Terms and Conditions of the Notes or Instruments contained in the respective Final Terms;

"U.S. person" shall, unless otherwise indicated, have the meaning set forth in Regulation S under the U.S. Securities Act of 1933, as amended; and

"Warrant" means any warrant issued or to be issued by the Issuer pursuant to this Agreement and includes the Global Warrants, as well as any applicable Definitive Warrants.

(3) The term "Securities" as used in this Agreement shall include the Temporary Global Securities and the Permanent Global Securities, Definitive Securities and Coupons, as applicable. The term "Global Security" as used in this Agreement shall include both the Temporary Global Security and the Permanent Global Security, as applicable, each of which is a "Global Security." The term "Holders" as used in this Agreement shall include the "Noteholders", "Certificateholders" and "Warrantholders" each as defined in the Terms and Conditions.

(4) For purposes of this Agreement, the Securities of each Series shall form a separate series of Securities and the provisions of this Agreement shall apply*mutatis mutandis* separately and independently to the Securities of each Series and in such provisions the expressions "Securities," "Holders," "Receipts," "Receiptholders", "Coupons", "Couponholders", "Talons" and "Talonholders" shall be construed accordingly.

(5) All references in this Agreement to principal, interest or to any moneys payable or amounts deliverable by the Issuer in respect of the Securities under this Agreement shall have the meaning set out in the respective Terms and Conditions, as applicable.

(6) All references in this Agreement to the "relevant currency" shall be construed as references to the currency in which the relevant Securities and/or Coupons are denominated (or payable in the case of Certificates and Warrants payable in cash and Dual Currency Notes).

(7) In this Agreement, Clause headings are inserted for convenience and ease of reference only and shall not affect the interpretation of this Agreement. All references in this Agreement to the provisions of any statute shall be deemed to be references to that statute as from time to time modified, extended, amended or re-enacted or to any statutory instrument, order or regulation made thereunder or under such re-enactment.

(8) All references in this Agreement to an agreement, instrument or other document (including, without limitation, this Agreement, the Program Agreement, the Securities, the Guarantee, the Delivery Agency Agreement, the Calculation Agency Agreement and any Terms and Conditions appertaining thereto) shall be construed as a reference to that agreement, instrument or document as the same may be amended, modified, varied or supplemented from time to time.

(9) Any references herein to Euroclear or Clearstream, Luxembourg or Clearstream, Frankfurt shall be deemed to include, whenever the context permits, a reference to any additional or alternative clearance system approved by the Issuer, the Guarantor and the Agent. References to the "records" of Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt shall be to the records that each of such entities holds for its customers, which reflect the amount of such customer's interest in the Securities.

2. Appointments of Principal Agent, Paying Agents, Luxembourg Listing Agent, Delivery Agent and Calculation Agent, German Paying Agent

(1) The Offerors hereby appoint The Bank of New York as principal agent, and The Bank of New York hereby acknowledges its acceptance of such appointment as principal agent of the Issuer, upon the terms and subject to the conditions set out below, for the purposes of:

(a) completing, authenticating and delivering Global Securities and (if required) authenticating and delivering Definitive Securities;

(b) giving effectuation instructions in respect of each Global Note which is an Eurosystem-eligible NGN;

(c) exchanging Temporary Global Notes for Permanent Global Notes or Definitive Notes, as the case may be, and exchanging Temporary Global Certificates for Permanent Global Certificates or Definitive Certificates, as the case may be, any such exchange to be made in accordance with the terms of such Temporary Global Note or Temporary Global Certificate and, in respect of such exchange, (i) making all notations on Global Notes which are CGNs or Global Certificates (other than German Global Securities), as required by their terms and (ii) instructing Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, to make appropriate entries in their records in respect of all Global Notes which are NGNs or German Global Securities;

(d) under certain circumstances, exchanging Permanent Global Securities for Definitive Securities in accordance with the terms of such Permanent Global Securities and, in respect of such exchange, (i) making all notations on Permanent Global Securities which are CGNs or Instruments (other than German Global Securities), as required by their terms and (ii) instructing Euroclear and Clearstream, Luxembourg to make appropriate entries in their records in respect of all Permanent Global Notes which are NGNs or German Global Securities;

(e) paying sums due on Global Securities and Definitive Securities, Receipts and Coupons and instructing Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, to make appropriate entries in their records in respect of all Global Notes which are NGNs or German Global Securities (as provided in this Agreement);

(f) determining the end of the Restricted Period applicable to each Tranche;

(g) arranging on behalf of the Offerors for notices to be communicated to the Holders;

(h) preparing and sending any required periodic reports to the Ministry of Finance of Japan (the "MoF"), or any other appropriate regulatory authority and, subject to confirmation from the Issuer and/or the Guarantor for the need for such further reporting, ensuring that all necessary action is taken to comply with any reporting requirements of any competent authority of any relevant currency as may be in force from time to time with respect to the Securities to be issued under the Program;

(i) subject to the Procedures Memorandum, submitting to the appropriate stock exchange such number of copies of each Final Terms which relate to Securities which are to be listed on that stock exchange as it may reasonably require;

(j) receiving notice from Euroclear or Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, relating to the certifications of non-United States beneficial ownership of the Securities; and

(k) performing all other obligations and duties imposed upon it by the applicable Terms and Conditions, this Agreement or as may be agreed in writing between the Offerors and the Agent in connection with a particular Series or Tranche of Securities.

(2) The Offerors, in their discretion, may appoint (or remove) one or more agents outside the United States and its possessions (each, a "Paying Agent") for the payment (subject to applicable laws and regulations) of the principal of, any interest, other amounts payable and Additional Amounts, if any, on the Notes, Certificates and Warrants. Upon its written acceptance of such appointment or execution of a copy of this Agreement, each Paying Agent shall have the powers and authority granted to and conferred upon it herein and in the Securities, and such further powers and authority, acceptable to it, to act on behalf of the Offerors as the Offerors hereafter may grant to or confer upon it in writing. As used herein, "paying agencies" shall mean paying agencies maintained by a Paying Agent on behalf of the Offerors as provided elsewhere herein.

(a) The Offerors hereby appoint The Bank of New York (Luxembourg) S.A., at its office in Luxembourg at Aerogolf Center, 1A, Hoehenhof, L-1736 Senningerberg, Luxembourg, as Paying Agent in Luxembourg. The Bank of New York (Luxembourg) S.A. is also hereby appointed as Luxembourg Listing Agent for purposes of the Securities. The Bank of New York (Luxembourg) S.A. hereby acknowledges its acceptance of such appointment as Luxembourg Paying Agent and Luxembourg Listing Agent subject to the terms and conditions set out in this Agreement.

(b) The Offerors hereby appoint The Bank of New York, Frankfurt Branch as German Paying Agent in relation to Securities which are issued through Clearstream, Frankfurt, and The Bank of New York, Frankfurt Branch hereby acknowledges its acceptance of such appointment as German Paying Agent of the Offerors upon the terms and subject to the conditions set out in this Agreement.

(3) The Offerors will appoint one or more agents to make certain calculations with respect to the Securities (the "Calculation Agent") pursuant to the Terms and Conditions, substantially in the form of the Calculation Agency Agreement.

(4) The Offerors will appoint one or more agents to deliver relevant Physical Delivery Amount(s) with respect to Physical Delivery Securities (the "Delivery Agent") pursuant to the Terms and Conditions, substantially in the form of the Delivery Agency Agreement.

(5) In relation to each issue of Eurosystem-eligible NGNs, the Issuer hereby authorizes and instructs the Agent to elect, as directed by the Issuer, Euroclear or Clearstream, Luxembourg as common safekeeper. From time to time, the Offerors and the Agent may agree to vary this election. Each Offeror acknowledges that any such election is subject to the right of Euroclear and Clearstream, Luxembourg to jointly determine that the other shall act as common safekeeper in relation to any such issue and agrees that no liability shall attach to the Agent in respect of any such election made by it.

(6) The obligations of the Paying Agents under this Agreement shall be several and not joint.

3. Issue of Temporary Global Notes, Temporary Global Certificates and Global Warrants

(1) Subject to sub-clause (2), following receipt of a notification from the Issuer in respect of an issue of Securities (such notification being by receipt of a confirmation (a "Confirmation"), substantially in the applicable form set out in the Procedures Memorandum), the Agent will take the steps required of the Agent in the Procedures Memorandum. For this purpose the Agent is hereby authorized on behalf of the Issuer:

(a) to prepare a Temporary Global Security in accordance with such Confirmation by attaching a copy of the applicable consolidated Terms and Conditions to a copy of the relevant master Temporary Global Security;

(b) to prepare a Global Warrant in accordance with such Confirmation by attaching a copy of the applicable consolidated Terms and Conditions to a copy of the relevant master Global Warrant;

(c) to authenticate (or cause to be authenticated) such Temporary Global Security or Global Warrant;

(d) to deliver the Temporary Global Security or Global Warrant, as applicable, to the specified common depositary (in the case of a Temporary Global Note which is a CGN, a Global Certificate or a Global Warrant) or specified common safekeeper (if the Temporary Global

Note is a NGN) for Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt (in the case of a German Temporary Global Security or a German Global Warrant and (i) in the case of an issue of a Temporary Global Note which is a CGN, a Global Certificate or a Global Warrant, to instruct Euroclear or Clearstream, Luxembourg or Clearstream, Frankfurt, as the case may be, unless otherwise agreed in writing between the Agent and the Issuer, (A) in the case of an issue of Securities on a non-syndicated basis, to credit the applicable Securities represented by such Global Security, to the Agent's distribution account, and (B) in the case of an issue of Securities on a syndicated basis, to hold such Securities pursuant to the Issuer's order, and (ii) in the case of a Temporary Global Note which is a Eurosystem-eligible NGN, to instruct the common safekeeper to effectuate the same;

(e) to ensure that the Securities of each Tranche are assigned a common code ("Common Code") and International Security Identification Number ("ISIN") by Euroclear, Clearstream, Luxembourg or Clearstream, Frankfurt, respectively, which in the case of Notes or Certificates, are different from the Common Code and ISIN assigned to any other Tranche of the same Series until 40 calendar days after the completion of the distribution of the Notes or Certificates, as applicable, of such Tranche as notified by the Agent to the relevant Dealer; and

(f) if the Temporary Global Note is a NGN or a German Global Security, instruct Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, to make the appropriate entries in their records to reflect the initial outstanding aggregate principal amount of the relevant Tranche of Notes.

(2) The Agent shall only be required to perform its obligations under sub-clause (1) if it holds:

(a) master Temporary Global Securities duly executed by a person or persons authorized to execute the same on behalf of the Issuer, which may be used by the Agent for the purpose of preparing Temporary Global Securities in accordance with Clause 3(1)(a); and

(b) master Permanent Global Notes or master Permanent Global Certificates or master Global Warrants, duly executed by a person or persons authorized to execute the same on behalf of the Issuer, which may be used by the Agent for the purpose of preparing Permanent Global Notes and Permanent Global Certificates and Global Warrants in accordance with Clause 4 below.

(3) The Agent will provide Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, with the notifications, instructions or other information to be given by the Agent to Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, in accordance with the standard procedures of Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt.

4. Determination of Exchange Date, Issue of Permanent Global Notes, Permanent Global Certificates or Definitive Securities and Determination of Restricted Period

(1)(a) The Agent shall determine the Exchange Date for each Temporary Global Note or Temporary Global Certificate, as applicable, or portion thereof, in accordance with the terms thereof. Forthwith upon determining the Exchange Date in respect of any Tranche, the Agent shall notify such determination to the Issuer, the relevant Dealer, Euroclear, Clearstream, Luxembourg and Clearstream Frankfurt, respectively.

(b) The Agent shall deliver, upon notice from Euroclear or Clearstream, Luxembourg or Clearstream, Frankfurt, a Permanent Global Note or Permanent Global Certificate or Definitive Notes or Definitive Certificates, as the case may be, in accordance with the terms of the Temporary Global Note or Temporary Global Certificate, as applicable, in each case against certification of non-U.S. beneficial ownership as required by U.S. Treasury Regulations unless such certification has already been given. Upon any such exchange of a portion of a Temporary

Global Note or Temporary Global Certificate for an interest in a Permanent Global Note or Permanent Global Certificate, as the case may be, the Agent is hereby authorized on behalf of the Issuer:

(i) for the first Tranche of any Series of Notes or Certificates, to prepare and complete a Permanent Global Note or Permanent Global Certificate, as applicable, in accordance with the terms of the Temporary Global Notes or Temporary Global Certificates applicable to such Tranche by attaching a copy of the applicable Terms and Conditions to a copy of the relevant master Permanent Global Note or Permanent Global Certificate, as applicable;

(ii) for the first Tranche of any Series of Notes or Certificates to authenticate such Permanent Global Note or Permanent Global Certificate, as applicable;

(iii) for the first Tranche of any Series of Notes, where the Permanent Global Note is a CGN, or Series of Certificates (other than German Permanent Global Securities), to deliver such Permanent Global Note or Permanent Global Certificate, as applicable, to the common depositary which is holding the Temporary Global Note or Temporary Global Certificate applicable to such Tranche for the time being on behalf of Euroclear and/or Clearstream, Luxembourg either in exchange for such Temporary Global Note or Temporary Global Certificate, as applicable, or, in the case of a partial exchange, on entering details of such partial exchange of the Temporary Global Note or Temporary Global Certificate in the relevant spaces of both the Temporary Global Note and the Permanent Global Note or the Temporary Global Certificate and the Permanent Global Certificate, as applicable, and in either case against receipt from the common depositary of confirmation that such common depositary is holding the Permanent Global Note or Permanent Global Certificate, as applicable, in safe custody for the account of Euroclear and/or Clearstream, Luxembourg;

(iv) for the first Tranche of any Series of Notes where the Permanent Global Note is a NGN, to deliver such Permanent Global Note to the common safekeeper which is holding the Temporary Global Note representing the Tranche for the time being on behalf of Euroclear and/or Clearstream, Luxembourg to effectuate (in the case of a Permanent Global Note which is a Eurosystem-eligible NGN) and to hold on behalf of the Issuer pending its exchange for the Temporary Global Note;

(v) for the first Tranche of any Series of Notes or Certificates where the Permanent Global Note or Permanent Global Certificate is a German Global Note or German Global Certificate, to deliver such German Global Note or German Global Certificate to Clearstream, Frankfurt;

(vi) in the case of a subsequent Tranche of any Series of Notes, where the Permanent Global Note is a CGN, or Series of Certificates (other than German Permanent Global Securities), to attach a copy of the applicable Terms and Conditions to the Permanent Global Note or Permanent Global Certificate applicable to the relevant Series and to enter details of any exchange in whole or part as stated above;

(vii) in the case of a subsequent Tranche of any Series of Notes where the Permanent Global Note is a NGN, to deliver the applicable Terms and Conditions to the specified common safekeeper for attachment to the Permanent Global Note applicable to the relevant Series; and

(viii) in the case of a subsequent Tranche of any Series of Notes or Certificates where the Permanent Global Note or Permanent Global Certificate is a German Global Note or German Global Certificate, to deliver such German Global Note or German Global Certificate to Clearstream, Frankfurt.

(2) (a) For a Tranche in respect of which there is only one Dealer, the Agent will determine the end of the Restricted Period in respect of such Tranche as being the fortieth calendar day following the date certified by the relevant Dealer to the Agent as being the date as of which distribution of the Notes or Certificates of that Tranche was completed.

(b) For a Tranche in respect of which there is more than one Dealer but is not issued on a syndicated basis, the Agent will determine the end of the Restricted Period in respect of such Tranche as being the fortieth calendar day following the latest of the dates certified by all the relevant Dealers to the Agent as being the respective dates as of which distribution of the Notes or Certificates of that Tranche purchased by each such Dealer was completed.

(c) For a Tranche issued on a syndicated basis, the Agent will determine the end of the Restricted Period in respect of such Tranche as being the fortieth calendar day following the date certified by the Lead Manager to the Agent as being the date as of which distribution of the Notes or Certificates of that Tranche was completed.

(d) Forthwith upon determining the end of the Restricted Period in respect of any Tranche, the Agent shall notify such determination to the Issuer, the Guarantor and the relevant Dealer or the Lead Manager in the case of a syndicated issue.

(3) Upon any exchange of all or a part of an interest in a Temporary Global Note or a Temporary Global Certificate for an interest in a Permanent Global Note or a Permanent Global Certificate, as applicable, or upon any exchange of all or a part of an interest in a Global Security for Definitive Securities, the Agent shall (i) procure that the relevant Global Security shall, if it is a CGN or a Certificate (other than a German Global Certificate), be endorsed by or on behalf of the Agent to reflect the reduction of its nominal amount by the aggregate nominal amount so exchanged and, where applicable, the Permanent Global Security shall be endorsed by or on behalf of the Agent to reflect the increases in its nominal amount as a result of any exchange for an interest in the Temporary Global Note or Temporary Global Certificate, as applicable, or (ii) in the case of any Global Note which is a NGN or a German Global Security, instruct Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, to make appropriate entries in their records to reflect such exchange. Until exchanged in full, the Holder of an interest in any Global Security shall in all respects be entitled to the same benefits under this Agreement as the Holder of Definitive Securities (and if applicable, Receipts and Talons) authenticated and delivered under this Agreement, subject as set out in the Terms and Conditions. The Agent is authorized on behalf of the Issuer and instructed (a) in the case of any Global Note which is a CGN or in the case of a Certificate (other than a German Global Certificate), to endorse or to arrange for the endorsement of the relevant Global Security to reflect the reduction in the nominal amount represented by it by the amount so exchanged and, if appropriate, to endorse the Permanent Global Security to reflect any increase in the nominal amount represented by it and, in either case, to sign in the relevant space on the relevant Global Security recording the exchange and reduction or increase, (b) in the case of any Global Note which is a NGN or a German Global Security, to instruct Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, to make appropriate entries in their records to reflect such exchange and (c) in the case of a total exchange, to cancel or arrange for the cancellation of the relevant Global Security.

(4) Where the Agent delivers any authenticated Global Note to a common safekeeper for effectuation using electronic means, it is authorized and instructed to destroy the Global Note retained by it following its receipt of confirmation from the common safekeeper that the relevant Global Note has been effectuated.

(5) Any exchange of all or a part of an interest in a Temporary Global Note or Temporary Global Certificate for an interest in a Permanent Global Note or Permanent Global Certificate, as applicable, or any exchange of all or a part of an interest in a Global Security for Definitive Securities shall be made only outside the United States and its possessions.

5. Issue of Definitive Securities

(1) Interests in a Global Security will be exchangeable for Definitive Securities with Coupons, if any, attached: (i) as to Permanent Global Notes or Permanent Global Certificates in bearer form, on not less than 60 calendar days' written notice from Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt (acting on the instructions of any Holder of an interest in the applicable Global Security), (ii) in the case of Global Notes, if an Event of Default (as defined in the Terms and Conditions) occurs and is continuing, (iii) if the Issuer is notified that either Euroclear or Clearstream, Luxembourg or Clearstream, Frankfurt, as applicable, has been closed for business for a continuous period of 14 calendar days (other than by reason of holiday, statutory or otherwise) after the original issuance of the Securities or has announced an intention permanently to cease business or has in fact done so and no alternative clearance system approved by the Holders is available, or (iv) if the Issuer, after notice to the Agent, determines to issue the applicable Securities in Definitive form. Upon the occurrence of these events, the Agent shall deliver the relevant Definitive Securities in accordance with the terms of the relevant Global Security. For this purpose, the Agent is hereby authorized on behalf of the Issuer:

(a) to authenticate such Definitive Securities in accordance with the provisions of this Agreement; and

(b) to deliver such Definitive Securities to or to the order of Euroclear, Clearstream, Luxembourg or Clearstream, Frankfurt and/or the requesting Holder(s), as applicable, in exchange for such Global Security.

The Agent shall notify the Issuer forthwith upon receipt of a written request for issue of Definitive Securities in accordance with the provisions of a Global Security and this Agreement (and the aggregate amount of such Temporary Global Security or Permanent Global Security, as the case may be, to be exchanged in connection therewith).

(2) The Issuer undertakes to deliver to the Agent sufficient numbers of executed Definitive Securities with, if applicable, Receipts, Coupons and Talons attached to enable the Agent to comply with its obligations under this Clause 5.

6. Terms of Issue

(1) The Agent shall cause all Temporary Global Securities or Permanent Global Securities and Definitive Securities that are delivered to and held by it under this Agreement to be maintained in safe custody and shall ensure that such Securities are issued only in accordance with the provisions of this Agreement and the relevant Global Security and the Terms and Conditions.

(2) Subject to the procedures set out in the Procedures Memorandum, for the purposes of Clause 3(1), the Agent is entitled to treat a telephone, telex, e-mail or facsimile communication from a person purporting to be (and who the Agent believes in good faith to be) the authorized representative of the Issuer named in the lists referred to in, or notified pursuant to, Clause 16(7) as sufficient instructions and authority of the Issuer for the Agent to act in accordance with Clause 3(1).

(3) If a person who has signed on behalf of the Issuer any Security not yet issued but held by the Agent in accordance with Clause 3(1) ceases to be authorized as described in Clause 16(7), the Agent (unless the Issuer gives notice to the Agent that Securities signed by that person do not constitute valid and binding obligations of the Issuer or otherwise until replacements have been provided to the Agent) shall continue to have authority to issue any such Securities, and the Issuer hereby warrants to the Agent that such Securities shall be, unless notified as aforesaid, valid and binding obligations of the Issuer. Promptly upon such person ceasing to be authorized, the Issuer shall provide the Agent with replacement Securities. Upon receipt of such replacement Securities, the Agent shall cancel and destroy the Securities held by it which are signed by such person and shall provide to the Issuer a confirmation of destruction in respect thereof specifying the Securities so canceled and destroyed.

(4) If the Agent pays an amount (the "Advance") to the Issuer on the basis that a payment (the "Payment") has been, or will be, received from a Dealer and if the Payment is not received by the Agent on the date the Agent pays the Issuer, the Agent shall notify the Issuer by tested telex or facsimile that the Payment has not been received and the Issuer shall repay to the Agent the Advance and shall pay interest on the Advance (or the unreimbursed portion thereof) from (and including) the date such Advance is made to (but excluding) the earlier of repayment of the Advance and receipt by the Agent of the Payment (at a rate quoted at that time by the Agent as its cost of funding the Advance).

(5) Except in the case of issues where the Agent does not act as receiving bank for the Issuer in respect of the purchase price of the Securities being issued, if on the relevant Issue Date, a Dealer does not pay the full purchase price due from it in respect of any Security (the "Defaulted Security") and, as a result, the Defaulted Security remains in the Agent's distribution account with Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt after such Issue Date, the Agent will continue to hold the Defaulted Security pursuant to the order of the Issuer. The Agent shall notify the Issuer forthwith of the failure of the Dealer to pay the full purchase price due from it in respect of any Defaulted Security and, subsequently, shall notify the Issuer forthwith upon receipt from the Dealer of the full purchase price in respect of such Defaulted Security and pay to the Issuer the amount so received.

7. Payments and Deliveries

(1) Subject to sub-clause (12) below, the Agent shall advise the Issuer as soon as shall be practicable preceding the date on which any payment is to be made to the Agent pursuant to this sub-clause (1) of the payment amount, value date and payment instructions and the Issuer will before 10:00 a.m. London time on each date on which any payment in respect of any Securities issued by it becomes due, transfer to an account specified by the Agent such amount in the relevant currency as shall be sufficient for the purposes of such payment in funds settled through such payment system as the Agent and the Issuer may agree.

(2) The Issuer will ensure that no later than 4:00 p.m. (London time) on the second Business Day (as defined below) immediately preceding the date on which any payment is to be made to the Agent pursuant to sub-clause (1), the Agent shall receive from the paying bank of the Issuer an irrevocable confirmation in the form of an authenticated SWIFT message that such payment shall be made. For the purposes of this Clause 7, "Business Day" means a day which is both:

(a) a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and Charlotte, North Carolina and any additional business center(s) specified in the applicable Terms and Conditions ("Additional Business Center(s)"); and

(b) either (1) for any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial center (the "Principal Financial Center") of the country of the relevant Specified Currency (if other than London) or (2) for any sum payable in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System ("TARGET System") or any successor thereto is operating. Unless otherwise provided in the applicable Terms and Conditions, the Principal Financial Center of any country for the purpose of this Clause 7 shall be as provided in the ISDA 2000 Definitions, published by the International Swaps and Derivatives Association, Inc., except that the Principal Financial Center of Australia shall be Melbourne and Sydney, the Principal Financial Center of Canada shall be Toronto and the Principal Financial Center of New Zealand shall be Wellington.

(3) The Agent shall ensure that payments of both principal, interest or any other amount in respect of any Temporary Global Note or Temporary Global Certificate will be made only to the extent that certification of non-U.S. beneficial ownership as required by U.S. securities laws and U.S. Treasury regulations has been received from Euroclear and/or Clearstream, Luxembourg and/or Clearstream, Frankfurt in accordance with the terms thereof.

(4) Subject to the receipt by the Agent of payment as provided in sub-clause (1) above, the Agent or the relevant Paying Agent shall pay or cause to be paid all amounts due in respect of the Securities on behalf of the Issuer in the manner provided in the Terms and Conditions. If any payment provided for in sub-clause (l) is made late but otherwise in accordance with the provisions of this Agreement, the Agent and each Paying Agent shall nevertheless make payments in respect of the Securities as aforesaid following receipt by it of such payment.

(5) If for any reason the Agent considers in its sole discretion that the amounts to be received by the Agent pursuant to sub-clause (1) will be, or the amounts actually received by it pursuant thereto are, insufficient to satisfy all claims in respect of all payments then falling due in respect of the Securities, neither the Agent nor any Paying Agent shall be obliged to pay any such claims until the Agent has received the full amount of all such payments. Should the Agent or any Paying Agent elect not to make payment of amounts falling due in respect of the Securities as aforesaid, it shall advise the Issuer of any such decision as soon as practicable by telephone with confirmation by facsimile.

(6) Without prejudice to sub-clauses (4) and (5), if the Agent pays any amounts to the Holders, Receiptholders or Couponholders or to any Paying Agent at a time when it has not received payment in full in respect of the relevant Securities in accordance with sub-clause (1) (the excess of the amounts so paid over the amounts so received being the "Shortfall"), the Issuer will, in addition to paying amounts due under sub-clause (l), pay to the Agent on demand interest (at a rate which represents the Agent's cost of funding the Shortfall) on the Shortfall (or the unreimbursed portion thereof) until the receipt in full by the Agent of the Shortfall.

(7) The Agent shall on demand promptly reimburse each Paying Agent for payments in respect of Securities properly made by such Paying Agent in accordance with this Agreement and the Terms and Conditions unless the Agent has notified the Paying Agent, prior to the opening of business in the location of the office of the Paying Agent through which payment in respect of the Securities can be made prior to the day on which such Agent has to give payment instructions in respect of the due date of a payment in respect of the Securities, that the Agent does not expect to receive sufficient funds to make payment of all amounts falling due in respect of such Securities.

(8) If the Agent pays out on or after the due date therefor, or becomes liable to pay out, funds on the assumption that a corresponding payment by the Issuer has been or will be made and such payment has in fact not been made by the Issuer, then the Issuer shall on demand reimburse the Agent for the relevant amount, and pay interest to the Agent on such amount from the date on which it is paid out to the date of reimbursement at a rate per annum equal to the cost to the Agent of funding the amount paid out, as certified by the Agent and expressed as a rate per annum.

(9) While any Securities are represented by a Global Security or Global Securities, all payments or deliveries due in respect of such Securities shall be made to, or to the order of, the Holder of the Global Security or Global Securities, subject to, and in accordance with, the provisions of the Global Security or Global Securities. In the case of a Global Note which is a CGN, a Global Certificate or a Global Warrant (other than a German Global Certificate or German Global Warrant), the Paying Agent to which any Global Security was presented for the purpose of making such payment shall cause the appropriate Schedule to the relevant Global Security to be annotated so as to evidence the amounts and dates of such payments of principal, interest or other amounts, as applicable. In the case of any Global Note which is a NGN or a German Global Security, the Agent shall instruct Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt, respectively, to make appropriate entries in their records to reflect such payment.

(10) All payments in respect of any Security (including payments by the Guarantor pursuant to the Guarantee) shall be made outside the United States and its possessions and shall not be made by transfer to an account at a bank, or delivered to an address, located inside the United States or its possessions, by any office or agency of the Issuer, the Guarantor, the Principal Agent, or any Paying Agent. Terms used in the preceding clause shall have the meanings given to them by the U.S. Internal Revenue Code of 1986, as amended, and regulations thereunder. No payments shall be made to a U.S. person.

(11) If the amount of principal, interest or other amounts then due for payment is not paid in full (otherwise than by reason of a deduction required by law to be made therefrom), (i) the Paying Agent to which a Security is presented for the purpose of making such payment shall, unless the Security is a NGN or a German Global Security, make a record of such shortfall on the Security and such record shall, in the absence of manifest error, be prima facie evidence that the payment in question has not to that extent been made or (ii) in the case of any Global Note which is a NGN or a German Global Security, the Agent shall instruct Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt to make appropriate entries in their records to reflect such shortfall in payment.

(12) If any payments or deliveries due on any Physical Delivery Notes, or Physical Delivery Instruments, including pursuant to Clause 10 above, are required to be paid by delivery of any asset other than cash, then neither the Agent nor any Paying Agent shall be responsible hereunder for the delivery of such non-cash consideration. Instead, the delivery of such non-cash consideration shall be effected or procured by the Delivery Agent in the manner provided by the Delivery Agency Agreement upon receipt of an Asset Transfer Notice, an Exercise Notice or a Certificate Settlement Notice, as applicable, from the relevant Holder in the manner contemplated by the Terms and Conditions, as applicable. No Physical Delivery Amount shall be delivered in the United States or its possessions, transferred to an account at a bank or delivered to an address located inside the United States or its possessions, or to, or for the account or benefit of a U.S. person. For purposes of taking any action required to be taken by the Agent hereunder, including, but not limited to, any notations required to be made on the Securities, the Agent may rely upon any notification delivered to it by the Delivery Agent pursuant to the Delivery Agency Agreement as to the amounts delivered by the Delivery Agent thereunder (or any shortfall, as the case may be) on any Interest Payment Date, Maturity Date, Settlement Date, or any other relevant payment date.

8. Determinations and Notifications in Respect of Securities

(1) The Agent or the Calculation Agent, as the case may be, shall make all such determinations and calculations (howsoever described) as it is required to do under the Terms and Conditions, all subject to and in accordance with the Terms and Conditions, provided that certain calculations with respect to the Securities, and associated publication or notification, shall be made by the Calculation Agent in accordance with the Terms and Conditions.

(2) The Agent or the Calculation Agent, as the case may be, shall not be responsible to either Offeror or to any third party (except in the event of gross negligence, default or bad faith of the Agent or the Calculation Agent) as a result of the Agent or the Calculation Agent having acted in good faith on any quotation given by any reference bank which subsequently may be found to be incorrect.

(3) The Agent or the Calculation Agent, as the case may be, promptly shall notify (and confirm in writing to) the Offerors, the Agent or the other Paying Agents (as the case may be) and (in respect of a Series of Notes or Certificates listed on a stock exchange) the relevant stock exchange of, *inter alia*, each Rate of Interest, Interest Amount and Interest Payment Date and all other amounts, rates and dates which it is obliged to determine or calculate under the Terms and Conditions as soon as practicable after the determination thereof (and in any event no later than the Business Day as defined in Clause 7(2) immediately preceding the date on which payment is to be made to the Agent pursuant to Clause 7(l)) and of any subsequent amendment thereto pursuant to the Terms and Conditions.

(4) The Agent or the Calculation Agent, as the case may be, shall use its best efforts to cause each Rate of Interest, Interest Amount and Interest Payment Date and all other amounts, rates and dates which it is obliged to determine or calculate under the Terms and Conditions to be published as required in accordance with the Terms and Conditions as soon as possible after their determination or calculation.

(5) If the Agent or the Calculation Agent, as the case may be, does not at any material time for any reason determine and/or calculate and/or publish the Rate of Interest, Interest Amount and/or Interest Payment Date in respect of any Interest Period or any other amount, rate or date as provided in this Clause 8, it forthwith shall notify the Offerors and the Paying Agents of such fact.

(6) Determinations with regard to Securities (including, without limitation, Index Linked Securities, Share Linked Securities, Inflation Linked Securities, Commodity Linked Securities, FX Linked Securities, Hybrid Securities, Securities linked to other Underlying Assets or Dual Currency Notes) shall be made by the Calculation Agent specified in the applicable Terms and Conditions in the manner specified in the applicable Terms and Conditions. Unless otherwise agreed between the Offerors and the relevant Dealer, such determinations shall be made on the basis of the Calculation Agency Agreement.

(7) For the purposes of monitoring the aggregate principal amount of Securities issued under the Program, the Agent shall determine the U.S. Dollar equivalent of the principal amount of each issue of Securities denominated in another currency, each issue of Partly Paid Notes, Index Linked Securities, Share Linked Securities, Inflation Linked Securities, Commodity Linked Securities, FX Linked Securities, Hybrid Securities, Securities linked to other Underlying Assets and Dual Currency Notes, as follows:

(a) the U.S. Dollar equivalent of Securities denominated in a currency other than U.S. Dollars shall be determined as of the Agreement Date for such Securities on the basis of the spot rate for the sale of the U.S. Dollar against the purchase of the relevant currency quoted by a foreign exchange dealer selected by the Issuer on the relevant day of calculation;

(b) the U.S. Dollar equivalent of Index Linked Securities, Share Linked Securities, Inflation Linked Securities, Commodity Linked Securities, FX Linked Securities, Hybrid Securities, Dual Currency Notes and Securities linked to other Underlying Assets (in each case, other than Warrants), shall be calculated as specified above by reference to the original nominal amount of such Securities;

(c) the U.S. Dollar equivalent of Partly Paid Notes shall be determined as specified above by reference to the original principal amount of such Notes regardless of the amount paid on the Notes; and

(d) the U.S. Dollar equivalent of Zero Coupon Notes, Dual Currency Notes and other Securities not otherwise described in subclauses (a) – (c) above that are issued at a discount or premium, as well as Warrants, shall be calculated as specified above by reference to the net proceeds received by the Issuer for the relevant issue.

9. Notice of Any Withholding or Deduction

If the Issuer, in respect of any payment under the Securities, or the Guarantor, in respect of any payment under the Guarantee, is compelled to withhold or deduct any amount for or on account of taxes, duties, assessments or governmental charges, the Issuer or the Guarantor, as applicable, shall give written notice thereof to the Agent as soon as it becomes aware of the requirement to make such withholding or deduction and shall give to the Agent such information as it shall require to enable it to comply with such requirement.

10. Optional Early Redemption, Put Notices, Certificate Settlement Notices, Asset Transfer Notices and Exercise Notices

(1) If so permitted by the applicable Terms and Conditions, and subject always to the provisions set forth in the Terms and Conditions, if the Issuer decides to redeem any outstanding Securities (in whole or in part) for the time being outstanding prior to their Maturity Date, Expiration Date or Settlement Date, as applicable, or (if applicable) the Interest Payment Date falling in the redemption month (as the case may be) in accordance with the Terms and Conditions, the Issuer shall give written notice of such decision to the Agent not less than seven London Business Days before the date on which the Issuer will give notice of such redemption to the Holders in accordance with the Terms and Conditions in order to enable the Agent to undertake its obligations herein and in the Terms and Conditions.

(2) On behalf of and at the expense of the Issuer, the Agent shall publish the notice required in connection with any such redemption and shall at the same time also publish a separate list of the serial numbers

of any Securities previously drawn and not presented for redemption. Such notice shall specify the date fixed for redemption, the redemption amount, the record date, the manner in which redemption will be effected and, in the case of a partial redemption, the serial numbers of the Securities to be redeemed. Such notice will be published in accordance with the Terms and Conditions. The Agent also will notify the other Paying Agents of any date fixed for redemption of any Securities.

(3) Immediately prior to the date on which any notice of redemption is to be given to the Holders, the Issuer shall deliver to the Agent a certificate stating that the Issuer is entitled to effect such redemption and setting forth in reasonable detail a statement of facts showing that all conditions precedent to such redemption have occurred or been satisfied and shall comply with all notice requirements provided for in the Terms and Conditions.

(4) Each Paying Agent will keep a stock of Put Notices for Definitive Notes held outside of a clearing system, which shall be delivered in accordance with the Terms and Conditions, and will make such notices available on demand to Noteholders for which the Terms and Conditions provide for redemption at the option of Noteholders. Each Paying Agent shall promptly transfer a copy of any valid Put Notice that it receives to the Issuer, the Guarantor and the Principal Agent. Upon receipt of any Note deposited in the exercise of such option in accordance with the Terms and Conditions, the Paying Agent with which such Note is deposited shall hold such Note (together with any Coupons, if any, relating to it and deposited with it) on behalf of the depositing Noteholder (but shall not, save as provided below, release it) until the due date for redemption of the relevant Note consequent upon the exercise of such option, when, subject as provided below and Clause 7(12) above, it shall present such Note (and any such Coupons, if any) to itself, the Issuer and the Guarantor for payment of the amount due thereon together with any interest and any other amounts due on such date in accordance with the Terms and Conditions and shall pay such amounts in accordance with the respective Terms and Conditions, and if applicable, the directions of such Noteholder contained in the Put Notice. If, prior to such due date for its redemption, such Note becomes immediately due and payable or if upon due presentation payment of such redemption moneys is improperly withheld or refused, the Paying Agent concerned shall post such Note (together with any such Coupons, if any) by uninsured post to, and at the risk of, the relevant Noteholder unless such Noteholder has otherwise requested and paid the costs of such insurance to the relevant Paying Agent at the time of depositing the Notes at such address outside the United States and its possessions as may have been given by such Noteholder in the Put Notice. At the end of each period for the exercise of such option, each Paying Agent shall promptly notify the Agent of the principal amount of the Notes in respect of which such option has been exercised with it, together with their serial numbers, and the Agent shall promptly notify such details to the Issuer.

(5) Upon request of the Issuer or the Guarantor, each Paying Agent will keep a stock of Asset Transfer Notices for Physical Delivery Notes held outside of a clearing system, which shall be delivered in accordance with the respective Terms and Conditions, and will make such notices available on demand to Holders. Each Paying Agent shall promptly transfer a copy of any valid Asset Transfer Notice that it receives to the Issuer, the Guarantor and the Principal Agent. Upon receipt of any Note deposited in connection with the delivery of any Physical Delivery Amount as to a Physical Delivery Note, the Paying Agent with which such Note is deposited shall hold such Note (together with any Coupons, if any, relating to it and deposited with it) on behalf of the depositing Noteholder (but shall not, except as provided below, release it) until the due date for delivery of the applicable Physical Delivery Amount of the relevant Note, when, subject as provided below and Clause 7(12) above, it shall present such Note (and any such Coupons, if any), together with the serial numbers of the applicable Notes, to itself, the Issuer, the Guarantor and the Delivery Agent for delivery of the Physical Delivery Amount due thereon in accordance with the Terms and Conditions. If, prior to such due date for delivery, such Note becomes immediately due and payable or if upon due presentation, delivery or payment of the Physical Delivery Amount or any moneys is improperly withheld or refused, the Paying Agent concerned shall post such Note (together with any such Coupons, if any) by uninsured post to, and at the risk of, the relevant Holder unless such Holder has otherwise requested and paid the costs of such insurance to the relevant Paying Agent at the time of depositing the Notes at such address outside the United States and its possessions as may have been given by such Holder in the Asset Transfer Notice.

(6) Upon request of the Issuer or the Guarantor, each Paying Agent will keep a stock of Certificate Settlement Notices in the form set out in Schedule 8 for Definitive Certificates held outside of a clearing system, which shall be delivered in accordance with the Terms and Conditions, and will make such notices available on demand to Holders of such Certificates. Each Paying Agent shall promptly transfer a copy of any valid

Certificate Settlement Notice that it receives to the Issuer, the Guarantor and the Principal Agent. Upon receipt of any Certificate deposited for settlement in accordance with the Terms and Conditions, the Paying Agent with which such Certificate is deposited shall hold such Certificate (together with any Coupons, if any, relating to it and deposited with it) on behalf of the depositing Holder of such Certificates (but shall not, except as provided below, release it) until the settlement date of the relevant Certificate, when, subject as provided below and Clause 7(12) above, it shall present such Certificate (and any such Coupons, if any) to itself, the Issuer, the Guarantor and the Delivery Agent (if applicable) for payment of the amount due or deliverable thereon together with any interest and any other amounts due or deliverable on such date in accordance with the Terms and Conditions and shall pay or deliver such amounts in accordance with the respective Terms and Conditions, and if applicable, the directions of the Holder of the Certificates contained in the Certificate Settlement Notice. If, prior to such settlement date, such Certificate becomes immediately due and payable or if upon due presentation, payment of any amounts due or deliverable or any money is improperly withheld or refused, the Paying Agent concerned shall post such Certificate (together with any such Coupons, if any) by uninsured post to, and at the risk of, the relevant Holder of such Certificate unless such Holder has otherwise requested and paid the costs of such insurance to the relevant Paying Agent at the time of depositing the Certificates at such address outside the United States and its possessions as may have been given by such Holder in the Certificate Settlement Notice. At the end of each Certificate Settlement Notice Period (as defined in the respective Terms and Conditions), each Paying Agent shall promptly notify the Agent of the number of Certificates that have been redeemed, together with their serial numbers, and the Agent shall promptly notify such details to the Issuer.

(7) Upon request of the Issuer or the Guarantor, each Paying Agent will keep a stock of Exercise Notices for Definitive Warrants held outside of a clearing system, which shall be delivered in accordance with the respective Terms and Conditions, and will make such notices available on demand to Holders of such Warrants. Each Paying Agent shall promptly transfer a copy of any valid Exercise Notice that it receives to the Issuer, the Guarantor and the Principal Agent. Upon receipt of any Warrant deposited in the exercise of such Warrant in accordance with the Terms and Conditions, the Paying Agent with which such Warrant is deposited shall hold such Warrant on behalf of the depositing Holder of such Warrant (but shall not, except as provided below, release it) until the due date for delivery of the amounts payable or deliverable on the relevant Warrant consequent upon its exercise, when, subject as provided below and Clause 7(12) above, it shall present such Warrant, to itself, the Issuer, the Guarantor and the Delivery Agent (if applicable) for delivery of the amount payable or deliverable thereon in accordance with the Terms and Conditions and shall pay or deliver such amounts in accordance with the respective Terms and Conditions, and if applicable, the directions of the Holder of the Warrants contained in the Exercise Notice. If upon due presentation, payment of any amounts due or deliverable or any money is improperly withheld or refused, the Paying Agent concerned shall post such Warrant by uninsured post to, and at the risk of, the relevant Holder of the Warrant unless such Holder has otherwise requested and paid the costs of such insurance to the relevant Paying Agent at the time of depositing the Warrants at such address outside the United States and its possessions as may have been given by such Holder in the Exercise Notice. At the end of the Exercise Period (as defined in the respective Terms and Conditions) for any Warrants, each Paying Agent shall promptly notify the Agent of the number of Warrants that have been exercised, together with their serial numbers (if any), and the Agent shall promptly notify such details to the Issuer.

(8) The Principal Agent shall as promptly as practicable (and in any event not later than 3:00 p.m. (local time) on the following Business Day on which a duly completed Asset Transfer Notice, Certificate Settlement Notice or Exercise Notice, as the case may be, is delivered to it), and in accordance with the respective Terms and Conditions, notify the Issuer, the Guarantor, the Calculation Agent and (if applicable) the Delivery Agent of details of the Securities in respect of which an Asset Transfer Notice, Certificate Settlement Notice or Exercise Notice, as the case may be, has been delivered by any Holder, (such notification to be in such forms and in such manner as the Issuer, the Guarantor, the relevant Dealer, the Calculation Agent and (if applicable) the Delivery Agent may reasonably request from time to time).

(9) The Principal Agent shall keep a full and complete record of all Securities and of their exercise, redemption and cancellation in accordance with this Clause 10 and make such records available at all reasonable times to the Issuer and the Guarantor.

(10) The Principal Agent shall, as soon as practicable after the date on which all the Securities represented by any Global Security have been exercised or redeemed or have expired or have become null and void

and upon delivery by or on behalf of the common depositary (in the case of a Global Note issued in CGN form or an Instrument) (other than a German Global Security) or the common safekeeper (in the case of a Global Note issued in NGN form) or Clearstream, Frankfurt (in the case of a German Global Security) of the relevant Global Security to the Principal Agent, cancel the relevant Global Security or cause it to be cancelled and thereafter, unless otherwise instructed by the Issuer, destroy the relevant Global Security and certify such destruction to the Issuer.

(11) The Principal Agent shall make such arrangements (including the notification of the relevant clearing system) as are necessary to collect, on behalf of the Issuer, any taxes or duties as specified in the Terms and Conditions incurred by the Issuer in connection with the exercise or redemption of the Securities, provided that the Issuer gives notice to the Principal Agent of the relevant taxes or duties which will be incurred by the Issuer on an exercise or redemption of Securities.

11. Receipt and Publication of Notices; Receipt of Certificates

(1) Upon the receipt by the Agent of a written demand or notice from any Holder in accordance with the Terms and Conditions, the Agent shall forward a copy thereof to the Offerors.

(2) On behalf of and at the request and expense of the Issuer, the Agent shall cause to be published all notices required to be given by the Issuer to the Holders in accordance with the Terms and Conditions.

12. Cancellation of Securities, Receipts, Coupons and Talons

(1) All Securities which are redeemed, all Warrants which are exercised, all Receipts or Coupons which are paid and all Talons which are exchanged shall be delivered outside the United States and its possessions to the Agent, and shall be canceled by the Agent. In addition, each Offeror shall notify the Agent in writing of all Securities which are purchased by or on behalf of such Offeror or any of its subsidiaries and all such Securities surrendered to the Agent for cancellation, together (in the case of Securities in Definitive form) with all unmatured Receipts, Coupons or Talons (if any) attached thereto or surrendered therewith, shall be canceled by the Agent.

(2) Each Offeror shall have the right to request in writing that the Agent provide, without limitation, the following information:

(a) the aggregate principal amount of Notes and the number of Certificates which have been redeemed and the aggregate amount paid or delivered in respect thereof;

(b) the number of Warrants which have been exercised and the payments or deliveries made upon such exercise;

(c) the number of Securities canceled together (in the case of Definitive Securities, if any) with details of all unmatured Receipts, Coupons or Talons (if any) attached thereto or delivered therewith;

(d) the aggregate amount paid in respect of interest on the Notes and Certificates;

(e) the total number by maturity date of Receipts, Coupons and Talons so canceled; and

(f) in the case of Definitive Securities, if any, the serial numbers of such Securities, which shall be given to the Issuer by the Agent as soon as reasonably practicable and in any event within three months after the date of such repayment or, as the case may be, payment or exchange.

(3) The Agent shall destroy all canceled Securities, Receipts, Coupons and Talons.

(4) The Agent shall keep a full and complete record of all Securities, Receipts, Coupons and Talons (other than serial numbers of Coupons, except those which have been replaced pursuant to the respective Terms and Conditions) and of all replacement Securities, Receipts, Coupons or Talons issued in substitution for mutilated, defaced, destroyed, lost or stolen Securities, Receipts, Coupons or Talons. The Agent shall at all reasonable times make such record available to the Issuer and any persons authorized by it for inspection and for the taking of copies thereof or extracts therefrom.

(5) All records and certificates made or given pursuant to this Clause 12 and Clause 13 shall make a distinction between Securities, Receipts, Coupons and Talons of each Series.

(6) The Agent is authorized by the Issuer and instructed to (a) in the case of any Global Note which is a CGN, Global Certificate or Global Warrant (other than a German Global Security), to endorse or to arrange for the endorsement of the relevant Global Security to reflect the reduction in the nominal amount or number of Certificates or Warrants represented by it by the amount so redeemed, exercised or purchased and cancelled and (b) in the case of any Global Note which is a NGN or a German Global Security, to instruct Euroclear and Clearstream, Luxembourg or Clearstream, Frankfurt to make appropriate entries in their records to reflect such redemption or purchase and cancellation, as the case may be.

13. Issue of Replacement Securities, Receipts, Coupons and Talons

(1) The Issuer will cause a sufficient quantity of additional forms of Securities, Receipts, Coupons and Talons to be available, upon request to the Agent (in such capacity, the "Replacement Agent") at its specified office for the purpose of issuing replacement Securities, Receipts, Coupons and Talons as provided below.

(2) The Replacement Agent will, subject to, and in accordance with, the Terms and Conditions and the following provisions of this Clause 13, authenticate (or in the case of a Global Note that is a Eurosystem-eligible NGN, instruct the common safekeeper to effectuate the same) and cause to be delivered any replacement Securities, Receipts, Coupons and Talons which the Issuer may determine to issue in place of Securities, Receipts, Coupons and Talons which have been lost, stolen, mutilated, defaced or destroyed.

(3) In the case of a mutilated or defaced Security, the Replacement Agent shall ensure that (unless otherwise covered by such indemnity as the Issuer may reasonably require) any replacement Security will only have attached to it Receipts, Coupons and Talons corresponding to those (if any) attached to the mutilated or defaced Security which is presented for replacement.

(4) The Replacement Agent shall not issue any replacement Security, Receipt, Coupon or Talon unless and until the applicant therefor shall have:

(a) paid such reasonable costs and expenses as may be incurred in connection therewith, including any tax or other governmental charge that may be imposed in relation thereto;

(b) furnished it with such evidence and indemnity as the Agent may reasonably require; and

(c) in the case of any mutilated or defaced Security, Receipt, Coupon or Talon, surrendered it to the Replacement Agent.

(5) The Replacement Agent shall cancel any mutilated or defaced Securities, Receipts, Coupons and Talons in respect of which replacement Securities, Receipts, Coupons and Talons have been issued pursuant to this Clause 13 and shall furnish the Issuer with a certificate stating the serial numbers of the Securities, Receipts, Coupons and Talons so cancelled and, unless otherwise instructed by the Issuer in writing, shall destroy such cancelled Securities, Receipts, Coupons and Talons and furnish the Issuer with a destruction certificate stating the serial number of the Securities (in the case of Definitive Securities) and the number by maturity date or settlement date of Receipts, Coupons and Talons so destroyed.

(6) The Replacement Agent, on issuing any replacement Security, Receipt, Coupon or Talon, forthwith shall inform the Issuer, the Agent and the other Paying Agents of the serial number of such replacement Security, Receipt, Coupon or Talon issued and (if known) of the serial number of the Security, Receipt, Coupon or Talon in place of which such replacement Security, Receipt, Coupon or Talon has been issued. Whenever replacement Receipts, Coupons or Talons are issued pursuant to the provisions of this Clause 13, the Replacement Agent also shall notify the Agent and the other Paying Agents of the maturity dates of the lost, stolen, mutilated, defaced or destroyed Receipts, Coupons or Talons and of the replacement Receipts, Coupons or Talons issued.

(7) The Agent shall keep a full and complete record of all replacement Securities, Receipts, Coupons and Talons issued and shall make such record available at all reasonable times to the Issuer and any persons authorized by it for inspection and for the taking of copies thereof or extracts therefrom.

(8) Whenever any Security, Receipt, Coupon or Talon for which a replacement Security, Receipt, Coupon or Talon has been issued and in respect of which the serial number is known is presented to the Agent or any of the Paying Agents for payment, the Agent or, as the case may be, the relevant Paying Agent shall immediately send notice thereof to the Issuer and the other Paying Agents and shall not make payment in respect thereto, until instructed by the Issuer.

14. Copies of Documents Available for Inspection

The Agent and the Paying Agents shall hold available for inspection copies of:

(1) the organizational documents of the Offerors;

(2) all financial statements incorporated by reference or contained in the German Base Prospectus;

(3) the Program Agreement, this Agreement, the Delivery Agency Agreement, the Calculation Agency Agreement and the Guarantee;

(4) the Base Prospectus; and

(5) any future prospectuses, information memoranda and supplements (except that the Final Terms relating to any unlisted Security will only be available for inspection by a Holder of such Security and such Holder must produce evidence satisfactory to the Paying Agent as to ownership) to the German Base Prospectus and any other documents incorporated therein by reference and in the case of a syndicated issue of listed Securities, the syndication agreement (or equivalent document).

For this purpose, the Offerors shall furnish the Agent and the Paying Agents with sufficient copies of each of such documents.

15. Repayment by the Agent

Upon the Issuer being discharged from its obligation to make payments or other deliveries in respect of any Securities pursuant to the relevant Terms and Conditions, and provided that there is no outstanding, bona fide and proper claim in respect of any such payments, the Agent shall forthwith on written demand pay to the Issuer sums equivalent to any amounts paid to it by the Issuer for the purposes of such payments.

16. Conditions of Appointment

(1) The Agent shall be entitled to deal with money paid to it by the Offerors for the purpose of this Agreement in the same manner as other money paid to a banker by its customers except:

(a) that it shall not exercise any right of set-off, lien or similar claim in respect thereof; and

(b) as provided in sub-clause (2) below; and

(c) that it shall not be liable to account to the Offerors for any interest thereon.

(2) In acting hereunder and in connection with the Securities, the Agent and the Paying Agents shall act solely as agents of the Issuer and will not thereby assume any obligations towards or relationship of agency or trust for or with any of the owners or Holders, Receiptholders, Couponholders or Talonholders.

(3) The Agent and the Paying Agents hereby undertake to the Offerors to perform such obligations and duties, and shall be obliged to perform such duties and only such duties as are herein, in the Terms and Conditions and in the Procedures Memorandum specifically set forth and no implied duties or obligations shall be read into this Agreement or the Securities against the Agent and the Paying Agents, other than the duty to act honestly and in good faith and to exercise the diligence of a reasonably prudent agent in comparable circumstances.

(4) The Agent may consult with legal and other professional advisers and the opinion of such advisers shall be full and complete protection in respect of any action taken, omitted or suffered hereunder in good faith and in accordance with the opinion of such advisers.

(5) Each of the Agent and the Paying Agents shall be protected and shall incur no liability for or in respect of any action taken, omitted or suffered in reliance upon any instruction, request or order from an Offeror or any notice, resolution, direction, consent, certificate, affidavit, statement, cable, telex or other paper or document which it reasonably believes to be genuine and to have been delivered, signed or sent by the proper party or parties or upon written instructions from the relevant Offeror.

(6) Any of the Agent and the Paying Agents and their officers, directors and employees may become the owner of, or acquire any interest in any Securities, Receipts, Coupons or Talons with the same rights that it or he would have if the Agent or the relevant Paying Agent, as the case may be, were not appointed hereunder, and may engage or be interested in any financial or other transactions with the Offerors and may act on, or as depositary, safekeeper, trustee or agent for, any committee or body of Holders or Couponholders or in connection with any other obligations of the Offerors as freely as if the Agent or the relevant Paying Agent, as the case may be, were not appointed hereunder.

(7) Each Offeror shall provide the Agent with a certified copy of the list of persons authorized to execute documents and take action on its behalf in connection with this Agreement and shall notify the Agent immediately in writing if any of such persons ceases to be so authorized or if any additional person becomes so authorized together, in the case of an additional authorized person, with evidence satisfactory to the Agent that such person has been so authorized, provided, however, that the Agent shall not incur any liability for any losses, claims or damages resulting from the relevant Offeror's failure to provide such notification to the Agent.

17. Communication Between the Parties

A copy of all communications relating to the subject matter of this Agreement between any Offeror and the Holders, Receiptholders or Couponholders and any of the Paying Agents shall be sent to the Agent by the relevant Paying Agent.

18. Changes in Agent and Paying Agents

(1) The Offerors agree that, for so long as any Security is outstanding, or until moneys for the payment of all amounts in respect of all outstanding Securities have been made available to the Agent or to the Delivery Agent, as applicable, or have been returned to the relevant Offeror as provided herein:

(a) so long as any Securities are listed on any stock exchange, there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange;

(b) there will at all times be a Paying Agent with a specified office in a city in Europe;

(c) there will at all times be an Agent; and

(d) the Issuer will maintain a Paying Agent in a member state of the European Union that will not be obliged to withhold or deduct tax pursuant to Directive 2004/48/EC, or any law supplementing or complying with such Directive.

In addition, the Issuer shall immediately appoint a Paying Agent having a specified office in New York City in the circumstances described in § 8[(c)] (Payments in the United States) of the Terms and Conditions of the Notes contained in the German Base Prospectus. Any variation, termination, appointment or change only shall take effect (other than in the case of insolvency (as provided in sub-clause (5)), when it shall be of immediate effect) after not less than 30 nor more than 45 calendar days' prior notice thereof shall have been given to the Holders in accordance with the Terms and Conditions.

(2) The Agent may (subject as provided in sub-clause (4)) at any time resign as Agent by giving at least 45 calendar days' written notice to the Offerors of such intention on its part, specifying the date on which its desired resignation shall become effective, provided that such date shall never be less than three months after the receipt of such notice by the Offerors unless the Offerors agree to accept less notice.

(3) The Agent may (subject as provided in sub-clause (4)) be removed at any time on at least 45 calendar days' notice by the filing with it of an instrument in writing signed on behalf of each Offeror, specifying such removal and the date when it shall become effective.

(4) Any resignation under sub-clause (2) or removal under sub-clause (3) shall only take effect upon the appointment by the Offerors as hereinafter provided, of a successor Agent and (other than in cases of insolvency of the Agent) on the expiration of the notice to be given under Clause 20. The Offerors agree with the Agent that if, by the day falling ten calendar days before the expiration of any notice under sub-clause (2), the Offerors have not appointed a successor Agent, then the Agent shall be entitled, on behalf of the Offerors, to appoint as a successor Agent in its place a reputable financial institution of good standing as it may reasonably determine to be capable of performing the duties of the Agent hereunder.

(5) In case at any time the Agent resigns, or is removed, or becomes incapable of acting or is adjudged bankrupt or insolvent, or files a voluntary petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of an administrator, liquidator or administrative or other receiver of all or a substantial part of its property, or admits in writing its inability to pay or meet its debts as they mature or suspends payment thereof, or if any order of any court is entered approving any petition filed by or against it under the provisions of any applicable bankruptcy or insolvency law or if a receiver of it or of all or a substantial part of its property is appointed or any officer takes charge or control of it or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, a successor Agent, which shall be a reputable financial institution of good standing, may be appointed by the Offerors by an instrument in writing filed with the successor Agent. Upon the appointment as aforesaid of a successor Agent and acceptance by the latter of such appointment and (other than in the case of insolvency of the Agent) upon expiration of the notice to be given under Clause 20, the Agent so superseded shall cease to be the Agent hereunder.

(6) Subject to sub-clause (l):

(a) the Offerors may, after prior consultation (other than in the case of insolvency of any Paying Agent) with the Agent, terminate the appointment of any of the Paying Agents at any time; or

(b) the Offerors may in respect of the Program, or in respect of any Series of Securities, if so required by the relevant Stock Exchange or regulatory body, appoint one or more additional Paying Agents by giving to the Agent, and to the relevant Paying Agent, at least 10 calendar days' notice in writing to that effect.

(7) Subject to sub-clause (l), all or any of the Paying Agents may resign their respective appointments hereunder at any time by giving the Offerors and the Agent at least 45 calendar days' written notice to that effect.

(8) Upon its resignation or removal becoming effective, the Agent or the relevant Paying Agent:

(a) shall, in the case of the Agent, forthwith transfer all moneys held by it hereunder and the records referred to in Clause 12(4) to the successor Agent hereunder; and

(b) shall be entitled to the payment by the Issuer of its commissions, fees and expenses for the services theretofore rendered hereunder in accordance with the terms of Clause 24.

(9) Upon its appointment becoming effective, a successor Agent and any new Paying Agent, without further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations of its predecessor or, as the case may be, a Paying Agent with like effect as if originally named as Agent or (as the case may be) a Paying Agent hereunder.

19. Merger and Consolidation

Any entity into which the Agent or any Paying Agent may be merged or converted, or any entity with which the Agent or any of the Paying Agents may be consolidated or any entity resulting from any merger, conversion or consolidation to which the Agent or any of the Paying Agents shall be a party, or any entity to which the Agent or any of the Paying Agents shall sell or otherwise transfer all or substantially all the assets or the corporate trust business of the Agent or any Paying Agent shall, on the date when such merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws, become the successor Agent or, as the case may be, Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of the parties hereto, unless otherwise required by the Offerors, and after the said effective date all references in this Agreement to the Agent or, as the case may be, such Paying Agent shall be deemed to be references to such entity. Written notice of any such merger, conversion, consolidation or transfer forthwith shall be given to the Offerors by the relevant Agent or Paying Agent.

20. Notification of Changes to Paying Agents

Following receipt of notice of resignation from the Agent or any Paying Agent and forthwith upon appointing a successor Agent or, as the case may be, other Paying Agents or on giving notice to terminate the appointment of any Agent or, as the case may be, Paying Agent, the Agent (on behalf of and at the expense of the Issuer) shall give or cause to be given not more than 60 calendar days' nor less than 30 calendar days' notice thereof to the Holders in accordance with the Terms and Conditions.

21. Change of Specified Office

If the Agent or any Paying Agent determines to change its specified office, it shall give to the Offerors and (if applicable) the Agent written notice of such determination giving the address of the new specified office which shall be in the same city and stating the date on which such change is to take effect, which shall not be less than 45 calendar days thereafter. The Agent (on behalf and at the expense of the Issuer) shall within 15 calendar days of receipt of such notice (unless the appointment of the Agent or the relevant Paying Agent, as the case may be, is to terminate pursuant to Clause 18 on or prior to the date of such change) give or cause to be given not more than 45 calendar days' nor less than 30 calendar days' notice thereof to the Holders in accordance with the Terms and Conditions.

22. Notices

All notices hereunder shall be deemed to have been given when deposited in the mail as first class mail, registered or certified, return receipt requested, or postage prepaid, addressed to any party hereto as follows:

| | **Address** |
|---|---|
| The Issuer: | B of A Issuance B.V.<br>Herengracht 469<br>1017 BS Amsterdam<br>The Netherlands<br>Attn: Armstrong Okobia<br>Facsimile: 31 20 4214 970 |
| The Guarantor: | Bank of America Corporation<br>Bank of America Corporate Center<br>NC1-007-07-06<br>100 North Tryon Street<br>Charlotte, North Carolina 28255-0065<br>U.S.A.<br>Attn: Corporate Treasury – Securities Administration<br>Facsimile: (704) 386-0270<br><br>with a copy to:<br><br>Bank of America Corporation<br>Legal Department<br>101 South Tryon Street<br>NC1-002-29-01<br>Charlotte, North Carolina 28255<br>U.S.A.<br>Attn: General Counsel<br>Facsimile: (704) 386-1670 |
| The Agent: | The Bank of New York<br>One Canada Square<br>London<br>E14 5AL<br>United Kingdom<br>Attn: Corporate Trust Administration<br>Facsimile: 44 20 7964 6399 |
| The Luxembourg Paying Agent/the Luxembourg Listing Agent | The Bank of New York (Luxembourg) S.A.<br>Aerogolf Center<br>1A, Hoehenhof<br>L-1736 Senningerberg<br>Luxembourg<br>Attn: Corporate Trust Administration<br>Facsimile: 352 46 26 85 804 |
| The German Paying Agent: | The Bank of New York<br>Filiale Frankfurt am Main<br>Niedenau 61-63<br>60325 Frankfurt am Main<br>Germany<br>Attn: Peter Bun/Veronique Cridel/Pierre Kiffer/Nicolas Klinkeberg/Laurence Laporte and Rudolf Schiffer<br><br>Facsimile: +(352) 49 69 172 198 |

or at any other address of which any of the foregoing shall have notified the others in writing.

(1) if delivered in person to the relevant address specified in the signature pages hereof and if so delivered, shall be deemed to have been delivered at the time of receipt; or

(2) if sent by facsimile or telex to the relevant number specified on the signature pages hereof and, if so sent, shall be deemed to have been delivered immediately after transmission provided such transmission is confirmed by the answerback of the recipient (in the case of telex) or when an acknowledgment of receipt is received (in the case of facsimile).

Where a communication is received after business hours it shall be deemed to be received and become effective on the next Business Day. Every communication shall be irrevocable save in respect of any manifest error therein.

23. Taxes and Stamp Duties

The Issuer agrees to pay any and all stamp and other documentary taxes or duties which may be payable in connection with the execution, delivery, performance and enforcement of this Agreement.

24. Commissions, Fees and Expenses

(1) The Issuer, failing whom the Guarantor, undertakes to pay in respect of the services of the Agent, and the Paying Agents under this Agreement such fees and expenses as may be agreed between them from time to time, the initial such fees being set out in a letter of even date herewith from the Agent to, and countersigned by, the Issuer.

(2) The Issuer, failing whom the Guarantor, will promptly pay on demand all reasonable out-of-pocket expenses (including legal, advertising, facsimile, telex and postage expenses) properly incurred by the Agent, and the Paying Agents in connection with their services hereunder, including, without limitation, the expenses contemplated in Clause 23.

25. Indemnity

(1) The Issuer undertakes to indemnify and hold harmless each of the Agent and the Paying Agents against all losses, liabilities, costs (including, without limitation, legal fees and expenses), expenses, claims, actions or demands which the Agent or any Paying Agent, as the case may be, may reasonably incur or which may be made against the Agent or any Paying Agent, as a result of or in connection with the appointment or the exercise of or performance of the powers, discretions, authorities and duties of the Agent or any Paying Agent under this Agreement, except such as may result from its own gross negligence, bad faith or failure to comply with its obligations hereunder or that of its officers, employees or agents.

(2) Each of the Agent and the Paying Agents shall severally indemnify and hold harmless the Offerors against any loss, liability, costs (including, without limitation, legal fees and expenses), expense, claim, action or demand which it may reasonably incur or which may be made against it as a result of such Agent's or Paying Agent's own negligence, bad faith or material failure to comply with its obligations under this Agreement or that of its officers, employees or agents.

(3) The Agent shall not in any event be liable for special, indirect, punitive or consequential damages of any kind whatsoever (including loss of business, goodwill, opportunity or profit), whether or not foreseeable, even if the Agent had been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

(4) If, under any applicable law and whether pursuant to a judgment being made or registered or in the liquidation, insolvency or analogous process of any party hereto or for any other reason, any payment under or in connection with this Agreement is made or fails to be satisfied in a currency (the "Other Currency") other than that in which the relevant payment is expressed to be due (the "Required Currency") under this Agreement, then, to the extent that the payment (when converted into the Required Currency at the rate of exchange on the date of payment or, if it is not practicable for the payee to purchase the Required Currency with the Other Currency on the date of payment, at the rate of exchange as soon thereafter as it is practicable for it to do so or, in the case of a liquidation, insolvency or analogous process, at the rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such liquidation, insolvency or analogous process) actually received by the payee falls short of the amount due under the terms of this Agreement, the payor shall, as a separate and independent obligation, indemnify and hold harmless the payee against the amount of such shortfall. For the purpose of this Clause 25, "rate of exchange" means the rate at which the payee is able on the relevant date to purchase the Required Currency with the Other Currency and shall take into account any premium and other costs of exchange.

(5) The provisions of this Clause 25 shall survive the termination or expiration of this Agreement and the resignation or removal of the Agent and the Paying Agents.

26. Reporting

(1) The Agent shall upon receipt of a written request therefor from an Offeror and after the payment of any further remuneration agreed between an Offeror and the Agent (on behalf of such Offeror and on the basis of the information and documentation the Agent had in its possession) use all reasonable efforts to submit such reports or information as may be required from time to time by any applicable law, regulation or guideline promulgated by (i) any relevant United States governmental regulatory authority in respect of the issue and purchase of Securities or (ii) any other relevant governmental regulatory authority in respect of the issue and purchase of Securities denominated in the applicable currency of such governmental regulatory authority.

(2) The Agent will notify the MoF or other regulatory body of such details relating to Securities payable in Yen or other applicable currency and provide such other information about the Program to the MoF or other regulatory body as may be required.

27. Governing Law

(1) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, United States of America, without regard to principles of conflicts of laws.

(2) The Offerors and each Agent each hereby irrevocably submit to the non-exclusive jurisdiction of any United States federal court sitting in New York City, the Borough of Manhattan over any suit, action or proceeding arising out of or related to this Agreement, the Guarantee, any Security, Receipt, Coupon or Talon, as the case may be (together, the "Proceedings"). The Offerors and each Agent each irrevocably waive, to the fullest extent permitted by law, any objection which it may have to the laying of the venue of the Proceedings brought in such a court and any claim that the Proceedings have been brought in an inconvenient forum. The Offerors and each Agent each agree that final judgment in the Proceedings brought in such a court shall be conclusive and binding upon the Offerors or the Agent, as the case may be, and may be enforced in any court of the jurisdiction to which the relevant Offeror or the Agent is subject by a suit upon such judgment, provided that the service of process is effected upon such Offeror and the Agent in the manner specified in subsection (3) below or as otherwise permitted by law.

(3) As long as any of the Securities, Receipts, Coupons or Talons remains outstanding, each Offeror shall at all times either maintain an office or have an authorized agent in New York City upon whom process may be served in the Proceedings. Service of process upon either Offeror at its offices or upon such agent with written notice of such service mailed or delivered to such Offeror shall, to the fullest extent permitted by law, be deemed in every respect effective service of process upon such Offeror in the Proceedings. Each Offeror hereby appoints CT Corporation System located at 111 Eighth Avenue, New York, New York 10011, U.S.A., as its agent for such purposes, and covenants and agrees that service of process in the Proceedings may be made upon it at its office or at the specified offices of such agent (or such other addresses or at the offices of any other authorized agents which such Offeror may designate by written notice to the Agent) and prior to any termination of such agencies for any reason, it will so appoint a successor thereto as agent hereunder.

28. Amendments

Without the consent of the Holders, Receiptholders or Couponholders, the Agent and the Offerors may agree to modifications of or amendments to this Agreement, the Securities, the Guarantee, the Receipts or the Coupons solely as set forth in the respective Terms and Conditions.

Any such modification or amendment shall be binding on the Holders, the Receiptholders and the Couponholders and any such modification or amendment shall be notified to the Holders, the Receiptholders or the Couponholders in accordance with the respective Terms and Conditions as soon as practicable thereafter.

29. Descriptive Headings

The descriptive headings in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof.

30. Counterparts

This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument. Any party may enter into this Agreement by signing such a counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their respective officers thereunder duly authorized as of the date and year first above written.

B OF A ISSUANCE B.V.
as Issuer

By /s/ A. OKOBIA
Name: A. Okobia
Title: Managing Director A

By /s/ BENEDICT WILKINSON
Name: Benedict Wilkinson
Title: Managing Director B

BANK OF AMERICA CORPORATION
as Guarantor

By /s/ B. KENNETH BURTON, JR.
Name: B. Kenneth Burton, Jr.
Title: Senior Vice President

THE BANK OF NEW YORK
as Agent and Principal Agent

By /s/ JASON BLONDELL
Name: Jason Blondell
Title: Authorised Signatory

THE BANK OF NEW YORK (LUXEMBOURG) S.A.
as Paying Agent and Luxembourg Listing Agent

By /s/ JASON BLONDELL
Name: Jason Blondell
Title: Authorised Signatory

THE BANK OF NEW YORK, FRANKFURT
as German Paying Agent

By /s/ R. SCHIFFER
Name: R. Schiffer
Title: Managing Director

Schedule 1 to
Agency Agreement

FORM OF THE GERMAN TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS A TEMPORARY GLOBAL [NOTE] [CERTIFICATE] IN BEARER FORM, WITHOUT COUPONS, EXCHANGEABLE FOR A BEARER [NOTE] [CERTIFICATE] IN PERMANENT GLOBAL FORM. THE RIGHTS ATTACHING TO THIS TEMPORARY GLOBAL [NOTE] [CERTIFICATE], AND THE TERMS AND CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR A PERMANENT GLOBAL [NOTE] [CERTIFICATE], ARE AS SPECIFIED HEREIN AND IN THE TERMS AND CONDITIONS (AS DEFINED HEREIN).

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

1 [This language is applicable only to Temporary Global [Notes][Certificates] representing [Notes][Certificates] with maturities of 183 days or less from the date of original issue.]

VORLÄUFIGE GLOBAL [SCHULDVERSCHREIBUNG] [ZERTIFIKAT]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

Diese[s] auf den Inhaber lautende Global[schuldverschreibung][zertifikat] ist ein[e] Vorläufige[s] Global[schuldverschreibung][zertifikat] (die [das] "**Global[schuldverschreibung][zertifikat]**") ohne Zinskupon, die die von der B of A Issuance B.V., eine unter niederländischem Recht eingetragene Personengesellschaft mit beschränkter Haftung (*besloten vennootschap met beperkte aansprakelijkheid*) mit Sitz in Amsterdam, Niederlande (die '**Emittentin**"), ausgegebenen [Schuldverschreibungen] [Zertifikate] (die "[**Schuldverschreibungen**] [**Zertifikate**]") verbrieft. Für die [Schuldverschreibungen] [Zertifikate] gelten die [dieser] [diesem] Global[schuldverschreibung] [zertifikat] als Anlage beigefügten konsolidierten Bedingungen ("**Konsolidierte Bedingungen**"). Die hierin verwendeten Begriffe und Ausdrücke haben die gleiche Bedeutung wie in den Konsolidierten Bedingungen.

Die Emittentin verpflichtet sich, nach Maßgabe der Konsolidierten Bedingungen an den Inhaber einer[s] Global[schuldverschreibung][zertifikats] die hierauf nach den Konsolidierten Bedingungen zahlbaren Beträge zu zahlen bzw. zu liefernde Werte zu liefern.

Gemäß der von der Bank of America Corporation (die "**Garantin**") unterzeichneten Garantieerklärung werden die hierunter fallenden Auszahlungen von der Garantin garantiert.

Vor dem Austauschtag (wie unten definiert) erfolgen Zahlungen auf [diese] [dieses] Global[schuldverschreibung][zertifikat] (ggf.) nur an den Inhaber derselben, sofern dem Principal Agent von Clearstream Banking AG, Frankfurt am Main (das "**Clearstream, Frankfurt**"), ein Zertifikat vorgelegt wird, das im wesentlichen der in Anhang 2 zu [dieser] [diesem] Global[schuldverschreibung][zertifikat] festgelegten Form entspricht, darüber, dass es von der oder in Bezug auf eine Person, der ein bestimmter Kapitalbetrag der [Schuldverschreibungen][Zertifikate] zusteht (wie aus seinen Unterlagen hervorgeht), ein Zertifikat erhalten hat, das der oder im wesentlichen der in Anhang 3 zu [dieser] [diesem] Global[schuldverschreibung][zertifikat] festgelegten Form entspricht. Zahlungen oder Lieferungen, die in Bezug auf derzeit durch [diese] [dieses] Global[schuldverschreibung][zertifikat] verbriefte [Schuldverschreibungen][Zertifikate] fällig sind, erfolgen an den Inhaber [dieser] [diesem] Global[schuldverschreibung] [zertifikat], und jede auf diese Weise erfolgte Zahlung stellt eine Erfüllung der Verpflichtungen der Emittentin diesbezüglich dar. Nach dem Austauschtag hat der Inhaber [dieser] [dieses] Global[schuldverschreibung][zertifikat] keinen Anspruch auf Zinszahlungen hierauf.

An oder nach dem Austauschtag (wie unten definiert) kann [diese] [dieses] Global[schuldverschreibung][zertifikat] ganz oder teilweise (kostenlos) gegen ein[e] Dauerglobal[schuldverschreibung][zertifikat] ausgetauscht werden, die in beiden Fällen der oder im wesentlichen der in Anhang 4 zu [dieser] [diesem] Global[schuldverschreibung][zertifikat] festgelegten Form entspricht (nebst den damit verbundenen Bedingungen), jeweils nach Benachrichtigung durch ein Maßgebliches Clearingsystem, das auf Anweisungen eines Inhabers eines Anteils an [dieser] [diesem] Global[schuldverschreibung][zertifikat] handelt, oder sie kann in bestimmten beschränkten Fällen gegen Effektive [Schuldverschreibungen][Zertifikate] mit Sicherheitsdruck und (ggf.) Kupons, Empfangsscheine und/oder Erneuerungsscheine und vorbehaltlich der in den Bedingungen festgelegten Mitteilungsfrist ausgetauscht werden. Der "**Austauschtag**" für [diese] [dieses] Global[schuldverschreibung][zertifikat] ist normalerweise der 40. Tag nach dem Tag, an dem die Emittentin die Erlöse aus dem Verkauf der Globalschuldverschreibung erhält, oder nach dem Ausgabetag (*closing date*) für [diese] [dieses] Global[schuldverschreibung][zertifikat], je nach dem welches Ereignis später eintritt. Wenn jedoch die Emittentin, ein Händler oder eine Vertriebsstelle, wie in der Treasury Regulation Sec. 1.163-5(c)(2)(i)(D)(4) definiert, eine durch [diese] [dieses] Global[schuldverschreibung][zertifikat] verbriefte Schuldverschreibung als Teil einer nicht verkauften Zuteilung oder Zeichnung für mehr als 40 Tage nach dem Tag hält, an dem die Emittentin die Erlöse aus dem Verkauf der [Schuldverschreibungen] [Zertifikate] erhält, oder nach dem Ausgabetag der [Schuldverschreibungen][Zertifikate], je nach dem welches Ereignis später eintritt, ist der Austauschtag in Bezug auf diese [Schuldverschreibungen][Zertifikate] der Tag nach dem Tag, an dem die Emittentin, der Händler oder die Vertriebsstelle diese [Schuldverschreibungen] [Zertifikate] verkauft.

Diese[s] Global[schuldverschreibung][zertifikat] wird gemäß den Konsolidierten Bedingungen gegen Definitive [Schuldverschreibungen] [Zertifikate] ausgetauscht. Die Global[schuldverschreibungen][zertifikate] können durch den Inhaber an einem beliebigen Tag (außer an einem Samstag oder Sonntag) umgetauscht werden, an dem Banken für den Geschäftsverkehr in Frankfurt geöffnet sind. Die Emittentin sorgt dafür, dass Effektive [Schuldverschreibungen][Zertifikate] und Anteile an der/dem Dauerglobal[schuldverschreibung][zertifikat] nur im Austausch gegen das Verhältnis dieser/dieses Global[schuldverschreibung][zertifikats] ausgegeben, geliefert und in den Aufzeichnungen von Clearstream Frankfurt eingetragen werden, für das der Principal Agent von Clearstream Frankfurt ein Zertifikat überreicht wurde, das im wesentlichen in der in Anhang 2 dieser/dieses Global[schuldverschreibung][zertifikats] festgelegten Form entspricht, darüber, dass sie von der oder in Bezug auf eine Person, der ein wirtschaftlicher Anteil eines bestimmten Kapitalbetrages der [Schuldverschreibungen][Zertifikate] zusteht (wie aus ihren Unterlagen hervorgeht), ein Zertifikat erhalten hat, das der oder im wesentlichen der in Anhang 3 zu dieser/diesem Global[schuldverschreibung][zertifikat] festgelegten Form des Zertifikats entspricht, sofern dieses Zertifikat nicht bereits in Übereinstimmung mit den oben genannten Bestimmungen übergeben wurde. Der Gesamtkapitalbetrag von Anteilen an Dauerglobal[schuldverschreibungen] [zertifikaten], die nach dem Austausch der Global[schuldverschreibungen][zertifikate] vorbehaltlich den Bedingungen dieses Dokuments ausgegeben werden, entspricht dem Gesamtkapitalbetrag der vom Inhaber für den Austausch eingereichten Global[schuldverschreibungen][zertifikate] (soweit dieser Kapitalbetrag nicht den Gesamtkapitalbetrag der Global[schuldverschreibungen][zertifikate] übersteigt).

Bei der Rückzahlung, Zahlung eines Teilbetrages, Lieferung oder dem Kauf und der Kraftloserklärung von durch die/das Global[schuldverschreibung][zertifikat] verbrieften [Schuldverschreibungen] [Zertifikaten], hat die Emittentin die anteilige Eintragung von Angaben zu der Rückzahlung, Zahlung, Lieferung oder dem Kauf (bzw.) der Kraftloserklärung in den Aufzeichnungen von Clearstream Frankfurt zu veranlassen und, nachdem eine solche Eintragung erfolgt ist, den in den Aufzeichnungen von Clearstream Frankfurt eingetragenen Nominalbetrag der durch die/das Global[schuldverschreibung][zertifikat] verbrieften [Schuldverschreibungen][Zertifikate] um den Kapitalbetrag der auf diese Weise zurückgezahlten oder gekauften oder für Kraftlos erklärten [Schuldverschreibungen][Zertifikate] oder um den Betrag einer auf diese Weise gezahlten Rate zu reduzieren.

Bei Austausch in Höhe des ausstehenden Gesamtnennbetrages ist die [das] Global[schuldverschreibung][zertifikat] dem Principal Agent auszuhändigen.

Die Höhe des Nominalbetrages der Global[schuldverschreibungen][zertifikate] (die "[**Schuldverschreibungen] [Zertifikate]**" entspricht dem jeweiligen Stand der anwendbaren aktuellen EDV-Dokumentation der Clearstream, Frankfurt. Die Dokumentation bei Clearstream, Frankfurt gilt als unwiderlegbarer Beweis für die Höhe des Nominalbetrags der [Schuldverschreibungen] [Zertifikate].

Die [Das] Vorläufige[s] Global[schuldverschreibung][zertifikat] unterliegt dem Recht der Bundesrepublik Deutschland.

Diese[s] Vorläufige[s] Global[schuldverschreibung][zertifikat] wird in jeder Hinsicht erst wirksam und bindend, wenn sie mit einer Kontrollunterschrift durch oder im Namen der deutschen Zahlstelle versehen worden ist.

[ ● Emissionsmonat] 2007/2008

B OF A ISSUANCE B.V.

Durch: _____
Geschäftsführer A

Durch: _____
Geschäftsführer B

KONTROLLUNTERSCHRIFT

THE BANK OF NEW YORK, FILIALE FRANKFURT AM MAIN
Als deutsche Zahlstelle

Durch: _____

Unterschriftsberechtigter
Nur zum Zweck der Beglaubigung

Konsolidierte Bedingungen

Anhang 2 zur
Vorläufigen Global[schuldverschreibung] [Zertifikat]

FORM OF CERTIFICATE TO BE PRESENTED
BY CLEARSTREAM, FRANKFURT

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, based solely on certifications we have received in writing, by tested telex or by electronic transmission from member organizations appearing in our records as persons being entitled to a portion of the principal or notional amount set forth below (our "Member Organizations") substantially to the effect set forth in the Temporary Global [Note] [Certificate], as of the date hereof, [EUR] [USD]_____ principal or notional amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) is owned by U.S. persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions. Any such certification by electronic transmission satisfies the requirements set forth in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(3)(ii). We will retain all certificates received from Member Organizations for the period specified in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(3)(i).

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify with respect to such principal amount of Securities set forth above that, except as set forth below, we have received in writing, by tested telex or by electronic transmission, from our Member Organizations entitled to a portion of such principal amount, certifications with respect to such portion substantially to the effect set forth in the Temporary Global [Note] [Certificate].

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) any portion of the temporary global Security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organizations to

the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) are no longer true and cannot be relied upon as of the date hereof.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated _____ , [20__][2]

Yours faithfully,

[Clearstream Banking AG, Frankfurt am Main

By: _____

2 To be dated no earlier than date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Anhang 3 zur
Vorläufigen Global[schuldverschreibung] [Zertifikat]

FORM OF CERTIFICATE OF BENEFICIAL OWNER

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by person(s) that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) are owned by U.S. person(s) that (a) are foreign branches of a United States financial institution (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and in addition if the owner of the Securities is a United States or foreign financial institution described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) this is to further certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify that, except as set forth below in the case of debt securities, the Securities are beneficially owned by (a) non-U.S. person(s) or (b) U.S. person(s) who purchase the Securities in transactions which did not require registration under the Act. As used in this paragraph the term "U.S. person" has the meaning given to it by Regulation S under the Act.

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by facsimile on or prior to the date on which you intend to submit your certification relating to the Securities held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certification excepts and does not relate to [ ] of such interest in the above Securities in respect of which we are not able to certify and as to which we understand exchange and delivery of Definitive Securities (or, if relevant, exercise of any right or collection of any interest) cannot be made until we do so certify.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated: , 20__[1]

By: _____

As, or as agent for, the beneficial owner(s) of the Securities to which this certification relates.

1 To be dated no earlier than the fifteenth day prior to the date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Dauerglobal[schuldverschreibung][zertifikat]

Schedule 1 to
Agency Agreement

FORM OF THE GERMAN TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

CONVENIENCE TRANSLATION OF THE FORM OF THE GERMAN TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS A TEMPORARY GLOBAL [NOTE] [CERTIFICATE] IN BEARER FORM, WITHOUT COUPONS, EXCHANGEABLE FOR A BEARER [NOTE] [CERTIFICATE] IN PERMANENT GLOBAL FORM. THE RIGHTS ATTACHING TO THIS TEMPORARY GLOBAL [NOTE] [CERTIFICATE], AND THE TERMS AND CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR A PERMANENT GLOBAL [NOTE] [CERTIFICATE], ARE AS SPECIFIED HEREIN AND IN THE TERMS AND CONDITIONS (AS DEFINED HEREIN).

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][2]

2 [This language is applicable only to Temporary Global [Notes][Certificates] representing [Notes][Certificates] with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

This Global [Note] [Certificate] is a Temporary Global [Note] [Certificate] (the "**Global [Note] [Certificate]**") in bearer form without interest coupons in respect of the [Note] [Certificate]s (the "**[Note] [Certificate]s**") issued by B of A Issuance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "**Issuer**") described, and having the provisions specified, in the consolidated terms and conditions (the "**Terms and Conditions**"), which provisions are incorporated herein. Words and expressions defined or set out in the Terms and Conditions shall bear the same meaning when used herein.

The Issuer, subject to and in accordance with the Terms and Conditions, promises to pay or deliver to the bearer hereof any sums payable or amount deliverable in respect thereof under the Terms and Conditions.

Payment hereunder is guaranteed by Bank of America Corporation (the "**Guarantor**"), as set forth in the Guarantee Agreement executed by the Guarantor.

The nominal amount of [Note] [Certificate]s represented by this Global [Note] [Certificate] shall be the aggregate amount from time to time entered in the records of Clearstream, Frankfurt (as defined below). The records of Clearstream, Frankfurt shall be conclusive evidence of the nominal amount of [Note] [Certificate]s represented by this Global [Note] [Certificate].

Prior to the Exchange Date (as defined below), all payments (if any) on this Global [Note] [Certificate] will only be made to the bearer hereof to the extent that there is presented to the Agent by Clearstream Banking AG, Frankfurt am Main (the "**Clearstream, Frankfurt**"), a certificate, substantially in the form set out in Schedule 2 to this Global [Note] [Certificate], to the effect that it has received from or in respect of a person entitled to a particular principal amount of the [Note] [Certificate]s (as shown by its records) a certificate in or substantially in the form of the certificate as set out in Schedule 3 to this Global [Note] [Certificate]. Payments or deliveries due in respect of [Note] [Certificate]s for the time being represented by this Global [Note] [Certificate] shall be made to the bearer of this Global [Note] [Certificate] and each payment so made will discharge the Issuer's obligations in respect thereof. After the Exchange Date, the bearer of this Global [Note] [Certificate] will not be entitled to receive any payment of interest hereon.

On or after the Exchange Date (as defined below) this Global [Note] [Certificate] may be exchanged in whole or in part (free of charge) for a permanent Global [Note] [Certificate], which, in either case, is in or substantially in the form set out in Schedule 4 to this Global [Note] [Certificate] (together with the Terms and Conditions attached to it), in each case upon notice being given by Clearstream, Frankfurt acting on the instructions of any Holder of an interest in this Global [Note] [Certificate] or, under certain limited circumstances, security printed Definitive [Note] [Certificate]s and (if applicable) Coupons, Receipts and/or Talons and subject to such notice period as is specified in the Terms and Conditions. The "**Exchange Date**" for this Global [Note] [Certificate] will normally be the 40th day after the later of the date on which the Issuer receives the proceeds of the sale of the Global [Note] [Certificate] and the closing date for the Global [Note] [Certificate]. However, if the Issuer, a Dealer or any distributor, as defined in Treasury Regulation Sec. 1.163-5(c)(2)(i)(D)(4), holds a [Note] [Certificate] represented by this Global [Note] [Certificate] as part of an unsold allotment or subscription for more than 40 days after the later of the date on which the Issuer receives the proceeds of the sale of the [Notes] [Certificates] and the closing date for the [Notes] [Certificates], the Exchange Date with respect to such [Notes] [Certificates] will be the day after the date on which the Issuer, Dealer or distributor sells such [Notes] [Certificates].

This Global [Note] [Certificate] shall be exchanged for a Definitive Global [Note] [Certificate] in accordance with the Terms and Conditions.

This Global [Note] [Certificate] may be exchanged by the bearer hereof on any day (other than a Saturday or Sunday) on which banks are open for business in London, England, in accordance with the Terms and Conditions. The Issuer shall procure that Definitive [Note] [Certificate]s and interests in the Permanent Global [Note] [Certificate] shall be so issued and delivered and recorded in the records of Clearstream, Frankfurt in exchange for only that portion of this Global [Note] [Certificate] in respect of which there shall have been presented to the Agent by Clearstream, Frankfurt a certificate, substantially in the form set out in Schedule 2 to this Global [Note] [Certificate], to the effect that it has received from or in respect of a person entitled to a beneficial interest in a particular principal amount of the [Note] [Certificate]s (as shown by its records) a certificate from such person in or substantially in the form of the certificate set out in Schedule 3 to this Global [Note] [Certificate], unless such certificate has already been given in accordance with the above provisions. The aggregate principal amount of interests in a Permanent Global [Note] [Certificate] issued upon an exchange of this Global [Note] [Certificate] subject to the terms hereof, will be equal to the aggregate principal amount of this Global [Note] [Certificate] submitted by the bearer hereof for exchange (to the extent that such principal amount does not exceed the aggregate principal amount of this Global [Note] [Certificate]).

On any redemption, payment of an Installment Amount, delivery or purchase and cancellation of any of the [Note] [Certificate]s represented by this Global [Note] [Certificate], the Issuer shall procure that details of such redemption, payment, delivery or purchase and cancellation (as the case may be) shall be entered pro rata in the records of Clearstream, Frankfurt and, upon any such entry being made, the nominal amount of the [Note] [Certificate]s recorded in the records of Clearstream, Frankfurt and represented by this Global [Note] [Certificate] shall be reduced by the principal amount of the [Note] [Certificate]s so redeemed or purchased and cancelled or by the amount of such installment so paid.

Upon the exchange of the outstanding principal amount of this Global [Note] [Certificate], it shall be surrendered to the Principal Agent.

This Temporary Global [Note] [Certificate] shall be governed by, and construed in accordance with the laws of Germany.

This Temporary Global [Note] [Certificate] shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the German Paying Agent.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK, FILIALE FRANKFURT AM MAIN
As German Paying Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

Consolidated Terms and Conditions

Schedule 2 to the
Temporary Global [Note] [Certificate]

FORM OF CERTIFICATE TO BE PRESENTED
BY CLEARSTREAM, FRANKFURT

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, based solely on certifications we have received in writing, by tested telex or by electronic transmission from member organizations appearing in our records as persons being entitled to a portion of the principal or notional amount set forth below (our "Member Organizations") substantially to the effect set forth in the Temporary Global [Note] [Certificate], as of the date hereof, [EUR][USD]_____ principal or notional amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) is owned by U.S. persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions. Any such certification by electronic transmission satisfies the requirements set forth in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(3)(ii). We will retain all certificates received from Member Organizations for the period specified in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(3)(i).

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify with respect to such principal amount of Securities set forth above that, except as set forth below, we have received in writing, by tested telex or by electronic transmission, from our Member Organizations entitled to a portion of such principal amount, certifications with respect to such portion, substantially to the effect set forth in the Temporary Global [Note] [Certificate].

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) any portion of the temporary global Security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organizations to the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) are no longer true and cannot be relied upon as of the date hereof.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated ,_____ [20__][3]

Yours faithfully,

[Clearstream Banking AG, Frankfurt am Main

By: _____

3 To be dated no earlier than date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Schedule 3 to the
Temporary Global [Note] [Certificate]

FORM OF CERTIFICATE OF BENEFICIAL OWNER

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by person(s) that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) are owned by U.S. person(s) that (a) are foreign branches of a United States financial institution (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and in addition if the owner of the Securities is a United States or foreign financial institution described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) this is to further certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify that, except as set forth below in the case of debt securities, the Securities are beneficially owned by (a) non-U.S. person(s) or (b) U.S. person(s) who purchase the Securities in transactions which did not require registration under the Act. As used in this paragraph the term "U.S. person" has the meaning given to it by Regulation S under the Act.

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by facsimile on or prior to the date on which you intend to submit your certification relating to the Securities held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certification excepts and does not relate to [ ] of such interest in the above Securities in respect of which we are not able to certify and as to which we understand exchange and delivery of Definitive Securities (or, if relevant, exercise of any right or collection of any interest) cannot be made until we do so certify.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated: , 20__[1]

By: _____

As, or as agent for, the beneficial owner(s) of the Securities to which this certification relates.

1 To be dated no earlier than the fifteenth day prior to the date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Permanent Global [Note] [Certificate]

FORM OF THE GERMAN PERMANENT GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS BEARER [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][2]

2 [This language is applicable only to Permanent Global [Notes] [Certificates] representing [Notes] [Certificates] with maturities of 183 days or less from the date of original issue.]

ENDGÜLTIGE GLOBAL [SCHULDVERSCHREIBUNG] [ZERTIFIKAT]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

Diese[s] auf den Inhaber lautende Global[schuldverschreibung][zertifikat] ist ein[e] Endgültige[s] Global[schuldverschreibung][zertifikat] (die [das] "**Global[schuldverschreibung][zertifikat]**") ohne Zinskupon, die die von der B of A Issuance B.V., eine unter niederländischem Recht eingetragene Personengesellschaft mit beschränkter Haftung (*besloten vennootschap met beperkte aansprakelijkheid*) mit Sitz in Amsterdam, Niederlande (die '**Emittentin**"), ausgegebenen [Schuldverschreibungen] [Zertifikate] (die "[**Schuldverschreibungen**] [**Zertifikate**]") verbrieft. Für die [Schuldverschreibungen] [Zertifikate] gelten die [dieser] [diesem] Global[schuldverschreibung] [zertifikat] als Anlage beigefügten konsolidierten Bedingungen ("**Konsolidierte Bedingungen**"). Die hierin verwendeten Begriffe und Ausdrücke haben die gleiche Bedeutung wie in den Konsolidierten Bedingungen.

Die Emittentin verpflichtet sich, nach Maßgabe der Konsolidierten Bedingungen an den Inhaber einer[s] Global[schuldverschreibung][zertifikats] die hierauf nach den Konsolidierten Bedingungen zahlbaren Beträge zu zahlen bzw. zu liefernde Werte zu liefern.

Gemäß der von der Bank of America Corporation (die "**Garantin**") unterzeichneten Garantieerklärung werden die hierunter fallenden Auszahlungen von der Garantin garantiert.

Diese[s] Global[schuldverschreibung][zertifikat] wird gemäß den Konsolidierten Bedingungen gegen Effektive [Schuldverschreibungen][Zertifikate] mit Sicherheitsdruck und (ggf.) gegen Kupons, Empfangsscheine und/oder Erneuerungsscheine ausgetauscht (auf der Grundlage, dass auf der Vorderseite dieser Effektiven [Schuldverschreibungen] [Zertifikate] und (ggf.) Kupons, Empfangsscheine und/oder Erneuerungsscheine alle entsprechenden Angaben enthalten sind und die Konsolidierten Bedingungen in diese Effektiven [Schuldverschreibungen] [Zertifikate] einbezogen wurden). Vorbehaltlich des Voranstehenden und vorbehaltlich dessen, dass der Principal Agent mindestens 60 Tage vor dem Austauschtag (wie in den Konsolidierten Bedingungen definiert) von Clearstream Frankfurt, das auf Anweisungen eines Inhaber von Anteilen an [der] [dem] Global[schuldverschreibung][zertifkat] handelt, benachrichtigt wurde, erfolgt dieser Austausch nach Vorlage diese[r][s] Global[schuldverschreibung] [zertifkat] durch den Inhaber bei der oben genannten Geschäftsstelle des Principal Agents an einem beliebigen Tag (außer an einem Samstag oder Sonntag), an dem Banken in Frankfurt für den Geschäftsverkehr geöffnet sind. Der Gesamtkapitalbetrag der Effektiven [Schuldverschreibungen] [Zertifikate], die nach dem Austausch der [Schuldverschreibungen][Zertifikate] ausgegeben werden, entspricht dem Gesamtkapitalbetrag der vom Inhaber für den Austausch eingereichten Global[schuldverschreibungen][zertifikate] (soweit dieser Kapitalbetrag nicht den Gesamtkapitalbetrag der Global[schuldverschreibungen][zertifikate] übersteigt, der in den Aufzeichnungen von Clearstream, Frankfurt verzeichnet ist).

Bei Austausch in Höhe des ausstehenden Gesamtnennbetrages ist die [das] Global[schuldverschreibung] [zertifikat] der Zahlstelle auszuhändigen.

Die Höhe des Nominalbetrages der Global[schuldverschreibungen][zertifikate] (die "**[Schuldverschreibungen] [Zertifikate]**" entspricht dem jeweiligen Stand der anwendbaren aktuellen EDV-Dokumentation der Clearstream Banking AG, Frankfurt am Main (das "**Clearing System**"). Die Dokumentation beim Clearing System gilt als unwiderlegbarer Beweis für die Höhe des Nominalbetrags der [Schuldverschreibungen] [Zertifikate].

Die [Das] Endgültige[s] Global[schuldverschreibung][zertifikat] unterliegt dem Recht der Bundesrepublik Deutschland.

Diese[s] Endgültige[s] Global[schuldverschreibung][zertifikat] wird in jeder Hinsicht erst wirksam und bindend, wenn sie mit einer Kontrollunterschrift durch oder im Namen der deutschen Zahlstelle versehen worden ist.

[ ● Emissionsmonat] 2007/2008

B OF A ISSUANCE B.V.

Durch: _____
Geschäftsführer A

Durch: _____
Geschäftsführer B

KONTROLLUNTERSCHRIFT

THE BANK OF NEW YORK, FILIALE FRANKFURT AM MAIN
Als deutsche Zahlstelle

Durch: _____
Unterschriftsberechtigter
Nur zum Zweck der Beglaubigung

Schedule 2 to
Agency Agreement

FORM OF THE GERMAN PERMANENT GLOBAL [NOTE] [CERTIFICATE]

CONVENIENCE TRANSLATION OF THE FORM OF THE GERMAN PERMANENT GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS BEARER [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][3]

3 This language is applicable only to Permanent Global [Notes] [Certificates] representing [Notes] [Certificates] with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

PERMANENT GLOBAL [NOTE] [CERTIFICATE]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

This Global [Note] [Certificate] is a Permanent Global [Note] [Certificate] (the**"Global [Note] [Certificate]"**) in bearer form without interest coupons in respect of [Note] [Certificate]s (the "[Note] [Certificate]s") issued by B of A Issuance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "Issuer") described, and having the provisions specified, in the consolidated terms and conditions (the "Terms and Conditions"), which provisions are incorporated herein. Words and expressions defined or set out in the Terms and Conditions shall bear the same meaning when used herein.

The Issuer, subject to and in accordance with the Terms and Conditions, promises to pay or deliver to the bearer hereof any sums payable or amount deliverable in respect thereof under the Terms and Conditions.

Payment hereunder is guaranteed by Bank of America Corporation (the "Guarantor"), as set forth in the Guarantee Agreement executed by the Guarantor.

This Global [Note] [Certificate] shall be exchanged for security-printed Definitive [Notes] [Certificates], under the circumstances and in accordance with the Terms and Conditions, and (if applicable) Coupons, Receipts and/or Talons (on the basis that all the appropriate details have been included on the face of such Definitive [Notes] [Certificates] and (if applicable) Coupons, Receipts and/or Talon and the Terms and Conditions have been incorporated on such Definitive [Notes] [Certificates]). Subject as aforesaid and to at least 60 calendar days' written notice expiring after the Exchange Date (as defined in the Temporary Global [Note] [Certificate] referred to above) being given to the Agent by Clearstream, Frankfurt, acting on the instructions of any Holder of an interest in the Global [Note][Certificate], this exchange will be made upon presentation of this Global [Note] [Certificate] by the bearer hereof on any day (other than a Saturday or Sunday) on which banks are open for business in Frankfurt at the office of the Agent specified above. The aggregate principal amount of Definitive [Notes] [Certificates] issued upon an exchange of this Global [Note] [Certificate] will be equal to the aggregate principal amount of this Global [Note] [Certificate] submitted by the bearer hereof for exchange (to the extent that such principal amount does not exceed the aggregate principal amount of this Global [Note] [Certificate] entered in the records of Clearstream, Frankfurt.

Upon the exchange of the outstanding principal amount of this Global [Note] [Certificate], it shall be surrendered to the Principal Agent.

The nominal amount of [Note] [Certificate]s represented by this Global [Note] [Certificate] shall be the aggregate amount from time to time entered in the records of Clearstream Banking AG, Frankfurt am Main (the "Clearing System"). The records of the Clearing System shall be conclusive evidence of the nominal amount of [Note] [Certificate]s represented by this Global [Note] [Certificate].

This Permanent Global [Note] [Certificate] shall be governed by, and construed in accordance with the laws of Germany.

This Permanent Global [Note] [Certificate] shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the German Paying Agent.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK, FILIALE FRANKFURT AM MAIN
As German Paying Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

FORM OF THE TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS A TEMPORARY GLOBAL [NOTE] [CERTIFICATE] IN BEARER FORM, WITHOUT COUPONS, EXCHANGEABLE FOR A BEARER [NOTE] [CERTIFICATE] IN PERMANENT GLOBAL FORM. THE RIGHTS ATTACHING TO THIS TEMPORARY GLOBAL [NOTE] [CERTIFICATE], AND THE TERMS AND CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR A PERMANENT GLOBAL [NOTE] [CERTIFICATE], ARE AS SPECIFIED HEREIN AND IN THE TERMS AND CONDITIONS (AS DEFINED BELOW).

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][4]

4 [This language is applicable only to Temporary Global [Notes][Certificates] representing [Notes][Certificates] with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

Diese[s] auf den Inhaber lautende Global[schuldverschreibung][zertifikat] ist ein[e] Vorläufige[s] Global[schuldverschreibung][zertifikat] (die [das] "**Global[schuldverschreibung][zertifikat]**") ohne Zinskupon, die die von der B of A Issuance B.V., eine unter niederländischem Recht eingetragene Personengesellschaft mit beschränkter Haftung (*besloten vennootschap met beperkte aansprakelijkheid*) mit Sitz in Amsterdam, Niederlande (die "**Emittentin**"), ausgegebenen [Schuldverschreibungen] [Zertifikate] (die "[**Schuldverschreibungen**] [**Zertifikate**]") verbrieft. Für die [Schuldverschreibungen] [Zertifikate] gelten die [dieser] [diesem] Global[schuldverschreibung] [zertifikat] als Anlage beigefügten konsolidierten Bedingungen ("**Konsolidierte Bedingungen**"). Die hierin verwendeten Begriffe und Ausdrücke haben die gleiche Bedeutung wie in den Konsolidierten Bedingungen.

Die Emittentin verpflichtet sich, nach Maßgabe der Konsolidierten Bedingungen an den Inhaber einer[s] Global[schuldverschreibung][zertifikats] die hierauf nach den Konsolidierten Bedingungen zahlbaren Beträge zu zahlen bzw. zu liefernde Werte zu liefern.

Gemäß der von der Bank of America Corporation (die "**Garantin**") unterzeichneten Garantieerklärung werden die hierunter fallenden Auszahlungen von der Garantin garantiert.

Vor dem Austauschtag (wie unten definiert) erfolgen Zahlungen auf [diese] [dieses] Global[schuldverschreibung][zertifikat] (ggf.) nur an den Inhaber derselben, sofern dem Principal Agent von Euroclear Bank S.A./N.V. (**"Euroclear"**) oder Clearstream Banking, société anonyme **("Clearstream Luxembourg"** und zusammen mit Euroclear die **"Maßgeblichen Clearingsysteme"**), ein Zertifikat vorgelegt wird, das im wesentlichen der in Anhang 4 zu [dieser] [diesem] Global[schuldverschreibung][zertifikat] festgelegten Form entspricht, darüber, dass es von der oder in Bezug auf eine Person, der ein bestimmter Kapitalbetrag der [Schuldverschreibungen][Zertifikate] zusteht (wie aus seinen Unterlagen hervorgeht), ein Zertifikat erhalten hat, das der oder im wesentlichen der in Anhang 5 zu [dieser] [diesem] Global[schuldverschreibung][zertifikat] festgelegten Form entspricht. Zahlungen oder Lieferungen, die in Bezug auf derzeit durch [diese] [dieses] Global[schuldverschreibung][zertifikat] verbriefte [Schuldverschreibungen][Zertifikate] fällig sind, erfolgen an den Inhaber [dieser] [diesem] Global[schuldverschreibung][zertifikat], und jede auf diese Weise erfolgte Zahlung stellt eine Erfüllung der Verpflichtungen der Emittentin diesbezüglich dar. Nach dem Austauschtag hat der Inhaber [dieser] [dieses] Global[schuldverschreibung][zertifikat] keinen Anspruch auf Zinszahlungen hierauf.

An oder nach dem Austauschtag (wie unten definiert) kann [diese] [dieses] Global[schuldverschreibung][zertifikat] ganz oder teilweise (kostenlos) gegen ein[e] Endgültige Global[schuldverschreibung][zertifikat] ausgetauscht werden, die in beiden Fällen der oder im wesentlichen der in Anhang 6 zu [dieser] [diesem] Global[schuldverschreibung][zertifikat] festgelegten Form entspricht (nebst den damit verbundenen Bedingungen), jeweils nach Benachrichtigung durch ein Maßgebliches Clearingsystem, das auf Anweisungen eines Inhabers eines Anteils an [dieser] [diesem] Global[schuldverschreibung][zertifikat] handelt, oder sie kann in bestimmten beschränkten Fällen gegen Effektive [Schuldverschreibungen][Zertifikate] mit Sicherheitsdruck und (ggf.) Kupons, Empfangsscheine und/oder Erneuerungsscheine und vorbehaltlich der in den Bedingungen festgelegten Mitteilungsfrist ausgetauscht werden. Der "**Austauschtag**" für [diese] [dieses] Global[schuldverschreibung][zertifikat] ist normalerweise der 40. Tag nach dem Tag, an dem die Emittentin die Erlöse aus dem Verkauf der Globalschuldverschreibung erhält, oder nach dem Ausgabetag (*closing date*) für [diese] [dieses] Global[schuldverschreibung][zertifikat], je nach dem welches Ereignis später eintritt. Wenn jedoch die

Emittentin, ein Händler oder eine Vertriebsstelle, wie in der Treasury Regulation Sec. 1.163-5(c)(2)(i)(D)(4) definiert, eine durch [diese] [dieses] Global[schuldverschreibung] [zertifikat] verbriefte Schuldverschreibung als Teil einer nicht verkauften Zuteilung oder Zeichnung für mehr als 40 Tage nach dem Tag hält, an dem die Emittentin die Erlöse aus dem Verkauf der [Schuldverschreibungen] [Zertifikate] erhält, oder nach dem Ausgabetag der [Schuldverschreibungen][Zertifikate], je nach dem welches Ereignis später eintritt, ist der Austauschtag in Bezug auf diese [Schuldverschreibungen][Zertifikate] der Tag nach dem Tag, an dem die Emittentin, der Händler oder die Vertriebsstelle diese [Schuldverschreibungen] [Zertifikate] verkauft.

Bei Austausch in Höhe des ausstehenden Gesamtnennbetrages ist die [das] Global[schuldverschreibung][zertifikat] dem Principal Agent auszuhändigen.

[**Im Falle einer NGN**] [Der Nominalbetrag der durch diese Globalschuldverschreibung verbrieften Schuldverschreibungen ist der Gesamtbetrag, der von Zeit zu Zeit in die Unterlagen der Maßgeblichen Clearingsysteme eingetragen wird. Die Unterlagen der Maßgeblichen Clearingsysteme (womit in dieser Globalurkunde die Unterlagen gemeint sind, die jedes Maßgebliche Clearingsystem für seine Kunden bereithält und die den Umfang der Anteile eines solchen Kunden wiedergeben) stellen einen abschließenden Nachweis des Nominalbetrags der durch diese Globalschuldverschreibung verbrieften Schuldverschreibungen dar und für diese Zwecke ist eine Mitteilung eines Maßgeblichen Clearingsystems (diese Mitteilung soll dem Inhaber auf Anfrage zugänglich gemacht werden), die den Nominalbetrag der durch diese Globalschuldverschreibung verbrieften Schuldverschreibungen wiedergibt, jederzeit ein abschließender Nachweis der Unterlagen des Maßgeblichen Clearingsystems zu dieser Zeit.

[**Im Falle einer CGN**] Der Nominalbetrag de[r][s] durch diese[s] Global[schuldverschreibung][zertifikat] verbriefte[n] [Schuldverschreibung][Zertifikats] ist der Betrag, der in den Bedingungen angegeben ist, oder der zuletzt durch die oder im Namen der Emittentin in die maßgebliche Spalte in Teil II, III oder IV von Anhang 1 oder 2 aufgenommene Nominalbetrag, falls dieser Betrag niedriger ist.

Bei jeglicher Rückzahlung, Teilzahlung, Lieferung oder Kauf und Entwertung irgendeiner der durch diese Globalurkunde verbrieften Schuldverschreibungen hat die Emittentin dafür zu sorgen, dass

> [**Im Falle einer NGN**] Details einer solchen Rückzahlung, Teilzahlung, Lieferung oder eines solchen Kaufs und (ggf.) einer solchen Entwertung pro rata in die Unterlagen der Maßgeblichen Clearingsysteme eingetragen werden und, soweit ein solcher Eintrag vorgenommen wird, der Nominalbetrag der Schuldverschreibungen, der in den Unterlagen der Maßgeblichen Clearingsysteme vermerkt ist und durch diese Globalschuldverschreibung verbrieft ist, um den Kapitalbetrag der solchermaßen abgelösten, gekauften oder entwerteten Schuldverschreibungen oder um den Betrag der Teilzahlung reduziert wird.
>
> [**Im Falle einer CGN**] Details einer solchen Rückzahlung, Teilzahlung, Lieferung oder eines solchen Kaufs und (ggf.) einer solchen Entwertung in die maßgebliche Spalte in Teil II, III oder IV von Anhang 1 oder 2 eingetragen werden, die eine solche Rückzahlung, Teilzahlung, Lieferung oder einen solchen Kauf und (ggf.) eine solche Entwertung wiedergeben, und durch die oder im Namen der Emittentin unterzeichnet werden. Anlässlich einer solchen Rückzahlung, Teilzahlung, Lieferung oder eines solchen Kaufs und einer solchen Entwertung soll der Kapitalbetrag der durch diese[s] Global[schuldverschreibung][zertifikat] verbrieften [Schuldverschreibungen][Zertifikate] um den Kapitalbetrag der solchermaßen abgelösten, gekauften oder entwerteten Schuldverschreibungen oder um den Betrag der Teilzahlung reduziert werden

Diese[s] Vorläufige Global[schuldverschreibung][zertifikat] wird gemäß den Bedingungen gegen ein[e] Definitive[s] Global[schuldverschreibung] [zertifikat] ausgetauscht.

Diese[s] Global[schuldverschreibung][zertifikat] kann durch den Inhaber an einem beliebigen Tag (außer an einem Samstag oder Sonntag) umgetauscht werden, an dem Banken in Übereinstimmung mit den Bedingungen für den Geschäftsverkehr in London geöffnet sind. Die Emittentin sorgt dafür, dass Definitive [Schuldverschreibungen] [Zertifikate] und Anteile an der/dem Endgültigen Global[schuldverschreibung][zertifikat] so ausgegeben und geliefert werden.

[**Im Falle einer NGN**] und in den Aufzeichnungen des Maßgeblichen Clearingsystems nur im Austausch gegen das Verhältnis dieser/dieses Global[schuldverschreibung][zertifikats] aufgezeichnet werden, für das dem Agent von Euroclear oder Clearstream, Luxemburg ein Zertifikat überreicht wurde, das im wesentlichen in der in Anhang 4 dieser/dieses Global[schuldverschreibung][zertifikats] festgelegten Form entspricht, darüber, dass sie von der oder in Bezug auf eine Person, der ein wirtschaftlicher Anteil eines bestimmten Kapitalbetrages der [Schuldverschreibungen][Zertifikate] zusteht (wie aus ihren Unterlagen hervorgeht), ein Zertifikat erhalten hat, das der oder im wesentlichen der in Anhang 5 zu dieser/diesem Global[schuldverschreibung][zertifikat] festgelegten Form des Zertifikats entspricht, sofern dieses Zertifikat nicht bereits in Übereinstimmung mit den oben genannten Bestimmungen übergeben wurde. Der Gesamtkapitalbetrag von Anteilen an eine[r][m] Endgültigen Global[schuldverschreibung][zertifikat], die nach dem Austausch diese[r][s] Global[schuldverschreibung][zertifikats] vorbehaltlich den Bedingungen ausgegeben werden, entspricht dem Gesamtkapitalbetrag der vom Inhaber für den Austausch eingereichten Global[schuldverschreibung][zertifikats] (soweit dieser Kapitalbetrag nicht den Gesamtkapitalbetrag diese[r][s] Global[schuldverschreibung][zertifikats] übersteigt).

Bei einem Austausch nur eines Teils diese[r][s] Global[schuldverschreibung][zertifikats], sorgt die Emittentin dafür, dass:

[**Im Falle einer NGN**] Details dieses Austauschs pro rata in die Aufzeichnungen der Maßgeblichen Clearingsysteme eingetragen werden.

[**Im Falle einer CGN**] Details dieses Austauschs in das maßgebliche Feld in Anhang 2 eingetragen werden, das einen solchen Austausch wiedergibt, und durch die oder im Namen der Emittentin unterzeichnet werden und der Kapitalbetrag diese[r][s] Global[schuldverschreibung][zertifikats] und der durch diese[s] Global[schuldverschreibung][zertifikat] verbrieften [Schuldverschreibungen][Zertifikate] um den so ausgetauschten Kapitalbetrag reduziert wird.

Falls nach der Begebung eine[r][s] Endgültigen Global[schuldverschreibung][zertifikats] im Austausch für einige der durch diese[s] Global[schuldverschreibung][zertifikat] verbrieften [Schuldverschreibungen][Zertifikate] weitere durch diese[s] Global[schuldverschreibung][zertifikat] verbriefte [Schuldverschreibungen][Zertifikate] gegen Anteile an eine[r][m] Endgültigen Global[schuldverschreibung][zertifikat] ausgetauscht werden sollen, kann ein solcher Austausch vorbehaltlich der Bedingungen ohne die Begebung eine[r][s] neuen Endgültigen Global[schuldverschreibung][zertifikats] vollzogen werden.

[**Im Falle einer NGN**] [indem Details eines solchen Anstiegs in den Aufzeichnungen der Maßgeblichen Clearingsysteme aufgezeichnet werden.]

[**Im Falle einer CGN**] [indem die Emittentin oder ihr Agent Anhang 2 de[r][s] zuvor begebenen Endgültigen Global[schuldverschreibung][zertifikats] billigen, um einen Anstieg des Gesamtkapitalbetrags eine[r][s] solchen Endgültigen Global[schuldverschreibung][zertifikats] um einen Betrag wiederzugeben, der dem Gesamtkapitalbetrag de[r][s] Endgültigen Global[schuldverschreibung][zertifikats] entspricht, [die][das] anderenfalls bei einem solchen Austausch begeben worden wäre.

Die [Das] Vorläufige[s] Global[schuldverschreibung][zertifikat] unterliegt dem Recht der Bundesrepublik Deutschland.

[Diese[s] Vorläufige[s] Global[schuldverschreibung][zertifikat] wird in jeder Hinsicht erst wirksam und bindend, wenn sie mit einer Kontrollunterschrift durch oder im Namen des Agent versehen worden ist.]

[Diese[s] Vorläufige[s] Global[schuldverschreibung][zertifikat] wird in jeder Hinsicht erst wirksam und bindend, wenn sie durch den von dem Maßgeblichen Clearingsystem ernannten gemeinsamen Verwahrer (*Common Safekeeper*) ordnungsgemäß vollzogen worden ist (effectuated).]

ZU URKUND DESSEN hat die Emittentin die ordnungsgemäße Unterzeichnung diese[r][s] Vorläufigen Globalurkunde in ihrem Namen veranlasst.

B OF A ISSUANCE B.V.

Durch: _____
Geschäftsführer A

Durch: _____
Geschäftsführer B

[KONROLLUNTERSCHRIFT]

THE BANK OF NEW YORK
Als Agent

Durch: _____
Unterschriftsberechtigter
Nur zum Zwecke der Beglaubigung.

[Für die Neuen Globalschuldverschreibungen]

[BESCHEINIGUNG DER AUSFÜHRUNG (*Effectuation*)]

[Name des gemeinsamen Verwahrers]
Als gemeinsamer Verwahrer

Durch: _____
Unterschriftsberechtigter
Nur zum Zweck der Beglaubigung.

Anhang 1 zu[r][m]

Vorläufigen Global[schuldverschreibung][zertifikat][5]

TEIL I

ZINSZAHLUNGEN

| Zinszahlungstag | Tag der Zahlung | Gesamtbetrag der zu zahlenden Zinsen[6] | Gezahlter Zinsbetrag[6] | Zahlungsbestätigung durch oder im Namen der Emittentin |
|---|---|---|---|---|
| [7]Erster | | | | |

5 Anhang 1 sollte nur ausgefüllt werden, wenn aus den entsprechenden Endgültigen Bedingungen hervorgeht, dass diese Globalurkunde eine KGN oder ein Zertifikat sein soll.

6 Einschließlich Beträge der Physischen Lieferung, falls anwendbar.

7 Nummerierung fortsetzen, bis die passende Anzahl an Zinszahlungstagen für die betreffende Wertpapiertranche erreicht ist.

TEIL II

TEILZAHLUNGEN

| Teilzahlungstag | Tag der Zahlung | Gesamtbetrag der zu zahlenden Teilzahlungen[8] | Betrag der gezahlten Teilzahlungen[9] | Verbleibender Kapitalbetrag diese[r][s] Global[schuldver-schreibung][zertifikats] nach einer solchen Zahlung[9] | Zahlungsbestätigung durch oder im Namen der Emittentin |
|---|---|---|---|---|---|
| [10]Erster | | | | | |

8 Einschließlich Beträge der Physischen Lieferung, falls anwendbar.
9 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II, III oder IV von Anhang 1 oder 2.
10 Nummerierung fortsetzen, bis die passende Anzahl an Teilzahlungstagen für die betreffende Wertpapiertranche erreicht ist.

TEIL III

RÜCKZAHLUNGEN

| Rückzahlungtag | Zurückzuzahlender Gesamtkapitalbetrag diese[r][s] Global[schuldverschreibung][zertifikats][11] | Zurückgezahlter Kapitalbetrag[1] | Verbleibender Kapitalbetrag diese[r][s] Global[schuldverschreibung][zertifikats] nach einer Rückzahlung[12] | Bestätigung der Rückzahlung durch oder im Namen der Emittentin |
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11 Einschließlich Beträge der Physischen Lieferung, falls anwendbar.

12 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II, III oder IV von Anhang 1 oder 2.

TEIL IV

KÄUFE UND ENTWERTUNGEN

| Tag des Kaufs und der Entwertung | Teil des gekauften und entwerteten Kapitalbetrags diese[r][s] Global[schuldverschreibung] [zertifikats] | Verbleibender Kapitalbetrag diese[r][s] Global[schuldverschreibung] [zertifikats] nach ein Kauf und Entwertung [13] | Bestätigung des Kaufs und der Entwertung durch oder im Namen der Emittentin |
|---|---|---|---|

13 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II, III oder IV von Anhang 1 oder 2.

Anhang 2 zu[r][m]
Vorläufigen Global[schuldverschreibung][zertifikat][14]

AUSTAUSCH
GEGEN DEFINITIVE [SCHULDVERSCHREIBUNGEN][ZERTIFIKATE] ODER ENDGÜLTIGE GLOBAL [SCHULDVERSCHREIBUNGEN][ZERTIFIKATE]

Die folgenden Austauschgeschäfte eines Teils diese[r][s] Global[schuldverschreibung][zertifikats] gegen Definitive [Schuldverschreibungen][Zertifikate] oder in eine[r][m] Endgültigen Global[schuldverschreibung][zertifikat] verbriefte [Schuldverschreibungen][Zertifikate] wurden vorgenommen:

| **Datum des Austauschs** | **Kapitalbetrag diese[r][s] gegen Definitive [Schuldverschreibungen] [Zertifikate] oder gegen in eine[r][m] Endgültigen Global[schuldverschreibung] [zertifikat] verbriefte [Schuldverschreibungen] [Zertifikate] ausgetauschten Global[schuldverschreibung] [zertifikats]** | **Verbleibender Kapitalbetrag diese[r][s] Global[schuldverschreibung] [zertifikats] nach einem solchen Austausch[15]** | **Durch oder im Namen der Emittentin angebrachter Vermerk** |
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14 Anhang 2 sollte nur ausgefüllt werden, wenn aus den entsprechenden Endgültigen Bedingungen hervorgeht, dass diese Globalurkunde eine KGN oder ein Zertifikat sein soll.

15 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II, III oder IV von Anhang 1 oder 2.

Anhang 4 zu[r][m]
Vorläufigen Global[schuldverschreibung][zertifikat]

FORM OF CERTIFICATE TO BE PRESENTED
BY EUROCLEAR OR CLEARSTREAM,LUXEMBOURG

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, based solely on certifications we have received in writing, by tested telex or by electronic transmission from member organizations appearing in our records as persons being entitled to a portion of the principal or notional amount set forth below (our "Member Organizations") substantially to the effect set forth in the Temporary Global [Note] [Certificate], as of the date hereof, [EUR][USD]_____ principal or notional amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) is owned by U.S. persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions. Any such certification by electronic transmission satisfies the requirements set forth in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(3)(ii). We will retain all certificates received from Member Organizations for the period specified in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(3)(i).

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify with respect to such principal amount of Securities set forth above that, except as set forth below, we have received in writing, by tested telex or by electronic transmission, from our Member Organizations entitled to a portion of such principal amount, certifications with respect to such portion, substantially to the effect set forth in the Temporary Global [Note] [Certificate].

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) any portion of the temporary global Security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organizations to

the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) are no longer true and cannot be relied upon as of the date hereof.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated , [20____][16]

Yours faithfully,

Euroclear / Clearstream, Luxembourg

By: _____

16 To be dated no earlier than date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Anhang 5 zu[r][m]
Vorläufigen Global[schuldverschreibung][zertifikat]

FORM OF CERTIFICATE OF BENEFICIAL OWNER

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by person(s) that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) are owned by U.S. person(s) that (a) are foreign branches of a United States financial institution (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and in addition if the owner of the Securities is a United States or foreign financial institution described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) this is to further certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify that, except as set forth below in the case of debt securities, the Securities are beneficially owned by (a) non-U.S. person(s) or (b) U.S. person(s) who purchase the Securities in transactions which did not require registration under the Act. As used in this paragraph the term "U.S. person" has the meaning given to it by Regulation S under the Act.

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by facsimile on or prior to the date on which you intend to submit your certification relating to the Securities held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certification excepts and does not relate to [ ] of such interest in the above Securities in respect of which we are not able to certify and as to which we understand exchange and delivery of Definitive Securities (or, if relevant, exercise of any right or collection of any interest) cannot be made until we do so certify.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated: , 20____ [1]

By: _____

As, or as agent for, the beneficial owner(s) of the Securities to which this certification relates.

1 To be dated no earlier than the fifteenth day prior to the date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Schedule 3 to
Agency Agreement

FORM OF THE TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

CONVENIENCE TRANSLATION OF THE FORM OF THE TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS A TEMPORARY GLOBAL [NOTE] [CERTIFICATE] IN BEARER FORM, WITHOUT COUPONS, EXCHANGEABLE FOR A BEARER [NOTE] [CERTIFICATE] IN PERMANENT GLOBAL FORM. THE RIGHTS ATTACHING TO THIS TEMPORARY GLOBAL [NOTE] [CERTIFICATE], AND THE TERMS AND CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR A PERMANENT GLOBAL [NOTE] [CERTIFICATE], ARE AS SPECIFIED HEREIN AND IN THE TERMS AND CONDITIONS (AS DEFINED BELOW).

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][2]

2 [This language is applicable only to Temporary Global [Notes][Certificates] representing [Notes][Certificates] with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

TEMPORARY GLOBAL [NOTE] [CERTIFICATE]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

This Global [Note] [Certificate] is a Temporary Global [Note] [Certificate] (the **"Global [Note] [Certificate]"**) in bearer form without interest coupons in respect of the [Note] [Certificate]s (the **"[Note] [Certificate]s"**) issued by B of A Issuance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "Issuer") described, and having the provisions specified, in the consolidated terms and conditions (the "Terms and Conditions"), which provisions are incorporated herein. Words and expressions defined or set out in the Terms and Conditions shall bear the same meaning when used herein.

The Issuer, subject to and in accordance with the Terms and Conditions, promises to pay and deliver to the bearer hereof any sums payable or amount deliverable in respect thereof under the Terms and Conditions.

Payment hereunder is guaranteed by Bank of America Corporation (the "Guarantor"), as set forth in the Guarantee Agreement executed by the Guarantor.

Prior to the Exchange Date (as defined below), all payments (if any) on this Global [Note] [Certificate] will only be made to the bearer hereof to the extent that there is presented to the Agent by Euroclear Bank S.A. N.V. (**"Euroclear"**) or Clearstream Banking, société anonyme (**"Clearstream, Luxembourg"** and together with Euroclear, the **"Relevant Clearing Systems"**), a certificate, substantially in the form set out in Schedule 4 to this Global [Note] [Certificate], to the effect that it has received from or in respect of a person entitled to a particular principal amount of the [Note] [Certificate]s (as shown by its records) a certificate in or substantially in the form of the certificate as set out in Schedule 5 to this Global [Note] [Certificate]. Payments or deliveries due in respect of [Note] [Certificate]s for the time being represented by this Global [Note] [Certificate] shall be made to the bearer of this Global [Note] [Certificate] and each payment so made will discharge the Issuer's obligations in respect thereof. After the Exchange Date, the bearer of this Global [Note] [Certificate] will not be entitled to receive any payment of interest hereon.

On or after the Exchange Date (as defined below) this Global [Note] [Certificate] may be exchanged in whole or in part (free of charge) for, a permanent Global [Note] [Certificate], which, in either case, is in or substantially in the form set out in Schedule 6 to this Global [Note] [Certificate] (together with the Terms and Conditions attached to it), in each case upon notice being given by a Relevant Clearing System acting on the instructions of any Holder of an interest in this Global [Note] [Certificate] or, under certain limited circumstances, security printed Definitive [Note] [Certificate]s and (if applicable) Coupons, Receipts and/or Talons and subject to such notice period as is specified in the Terms and Conditions. The **"Exchange Date"** for this Global [Note] [Certificate] will normally be the 40th day after the later of the date on which the Issuer receives the proceeds of the sale of the Global [Note] [Certificate] and the closing date for the Global [Note] [Certificate]. However, if the Issuer, a Dealer or any distributor, as defined in Treasury Regulation Sec. 1.163-5(c)(2)(i)(D)(4), holds a [Note] [Certificate] represented by this Global [Note] [Certificate] as part of an unsold allotment or subscription for more than 40 days after the later of the date on which the Issuer receives the proceeds of the sale of the Global [Note] [Certificate] and the closing date for the Global [Note] [Certificate], the Exchange Date with respect to such [Note] [Certificate] will be the day after the date on which the Issuer, Dealer or distributor sells such [Note] [Certificate].

Upon the exchange of the outstanding principal amount of this Global [Note] [Certificate], it shall be surrendered to the Principal Agent.

[**In case of a New Global Note**][The nominal amount of Notes represented by this Global Note shall be the aggregate amount from time to time entered in the records of the Relevant Clearing Systems. The records of the Relevant Clearing Systems (which expression in this Global Note means the records that each Relevant Clearing System holds for its customers which reflect the amount of such customer's interest in the Notes) shall be conclusive evidence of the nominal amount of Notes represented by this Global Note and, for these purposes, a statement issued by a Relevant Clearing System (which statement shall be made available to the bearer upon request) stating the nominal amount of Notes represented by this Global Note at any time shall be conclusive evidence of the records of the Relevant Clearing System at that time.]

[**In case of a Classic Global Note/Certificate**] The nominal amount of the [Note] [Certificate] represented by this Global [Note] [Certificate] shall be the amount stated in the Terms and Conditions or, if lower, the nominal amount most recently recorded by or on behalf of the Issuer, in the relevant column in Part II, III or IV of Schedule 1 or in Schedule 2.

On any redemption, payment of an Installment Amount, delivery or purchase and cancellation of any of the Notes represented by this Global Note, the Issuer shall procure that

> [**In case of a New Global Note**] [details of such redemption, payment, delivery or purchase and cancellation (as the case may be) shall be entered pro rata in the records of the Relevant Clearing Systems and, upon any such entry being made, the nominal amount of the Notes recorded in the records of the Relevant Clearing Systems and represented by this Global Note shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or by the amount of such installment so paid.]
>
> [**In case of a Classic Global Note/Certificate**] [details of such redemption, payment, delivery or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part II, III or IV of Schedule 1 or in Schedule 2 hereto recording any such redemption, payment, delivery or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such redemption, payment of an Installment Amount, delivery or purchase and cancellation, the principal amount of such [Note] [Certificate]s represented by this Global [Note] [Certificate] shall be reduced by the principal amount of the [Note] [Certificate]s so redeemed or purchased and cancelled or the amount of such Installment Amount.]

This Temporary Global [Note] [Certificate] shall be exchanged for a Definitive Global [Note] [Certificate] in accordance with the Terms and Conditions.

This Global [Note] [Certificate] may be exchanged by the bearer hereof on any day (other than a Saturday or Sunday) on which banks are open for business in London in accordance with the Terms and Conditions. The Issuer shall procure that Definitive [Note][Certificate]s and interests in the Permanent Global [Note] [Certificate] shall be so issued and delivered [and] [**in the case of a New Global Note**] [recorded in the records of the Relevant Clearing System] in exchange for only that portion of this Global [Note] [Certificate] in respect of which there shall have been presented to the Agent by Euroclear or Clearstream, Luxembourg a certificate, substantially in the form set out in Schedule 4 to this Global [Note] [Certificate], to the effect that it has received from or in respect of a person entitled to a beneficial interest in a particular principal amount of the [Note] [Certificate]s (as shown by its records) a certificate from such person in or substantially in the form of the certificate set out in Schedule 5 to this Global [Note] [Certificate], unless such certificate has already been given in accordance with the above provisions. The aggregate principal amount of interests in a Permanent Global [Note] [Certificate] issued upon an exchange of this Global [Note] [Certificate] subject to the terms hereof, will be equal to the aggregate principal amount of this Global [Note] [Certificate] submitted by the bearer hereof for exchange (to the extent that such principal amount does not exceed the aggregate principal amount of this Global [Note] [Certificate]).

On an exchange of only part of this Global [Note] [Certificate], the Issuer shall procure that:

[**in the case of a New Global Note** details of such exchange shall be entered pro rata in the records of the Relevant Clearing Systems.]

[**in the case of a Classic Global Note or Certificate**] [details of such exchange shall be entered in the relevant space in Schedule 2 hereto recording such exchange and shall be signed by or on behalf of the Issuer and the principal amount of this Global [Note] [Certificate] and the [Note] [Certificate]s represented by this Global [Note] [Certificate] shall be reduced by the principal amount so exchanged.

If, following the issue of a Permanent Global [Note] [Certificate] in exchange for some of the [Note] [Certificate]s represented by this Global [Note] [Certificate], further [Note] [Certificate]s represented by this Global [Note] [Certificate] are to be exchanged for interests in a Permanent Global [Note] [Certificate], such exchange may be effected, subject as provided herein, without the issue of a new Permanent Global [Note] [Certificate],

[**in the case of a New Global Note** [recording the details of such increase in the records of the Relevant Clearing Systems.]

[**in the case of a Classic Global Noteor a Certificate**] [by the Issuer or its agent endorsing Schedule 2 of the Permanent Global [Note] [Certificate] previously issued to reflect an increase in the aggregate principal amount of such Permanent Global [Note] [Certificate] by an amount equal to the aggregate principal amount of the Permanent Global [Note] [Certificate] which would otherwise have been issued on such exchange.]

This Temporary Global [Note] [Certificate] shall be governed by, and construed in accordance with the laws of Germany.

This Temporary Global [Note] [Certificate] shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the Agent.

[Where the Global Note is intended to be held in a manner that would allow Eurosystem-eligibility, this Temporary Global Note shall not become valid or obligatory for any purposes until it is duly effectuated by the entity appointed as common safekeeper by the Relevant Clearing System.]

IN WITNESS WHEREOF the Issuer has caused this Temporary Global [Note][Certificate] to be duly signed on its behalf.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

[CERTIFICATE OF AUTHENTICATION OF THE AGENT]

This Temporary Global [Note][Certificate] is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK
As Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

[For New Global Notes]

[CERTIFICATE OF EFFECTUATION]

[Insert the name of the common safekeeper]
As common safekeeper

By: _____
Authorized Signatory
For the purposes of effectuation only.

Schedule 1 to the

Temporary Global [Note][Certificate][3]

PART I

INTEREST PAYMENTS

| Interest Payment Date | Date of Payment | Total Amount of Interest Payable[4] | Amount of Interest Paid[2] | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|
| [5]First | | | | |

3 Schedule 1 should only be completed where the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note or where this is a Global Certificate.

4 Including Physical Delivery Amount(s), if applicable.

5 Continue numbering until the appropriate number of interest payment dates for the particular Tranche of Notes is reached.

PART II

INSTALLMENT PAYMENTS

| Installment Date | Date of Payment | Total of Installment Amounts Payable[6] | Amount of Installment Amounts Paid[21] | Remaining principal amount of this Global [Note] [Certificate] following such payment[7] | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|---|
| [8]First | | | | | |

6 Including Physical Delivery Amount(s), if applicable.
7 See most recent entry in Part II, III or IV of Schedule 1 or in Schedule 2 in order to determine this amount.
8 Continue numbering until the appropriate number of installment payment dates for the particular Tranche of Notes is reached.

PART III

REDEMPTIONS

| Date of Redemption | Total principal amount of this Global [Note][Certificate] to be redeemed[9] | Principal amount Redeemed[1] | Remaining principal amount of this Global [Note][Certificate] following such redemption[10] | Confirmation of redemption by or on behalf of the Issuer |
|---|---|---|---|---|

9 Including Physical Delivery Amount(s), if applicable.

10 See most recent entry in Part II, III, IV of Schedule 1 or in Schedule 2 in order to determine this amount.

PART IV

PURCHASES AND CANCELLATIONS

| Date of purchase and cancellation | Part of principal amount of this Global [Note][Certificate] purchased and canceled | Remaining principal amount of this Global [Note][Certificate] following such purchase and cancellation[11] | Confirmation of purchase and cancellation by or on behalf of the Issuer |
|---|---|---|---|

11 See most recent entry in Part II, III or IV of Schedule 1 or in Schedule 2 in order to determine this amount.

Schedule 2 to the
Temporary Global [Note][Certificate][12]

SCHEDULE OF EXCHANGES
FOR DEFINITIVE [NOTE][CERTIFICATE]S OR PERMANENT GLOBAL [NOTE][CERTIFICATE]

The following exchanges of a part of this Global [Note][Certificate] for Definitive [Note][Certificate]s or [Note][Certificate]s represented by a Permanent Global [Note][Certificate] have been made:

| Date of exchange | Principal amount of this Global [Note][Certificate] exchanged for Definitive [Note][Certificate]s or [Note][Certificate]s represented by a Permanent Global [Note][Certificate] | Remaining principal amount of this Global [Note][Certificate] following such exchange[13] | Notation made by or on behalf of the Issuer |
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12 Schedule 2 should only be completed where the applicable Final Terms indicates that this Global Note is intended to be a Classic Global Note or where this is a Global Certificate.

13 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

Consolidated Terms and Conditions

Schedule 4 to the
Temporary Global [Note] [Certificate]

FORM OF CERTIFICATE TO BE PRESENTED
BY EUROCLEAR / CLEARSTREAM,LUXEMBOURG

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, based solely on certifications we have received in writing, by tested telex or by electronic transmission from member organizations appearing in our records as persons being entitled to a portion of the principal or notional amount set forth below (our "Member Organizations") substantially to the effect set forth in the Temporary Global [Note] [Certificate], as of the date hereof, [EUR][USD]_____ principal or notional amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) is owned by U.S. persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions. Any such certification by electronic transmission satisfies the requirements set forth in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(3)(ii). We will retain all certificates received from Member Organizations for the period specified in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(3)(i).

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify with respect to such principal amount of Securities set forth above that, except as set forth below, we have received in writing, by tested telex or by electronic transmission, from our Member Organizations entitled to a portion of such principal amount, certifications with respect to such portion, substantially to the effect set forth in the Temporary Global [Note] [Certificate].

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) any portion of the temporary global Security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organizations to

the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) are no longer true and cannot be relied upon as of the date hereof.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated , [20____][14]

Yours faithfully,

Euroclear / Clearstream Luxembourg

By: _____

14 To be dated no earlier than date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Schedule 5 to the
Temporary Global [Note] [Certificate]

FORM OF CERTIFICATE OF BENEFICIAL OWNER

B OF A ISSUANCE B.V.
(the "Issuer")

[NOTES/CERTIFICATES] DUE [YEAR OF MATURITY DATE/
SETTLEMENT DATE]

Series No. [ ]
Tranche No. [ ]

(the "Securities")

This is to certify that, as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by person(s) that are not citizens or residents of the United States, domestic partnerships, domestic corporations, any estate the income of which is subject to United States federal income taxation regardless of its source or any trust with respect to which a court within the United States is able to exercise primary supervision over its administration, and one or more U.S. persons have the authority to control all of its substantial decisions or any other persons deemed a U.S. person under Section 7701(a)(30) of the Internal Revenue Code (taking into account changes thereto and associated effective dates, elections, and transition rules) ("U.S. persons"), (ii) are owned by U.S. person(s) that (a) are foreign branches of a United States financial institution (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(iv)) ("financial institutions") purchasing for their own account or for resale, or (b) acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the Restricted Period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and in addition if the owner of the Securities is a United States or foreign financial institution described in Clause (iii) above (whether or not also described in Clause (i) or (ii)) this is to further certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a U.S. person or to a person within the United States or its possessions.

The Securities are of the category contemplated in Rule 903(b)(2) of Regulation S under the Securities Act of 1933, as amended (the "Act"), and this is also to certify that, except as set forth below in the case of debt securities, the Securities are beneficially owned by (a) non-U.S. person(s) or (b) U.S. person(s) who purchase the Securities in transactions which did not require registration under the Act. As used in this paragraph the term "U.S. person" has the meaning given to it by Regulation S under the Act.

As used herein, "United States" means the United States of America (including the States and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by facsimile on or prior to the date on which you intend to submit your certification relating to the Securities held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certification excepts and does not relate to [ ] of such interest in the above Securities in respect of which we are not able to certify and as to which we understand exchange and delivery of Definitive Securities (or, if relevant, exercise of any right or collection of any interest) cannot be made until we do so certify.

We understand that this certification is required in connection with certain tax laws and certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorize you to produce this certification to any interested party in such proceedings.

Dated: , 20____ [1]

By: _____
As, or as agent for, the beneficial owner(s) of the
Securities to which this certification relates.

1 To be dated no earlier than the fifteenth day prior to the date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Schedule 6 to the
Temporary Global [Note] [Certificate]

Permanent Global [Note] [Certificate]

FORM OF THE PERMANENT GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][2]

2 [This language is applicable only to Permanent Global [Notes] [Certificates] representing [Notes] [Certificates] with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

ENGÜLTIGE[S] GLOBAL[SCHULDVERSCHREIBUNG][ZERTIFIKAT]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

Diese[s] auf den Inhaber lautende Global[schuldverschreibung][zertifikat] ist ein[e] Endgültige[s] Global[schuldverschreibung][zertifikat] (die [das] "**Global[schuldverschreibung][zertifikat]**") ohne Zinskupon, die die von der B of A Issuance B.V., eine unter niederländischem Recht eingetragene Personengesellschaft mit beschränkter Haftung (*besloten vennootschap met beperkte aansprakelijkheid*) mit Sitz in Amsterdam, Niederlande (die "**Emittentin**"), ausgegebenen [Schuldverschreibungen] [Zertifikate] (die "[**Schuldverschreibungen**] [**Zertifikate**]") verbrieft. Für die [Schuldverschreibungen] [Zertifikate] gelten die [dieser] [diesem] Global[schuldverschreibung] [zertifikat] als Anlage beigefügten konsolidierten Bedingungen ("**Konsolidierte Bedingungen**"). Die hierin verwendeten Begriffe und Ausdrücke haben die gleiche Bedeutung wie in den Konsolidierten Bedingungen.

Die Emittentin verpflichtet sich, nach Maßgabe der Konsolidierten Bedingungen an den Inhaber einer[s] Global[schuldverschreibung][zertifikats] die hierauf nach den Konsolidierten Bedingungen zahlbaren Beträge zu zahlen bzw. zu liefernde Werte zu liefern.

Gemäß der von der Bank of America Corporation (die "**Garantin**") unterzeichneten Garantieerklärung werden die hierunter fallenden Auszahlungen von der Garantin garantiert.

Diese[s] Global[schuldverschreibung][zertifikat] wird gemäß den Bedingungen ausgetauscht. Bei Austausch in Höhe des ausstehenden Gesamtnennbetrages ist die [das] Global[schuldverschreibung][zertifikat] dem Principal Agent auszuhändigen.

[**Im Falle einer NGN**] [Der Nominalbetrag der durch diese Globalschuldverschreibung verbrieften Schuldverschreibungen ist der Gesamtbetrag, der von Zeit zu Zeit in die Unterlagen sowohl von Euroclear Bank S.A./N.V. (**"Euroclear"**) als auch Clearstream Banking, société anonyme **("Clearstream Luxembourg"** und zusammen mit Euroclear die **"Maßgeblichen Clearingsysteme")** eingetragen wird. Die Unterlagen der Maßgeblichen Clearingsysteme (womit in dieser Globalurkunde die Unterlagen gemeint sind, die jedes Maßgebliche Clearingsystem für seine Kunden bereithält und die den Umfang der Anteile eines solchen Kunden wiedergeben) stellen einen abschließenden Nachweis des Nominalbetrags der durch diese Globalschuldverschreibung verbrieften Schuldverschreibungen dar und für diese Zwecke ist eine Mitteilung eines Maßgeblichen Clearingsystems (diese Mitteilung soll dem Inhaber auf Anfrage zugänglich gemacht werden), die den Nominalbetrag der durch diese Globalschuldverschreibung verbrieften Schuldverschreibungen wiedergibt, jederzeit ein abschließender Nachweis der Unterlagen des Maßgeblichen Clearingsystems zu dieser Zeit.

[**Im Falle einer KGN**] Der Nominalbetrag de[r][s] durch diese[s] Global[schuldverschreibung][zertifikat] verbriefte[n] [Schuldverschreibung][Zertifikats] ist der Betrag, der in den Bedingungen angegeben ist, oder der zuletzt durch oder im Namen der Emittentin in die maßgebliche Spalte in Teil II, III oder IV von Anhang 1 oder 2 aufgenommene Nominalbetrag, falls dieser Betrag niedriger ist.

Bei jeglicher Rückzahlung, Teilzahlung, Lieferung oder Kauf und Entwertung irgendeiner der durch diese Globalurkunde verbrieften Schuldverschreibungen hat die Emittentin dafür zu sorgen, dass

[**Im Falle einer NGN**] Details einer solchen Rückzahlung, Teilzahlung, Lieferung oder eines solchen Kaufs und (ggf.) einer solchen Entwertung pro rata in die Unterlagen der Maßgeblichen Clearingsysteme eingetragen werden und, soweit ein solcher Eintrag vorgenommen wird, der Nominalbetrag der Schuldverschreibungen, der in den Unterlagen der Maßgeblichen Clearingsysteme vermerkt ist und durch diese Globalschuldverschreibung verbrieft ist, um den Kapitalbetrag der solchermaßen abgelösten, gekauften oder entwerteten Schuldverschreibungen oder um den Betrag der Teilzahlung reduziert wird.

[**Im Falle einer KGN**] Details einer solchen Rückzahlung, Teilzahlung, Lieferung oder eines solchen Kaufs und (ggf.) einer solchen Entwertung in die maßgebliche Spalte in Teil II, III oder IV von Anhang 1 oder 2 eingetragen werden, die eine solche Rückzahlung, Teilzahlung, Lieferung oder einen solchen Kauf und (ggf.) eine solche Entwertung wiedergeben, und durch die oder im Namen der Emittentin unterzeichnet werden. Anlässlich einer solchen Rückzahlung, Teilzahlung, Lieferung oder eines solchen Kaufs und einer solchen Entwertung soll der Kapitalbetrag der durch diese[s] Global[schuldverschreibung][zertifikat] verbrieften [Schuldverschreibungen][Zertifikate] um den Kapitalbetrag der solchermaßen abgelösten, gekauften oder entwerteten Schuldverschreibungen oder um den Betrag der Teilzahlung reduziert werden

Diese[s] Global[schuldverschreibung][zertifikat] wird nach und in Übereinstimmung mit den Bedingungen gegen Definitive [Schuldverschreibungen][Zertifikate] mit Sicherheitsdruck und (ggf.) gegen Kupons, Empfangsscheine und/oder Erneuerungsscheine ausgetauscht (auf der Grundlage, dass auf der Vorderseite dieser Definitiven [Schuldverschreibungen] [Zertifikate] und (ggf.) Kupons, Empfangsscheine und/oder Erneuerungsscheine alle entsprechenden Angaben enthalten sind und die Bedingungen in diese Definitiven [Schuldverschreibungen] [Zertifikate] einbezogen wurden). Vorbehaltlich des Voranstehenden und vorbehaltlich dessen, dass der Agent mindestens 60 Tage nach dem Austauschtag (wie in der Vorläufigen Globalurkunde definiert, auf die oben Bezug genommen wird) von dem Maßgeblichen Clearingsystem, das auf Anweisungen eines Inhabers von Anteilen an [der] [dem] Global[schuldverschreibung][zertifkat] handelt, benachrichtigt wurde, erfolgt dieser Austausch nach Vorlage diese[r][s] Global[schuldverschreibung][zertifkat] durch den Inhaber bei der oben genannten Geschäftsstelle des Agents an einem beliebigen Tag (außer an einem Samstag oder Sonntag), an dem Banken in London für den Geschäftsverkehr geöffnet sind. Der Gesamtkapitalbetrag der Definitiven [Schuldverschreibungen] [Zertifikate], die nach dem Austausch diese[r][s] Global[schuldverschreibung][zertifikats] ausgegeben werden, entspricht dem Gesamtkapitalbetrag der vom Inhaber für den Austausch eingereichten Global[schuldverschreibungen][zertifikate] (soweit dieser Kapitalbetrag nicht den Gesamtkapitalbetrag de[r][s] Global[schuldverschreibung][zertifikats] übersteigt, der in den Aufzeichnungen des Maßgeblichen Clearingsystems verzeichnet ist).

Die [Das] Endgültige Global[schuldverschreibung][zertifikat] unterliegt dem Recht der Bundesrepublik Deutschland.

[Diese[s] Endgültige Global[schuldverschreibung][zertifikat] wird in jeder Hinsicht erst wirksam und bindend, wenn sie mit einer Kontrollunterschrift durch oder im Namen des Agent versehen worden ist.

[Diese[s] Endgültige Global[schuldverschreibung][zertifikat] wird in jeder Hinsicht erst wirksam und bindend, wenn sie durch den von dem Maßgeblichen Clearingsystem ernannten gemeinsamen Verwahrer (*Common Safekeeper*) ordnungsgemäß vollzogen worden ist (effectuated).]

ZU URKUND DESSEN hat die Emittentin die ordnungsgemäße Unterzeichnung dieser Endgültigen Globalurkunde in ihrem Namen veranlasst.

B OF A ISSUANCE B.V.

Durch: _____
Geschäftsführer A

Durch: _____
Geschäftsführer B

[KONROLLUNTERSCHRIFT]

THE BANK OF NEW YORK
Als Agent

Durch: _____
Unterschriftsberechtigter
Nur zum Zwecke der Beglaubigung.

[BESCHEINIGUNG DER AUSFÜHRUNG (*Effectuation*)]

[Namen des gemeinsamen Verwahrers einfügen]
Als gemeinsamer Verwahrer

Durch: _____
Unterschriftsberechtigter
Nur zum Zwecke der Beglaubigung.

Anhang 1 zu[r][m]
Endgültigen Global[schuldverschreibung] [zertifikat]

TEIL I

ZINSZAHLUNGEN

| Zinszahlungstag | Tag der Zahlung | Gesamtbetrag der zu zahlenden Zinsen[3] | Gezahlter Zinsbetrag[1] | Zahlungsbestätigung durch oder im Namen der Emittentin |
|---|---|---|---|---|
| [4]Erster | | | | |

3 Einschließlich Beträge der Physischen Lieferung, falls anwendbar.
4 Nummerierung fortsetzen, bis die passende Anzahl an Zinszahlungstagen für die betreffende Wertpapiertranche erreicht ist.

TEIL II

TEILZAHLUNGEN

| Teilzahlungstag | Tag der Zahlung | Gesamtbetrag der zu zahlenden Teilzahlungen[5] | Betrag der gezahlten Teilzahlungen[1] | Verbleibender Kapitalbetrag dieser Globalurkunde nach einer solchen Zahlung[6] | Zahlungsbestätigung durch oder im Namen der Emittentin |
|---|---|---|---|---|---|
| [7]Erster | | | | | |

5 Einschließlich Beträge der Physischen Lieferung, falls anwendbar.
6 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II, III oder IV von Anhang 1 oder 2.
7 Nummerierung fortsetzen, bis die passende Anzahl an Teilzahlungstagen für die betreffende Wertpapiertranche erreicht ist.

TEIL II

RÜCKZAHLUNGEN

| Rückzahlungstag | Gesamtzahl der in diese[r][m] Global[schuldverschreibung] [zertifikat] verbrieften, zurückzuzahlenden [Schuldverschreibungen] [Zertifikate][8] | Verbleibende Anzahl der in diese[r][m] Global[schuldverschreibung] [zertifikat] verbrieften [Schuldverschreibungen] [Zertifikate] nach einer solchen Rückzahlung[9] | Bestätigung der Rückzahlung durch oder im Namen der Emittentin |
|---|---|---|---|

8 Einschließlich Beträge der Physischen Lieferung, falls anwendbar.
9 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II oder III von Anhang 1 oder 2.

TEIL IV

KÄUFE UND ENTWERTUNGEN

| Tag des Kaufs und der Entwertung | Anzahl der in diese[r][m] Global[schuldverschreibung] [zertifikat] verbrieften, gekauften und entwerteten [Schuldverschreibungen] [Zertifikate] | Verbleibende Anzahl der in diese[r][m] Global[schuldverschreibung] [zertifikat] verbrieften [Schuldverschreibungen] [Zertifikate] nach einem solchen Kauf und einer solchen Entwertung[10] | Bestätigung des Kaufs und der Entwertung durch oder im Namen der Emittentin |
|---|---|---|---|

10 Um diesen Betrag zu bestimmen, siehe den letzten Eintrag in Teil II oder III von Anhang 1 oder 2.

Anhang 2 zu[r][m]
Endgültigen Global[schuldverschreibung] [zertifikat]]

AUSTAUSCH

Die folgenden Austauschgeschäfte bezüglich diese[r][s] Global[schuldverschreibung][zertifikats] wurden vorgenommen:

| Datum des Austauschs | Anstieg der Anzahl der in diese[r][m] Global[schuldverschreibung] [zertifikat] verbrieften [Schuldverschreibungen] [Zertifikaten] aufgrund Austäuschen eine[r][s] Vorläufigen [Schuldverschreibung] [Zertifikats] gegen diese[s] Global[schuldverschreibung] [zertifikat][11] | Abnahme der Anzahl der in diese[r][m] Global[schuldverschreibung] [zertifikat] verbrieften [Schuldverschreibungen] [Zertifikaten] aufgrund Austäuschen diese[r][s] Global[schuldverschreibung] [zertifikats] gegen Definitive [Schuldverschreibungen] [Zertifikate] | Durch oder im Namen der Emittentin angebrachter Vermerk |
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11 Wenn diese Globalurkunde eine Fälligkeit von weniger als einem Jahr ab dem Begebungstag hat, muss der Betrag wenigstens GBP 100.000 (oder den entsprechenden Betrag in einer anderen Währung oder anderen Währungen) betragen.

Schedule 4 to
Agency Agreement

FORM OF THE PERMANENT GLOBAL [NOTE] [CERTIFICATE]

CONVENIENCE TRANSLATION OF THE FORM OF THE PERMANENT GLOBAL [NOTE] [CERTIFICATE]

THIS [NOTE] [CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE] [CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE] [CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE] [CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

THIS [NOTE] [CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS GLOBAL [NOTE] [CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

1 [This language is applicable only to Permanent Global [Notes] [Certificates] representing [Notes] [Certificates] with maturities of 183 days or less from the date of original issue.]

B of A ISSUANCE B.V.

PERMANENT GLOBAL [NOTE] [CERTIFICATE]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

This Global [Note] [Certificate] is a Permanent Global [Note] [Certificate] (the **"Global [Note] [Certificate]"**) in bearer form without interest coupons in respect of [Note] [Certificate]s (the **"[Note] [Certificate]s"**) issued by B of A Issuance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the **"Issuer"**) described, and having the provisions specified, in the consolidated terms and conditions (the **"Terms and Conditions"**), which provisions are incorporated herein. Words and expressions defined or set out in the Terms and Conditions shall bear the same meaning when used herein.

The Issuer, subject to and in accordance with the Terms and Conditions, promises to pay or deliver to the bearer hereof any sums payable or amount deliverable in respect thereof under the Terms and Conditions.

Payment hereunder is guaranteed by Bank of America Corporation (the "Guarantor"), as set forth in the Guarantee Agreement executed by the Guarantor.

This Global [Note] [Certificate] shall be exchanged in accordance with the Terms and Conditions. Upon the exchange of the outstanding principal amount of this Global [Note] [Certificate], it shall be surrendered to the Principal Agent.

[In case of a New Global Note][The nominal amount of Notes represented by this Global Note shall be the aggregate amount from time to time entered in the records of both Euroclear Bank S.A./N.V. (**"Euroclear"**) and Clearstream Banking, société anonyme (**"Clearstream, Luxembourg"** and, together with Euroclear, the **"Relevant Clearing Systems"**). The records of the Relevant Clearing Systems (which expression in this Global Note means the records that each Relevant Clearing System holds for its customers which reflect the amount of such customer's interest in the Notes) shall be conclusive evidence of the nominal amount of Notes represented by this Global Note and, for these purposes, a statement issued by a Relevant Clearing System (which statement shall be made available to the bearer upon request) stating the nominal amount of Notes represented by this Global Note at any time shall be conclusive evidence of the records of the Relevant Clearing System at that time.

[In case of a Classic Global Note/Certificate] The nominal amount of the [Note] [Certificate] represented by this Global [Note] [Certificate] shall be the amount stated in the Terms and Conditions or, if lower, the nominal amount most recently recorded by or on behalf of the Issuer, in the relevant column in Part II, III or IV of Schedule 1 or in Schedule 2.

On any redemption, payment of an Installment Amount, delivery or purchase and cancellation of any of the Notes represented by this Global Note, the Issuer shall procure that

> [In case of a New Global Note] [details of such redemption, payment, delivery or purchase and cancellation (as the case may be) shall be entered pro rata in the records of the Relevant Clearing Systems and, upon any such entry being made, the nominal amount of the Notes recorded in the records of the Relevant Clearing Systems and represented by this Global Note shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or by the amount of such installment so paid.]

[In case of a Classic Global Note/Certificate] [details of such redemption, payment, delivery or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part II, III or IV of Schedule 1 or in Schedule 2 hereto recording any such redemption, payment, delivery or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such redemption, payment of an Installment Amount, delivery or purchase and cancellation, the principal amount of such Notes represented by this Global [Note] [Certificate] shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or the amount of such Installment Amount.]

This Global [Note] [Certificate] shall be exchanged. for security-printed Definitive [Notes] [Certificates], under the circumstances and in accordance with the Terms and Conditions, and (if applicable) Coupons, Receipts and/or Talons (on the basis that all the appropriate details have been included on the face of such Definitive [Notes] [Certificates] and (if applicable) Coupons, Receipts and/or Talon and the Final Terms have been incorporated on such Definitive [Notes] [Certificates]). Subject as aforesaid and to at least 60 calendar days' written notice expiring after the Exchange Date (as defined in the Temporary Global [Note] [Certificate] referred to above) being given to the Agent by the Relevant Clearing System, acting on the instructions of any Holder of an interest in the Global [Note][Certificate], this exchange will be made upon presentation of this Global [Note] [Certificate] by the bearer hereof on any day (other than a Saturday or Sunday) on which banks are open for business in London at the office of the Agent specified above. The aggregate principal amount of Definitive [Notes] [Certificates] issued upon an exchange of this Global [Note] [Certificate] will be equal to the aggregate principal amount of this Global [Note] [Certificate] submitted by the bearer hereof for exchange (to the extent that such principal amount does not exceed the aggregate principal amount of this Global [Note] [Certificate] entered in the records of the Relevant Clearing System.

This Permanent Global [Note] [Certificate] shall be governed by, and construed in accordance with the laws of Germany.

This Permanent Global [Note] [Certificate] shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the Agent.

[Where the Global Note is intended to be held in a manner that would allow Eurosystem-eligibility, this Permanent Global Note shall not become valid or obligatory for any purposes until it is duly effectuated by the entity appointed as common safekeeper by the Relevant Clearing System.]

IN WITNESS WHEREOF the Issuer has caused this Permanent Global Note to be duly signed on its behalf.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

[CERTIFICATE OF AUTHENTICATION OF THE AGENT]

This Permanent Global Note is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK
As Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

[CERTIFICATE OF EFFECTUATION]

[Insert the name of the common safekeeper]
As common safekeeper

By: _____
Authorized Signatory
For the purposes of effectuation only.

Schedule 1 to the
Permanent Global [Note] [Certificate]

PART I

INTERESTPAYMENTS

| Interest Payment Date | Date of Payment | Total Amount of Interest Payable[2] | Amount of Interest Paid[1] | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|
| [3]First | | | | |

2 Including Physical Delivery Amount(s), if applicable.
3 Continue numbering until the appropriate number of interest payment dates for the particular Tranche of Certificates is reached.

PART II

INSTALLMENT PAYMENTS

| Installment Date | Date of Payment | Total of Installment Amounts Payable[4] | Amount of Installment Amounts Paid[1] | Remaining principal amount of this Global Note following such payment[5] | Confirmation of payment by or on behalf of the Issuer |
|---|---|---|---|---|---|
| [6]First | | | | | |

4 Including Physical Delivery Amount(s), if applicable.
5 See most recent entry in Part II, III or IV of Schedule 1 or in Schedule 2 in order to determine this amount.
6 Continue numbering until the appropriate number of installment payment dates for the particular Tranche of Notes is reached.

PART III

REDEMPTIONS

| Date of Redemption | Total number of [Note][Certificate]s represented by this Global [Note][Certificate] to be redeemed[7] | Remaining number of [Note][Certificate]s represented by this Global [Note][Certificate] following such redemption[8] | Confirmation of redemption by or on behalf of the Issuer |
|---|---|---|---|

7 Including Physical Delivery Amount(s), if applicable.

8 See most recent entry in Part II or III of Schedule 1 or in Schedule 2 in order to determine this amount.

PART IV

PURCHASES AND CANCELLATIONS

| Date of purchase and cancellation | Number of [Note] [Certificate]s represented by this Global [Note] [Certificate] purchased and canceled | Remaining number of [Note][Certificate]s represented by this Global [Note] [Certificate] following such purchase and cancellation[9] | Confirmation of purchase and cancellation by or on behalf of the Issuer |
|---|---|---|---|

9 See most recent entry in Part II or III of Schedule 1 or in Schedule 2 in order to determine this amount.

Schedule 2 to the
Permanent Global [Note][Certificate]

SCHEDULE OF EXCHANGES

The following exchanges relating to this Global [Note][Certificate] have been made:

| Date of exchange | Increase in the number of [Note][Certificate]s represented by this Global [Note][Certificate] due to exchanges of a Temporary Global [Note][Certificate] for this Global [Note][Certificate][10] | Decrease in the number of [Note][Certificate]s represented by this Global [Note] [Certificate] due to exchanges of this Global [Note][Certificate] for Definitive [Note][Certificate]s | Notation made by or on behalf of the Issuer |
|---|---|---|---|
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10 If this Global Certificate has a maturity of less than one year from the Issue Date, the amount must be at least GBP £100,000 (or its equivalent in any other currency or currencies).

Schedule 5 to
Agency Agreement

FORM OF PUT NOTICE

B OF A ISSUANCE B.V.

NOTES DUE
[year of Maturity Date/Redemption Month]

ISIN [ ]

Principal Agent

To: The Bank of New York
One Canada Square
London
E14 5AL
United Kingdom
Attention: Corporate Trust Administration
Telephone: 0044 20 7964 4784
Facsimile: 0044 20 7964 6399

or

Paying Agent

To: The Bank of New York (Luxembourg) S.A.
Aerogolf Center
1A, Hoehenhof
L-1736 Senningerberg
Attention: Corporate Trust Administration
Telephone: 00352 46 26 85 523
Facsimile: 00352 46 26 85 804

By depositing this duly completed Notice with any Paying Agent for the Notes of the above Series (the "Notes") the undersigned Noteholder referred to below irrevocably exercises its option to have such Notes redeemed on [ ] under the Terms and Conditions of the Note.

The Notice relates to Notes in the aggregate principal amount of_____
_____(_____), in the case of Definitive Notes bearing the following serial numbers:

If the Notes referred to above are to be returned to the undersigned, they should be returned by post to (see Note (1) below):

To:_____

Address:_____

For the Attention of:_____

Payment Instructions for Securities held outside of Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt

Please make payment in respect of the above-mentioned Notes as follows:

Receiving Bank Correspondent: _____

SWIFT: _____

Bank Name:_____

SWIFT Code:_____

Beneficiary Account Name:_____

Account No.:_____

Reference:_____

For:_____

By:_____

Signature:_____

Print Name:_____

Telephone No.:_____

E-mail:_____

Dated:_____

To be completed by recipient Paying Agent in respect of physical definitive securities held outside of Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt

Received by:_____

Signature and stamp of Paying Agent

At its office at:_____

On:_____

Time:_____

Notes

(1) The Agency Agreement provides that Notes or authorities so returned will be sent by post, uninsured and at the risk of the Holder, unless the Holder otherwise requests and pays the costs of such insurance in advance to the relevant Paying Agent.

(2) This Put Notice is not valid unless all of the paragraphs requiring completion are duly completed.

(3) The Paying Agent with whom the above-mentioned Notes are deposited will not in any circumstances be liable to the depositing Holder or any other person for any loss or damage arising from any act, default or omission of such Paying Agent in relation to the said Notes or any of them unless such loss or damage was caused by the fraud or gross negligence of such Paying Agent or its directors, officers or employees.

Schedule 6 to
Agency Agreement

FORM OF ASSET TRANSFER NOTICE

B OF A ISSUANCE B.V.

NOTES DUE
[year of Maturity Date/Redemption Month]

ISIN [ ]

Principal Agent

To: The Bank of New York
One Canada Square
London
E14 5AL
United Kingdom
Attention: Corporate Trust Administration
Telephone: 0044 20 7964 4784
Facsimile: 0044 20 7964 6399

or

Paying Agent

To: The Bank of New York (Luxembourg) S.A.
Aerogolf Center
1A, Hoehenhof
L-1736 Senningerberg
Attention: Corporate Trust Administration
Telephone: 00352 46 26 85 523
Facsimile: 00352 46 26 85 804

By depositing this duly completed Notice with the Paying Agent, as provided in Terms and Conditions, the undersigned Noteholder referred to below irrevocably sets forth its instruction to have the Physical Delivery Amount in respect of the Notes delivered as set forth herein under the Terms and Conditions.

The Notice relates to Notes in the aggregate principal amount of_____
_____(_____), in the case of Definitive Notes bearing the following serial numbers:

_____

_____

If the [Note][Certificate]s referred to above are to be returned to the undersigned, they should be returned by post to (see Note (1) below):

To:_____

Address:_____

For the Attention of:_____

Delivery Instructions for Securities held outside of Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt

Please make delivery of the Physical Delivery Amount and/or any cash amounts to be paid in respect of the above-mentioned Notes as follows:

by transfer to the following account:

For Physical Delivery Amount:

Clearing System:_____

Account Number:_____

Account Name:_____

For Cash Amounts:

Receiving Bank Correspondent:_____

SWIFT:_____

Bank Name:_____

SWIFT Code:_____

Beneficiary Account Name:_____

Account No.:_____

Reference:_____

Additional Agreements:

(i) The undersigned hereby undertakes to pay all Expenses with respect to the relevant Notes, including any applicable depository charges, transactions or exercise charges, stamp duty, stamp duty reserve tax and/or other taxes or duties arising from the delivery or transfer of the Physical Delivery Amount to or to the order of the undersigned.

(ii) The undersigned certifies that the beneficial owner of each Note is not a U.S. person (as defined in Regulation S under the Securities Act of 1933, as amended), the Note is not being redeemed within the United States or on behalf of a U.S. person and no cash, securities or other property have been or will be delivered within the United States or its possessions or to, or for the account or benefit of, a U.S. person in connection with the transfer contemplated hereby.

(iii) The undersigned authorizes the production of this Asset Transfer Notice, including the certifications herein, in any applicable governmental, judicial, administrative or legal proceedings.

For:_____

By:_____

Signature:_____

Print Name:_____

Telephone No.:_____

E-mail:_____

Dated:_____

To be completed by recipient Paying Agent in respect of physical definitive securities held outside of Euroclear and/or Clearstream, Luxembourg or Clearstream, Frankfurt

Received by:_____

Signature and stamp of Paying Agent

At its office at:_____

On:_____

Time:_____

Notes

(1) The Agency Agreement provides that Notes or authorities so returned will be sent by post, uninsured and at the risk of the Holder, unless the Holder otherwise requests and pays the costs of such insurance in advance to the relevant Paying Agent.

(2) This Asset Transfer Notice is not valid unless all of the paragraphs requiring completion are duly completed.

(3) The Paying Agent with whom the above-mentioned Notes are deposited will not in any circumstances be liable to the depositing Holder or any other person for any loss or damage arising from any act, default or omission of such Paying Agent in relation to the said Notes or any of them unless such loss or damage was caused by the fraud or gross negligence of such Paying Agent or its directors, officers or employees.

Schedule 7 to
Agency Agreement

FORM OF EXERCISE NOTICE

B OF A ISSUANCE B.V.

WARRANTS

ISIN [ ]

Principal Agent

To: The Bank of New York
One Canada Square
London
E14 5AL
United Kingdom
Attention: Corporate Trust Administration
Telephone: 0044 20 7964 4784
Facsimile: 0044 20 7964 6399

or

Paying Agent

To: The Bank of New York (Luxembourg) S.A.
Aerogolf Center
1A, Hoehenhof
L-1736 Senningerberg
Attention: Corporate Trust Administration
Telephone: 00352 46 26 85 523
Facsimile: 00352 46 26 85 804

By depositing this duly completed Exercise Notice with the Paying Agent for the Warrants of the above Series (the "Warrants") the undersigned Warrantholder with this Exercise Notice and referred to below irrevocably exercises such Warrants on [ ] under the Terms and Conditions.

The Exercise Notice relates to the exercise of an aggregate amount of _____ _____(_____) Warrants, [with an aggregate Strike Price of_____,] in the case of Definitive Warrants, bearing the following serial numbers:

_____

_____

If the Warrants referred to above are to be returned to the undersigned under Clause 10(7) of the Agency Agreement, they should be returned by post to (see Note (1) below):

To:_____

Address:_____

For the Attention of:_____

Instructions

Please make delivery of any cash amount and/or any Physical Delivery Amount to be paid in respect of the above-mentioned Warrants as follows:

Cash Settlement/Physical Delivery Settlement:_____

(A) for Cash Settled Warrants:

Credit Cash Settlement Amount to:

Receiving Bank Correspondent:_____

SWIFT:_____

Bank Name:_____

SWIFT Code:_____

Beneficiary Account Name: _____

Account No.: _____

Reference:_____

(B) for Physical Delivery Warrants:

The following amount representing the Strike Price is herewith transmitted:

_____($ )

Credit Physical Delivery Amount to:

Clearing System:_____

Account Number:_____

Account Name:_____

Credit any cash payable to:

Receiving Bank Correspondent:_____

SWIFT:_____

Bank Name:_____

SWIFT Code:_____

Beneficiary Account Name: _____

Account No.:_____

Reference: _____

Additional Agreements:

(i) [The undersigned hereby undertakes to pay all Expenses with respect to the Warrants being exercised, and authorizes the Issuer or its agents to deduct an amount in respect thereof from any Cash Settlement Amount due to the undersigned.[1]]

(ii) [The undersigned hereby undertakes to pay all Expenses with respect to the Warrants being exercised.[2]]

(iii) The undersigned certifies that the beneficial owner of each Warrant is not a U.S. person (as defined in Regulation S under the Securities Act of 1933, as amended), the Warrant is not being exercised within the United States or on behalf of a U.S. person and no cash or other property have been or will be delivered within the United States or its possessions or to, or for the account or benefit of, a U.S. person in connection with the transfer contemplated hereby.

(iv) The undersigned authorizes the production of this Exercise Notice, including the certifications herein, in any applicable governmental, judicial, administrative or legal proceedings.

For:_____

By:_____

Signature:_____

Print Name:_____

Telephone No.:_____

E-mail:_____

Dated:_____

1 Include in the case of Cash Settled Warrants.
2 Include in the case of Physical Delivery Warrants.

To be completed by recipient Paying Agent in respect of physical definitive securities held outside of Euroclear and/or Clearstream, Luxembourg and/or Clearstream, Frankfurt

Received by: _____

Signature and stamp of Paying Agent

At its office at: _____

On: _____

Time: _____

Notes

(1) The Agency Agreement provides that Warrants or authorities so returned will be sent by post, uninsured and at the risk of the Holder, unless the Holder otherwise requests and pays the costs of such insurance in advance to the relevant Paying Agent.

(2) This Exercise Notice is not valid unless all of the paragraphs requiring completion are duly completed.

(3) The Paying Agent with whom the above-mentioned Warrants are deposited will not in any circumstances be liable to the depositing Holder or any other person for any loss or damage arising from any act, default or omission of such Paying Agent in relation to the said Warrants or any of them unless such loss or damage was caused by the fraud or gross negligence of such Paying Agent or its directors, officers or employees.

Schedule 8

to Agency Agreement

FORM OF CERTIFICATE SETTLEMENT NOTICE

B OF A ISSUANCE B.V.

CERTIFICATES

ISIN [ ]

Principal Agent

To: The Bank of New York
One Canada Square
London
E14 5AL
United Kingdom
Attention: Corporate Trust Administration
Telephone: 0044 20 7964 4784
Facsimile: 0044 20 7964 6399

or

Paying Agent

To: The Bank of New York (Luxembourg) S.A.
Aerogolf Center
1A, Hoehenhof
L-1736 Senningerberg
Attention: Corporate Trust Administration
Telephone: 00352 46 26 85 523
Facsimile: 00352 46 26 85 804

By depositing this duly completed Certificate Settlement Notice with the Paying Agent, as provided in the Terms and Conditions, the undersigned Certificateholder as are surrendered with this Certificate Settlement Notice and referred to below irrevocably sets forth its instruction to have the Physical Delivery Amount in respect of the Certificates delivered as set forth herein under the Terms and Conditions.

The Certificate Settlement Notice relates to the exercise of a notional amount of _____ _____(_____) Certificates, in the case of Definitive Certificates, bearing the following serial numbers:

_____

_____

If the Certificates referred to above are to be returned to the undersigned under the Terms and Conditions, they should be returned by post to (see Note (1) below):

To:_____

Address:_____

For the Attention of:_____

Instructions

Please make delivery of any cash amount and/or any Physical Delivery Amount to be paid in respect of the above-mentioned Certificates as follows:

(A) for Physical Delivery Amounts:

Credit Physical Delivery Amount to:

Clearing System:_____

Account Number:_____

Account Name:_____

(B) for Delivery of Cash Amounts:

Credit any cash payable to:

Receiving Bank Correspondent:_____

SWIFT:_____

Bank Name:_____

SWIFT Code:_____

Beneficiary Account Name:_____

Account No.:_____

Reference:_____

Additional Agreements:

(v) The undersigned hereby undertakes to pay all Expenses with respect to the relevant Certificates.

(vi) The undersigned certifies that the beneficial owner of each Certificate is not a U.S. person (as defined in Regulation S under the Securities Act of 1933, as amended), the Certificate is not being redeemed within the United States or on behalf of a U.S. person and no cash, securities or other property have been or will be delivered within the United States or its possessions or to, or for the account or benefit of, a U.S. person in connection with the transfer contemplated hereby.

(vii) The undersigned authorizes the production of this Certificate Settlement Notice, including the certifications herein, in any applicable governmental, judicial, administrative or legal proceedings.

For:_____

By:_____

Signature:_____

Print Name:_____

Telephone No.:_____

E-mail:_____

Dated:_____

To be completed by recipient Paying Agent in respect of physical definitive securities held outside of Euroclear and/or Clearstream, Luxembourg and/or Clearstream, Frankfurt

Received by:_____

Signature and stamp of Paying Agent

At its office at:_____

On:_____

Time:_____

Notes

(1) The Agency Agreement provides that Certificates or authorities so returned will be sent by post, uninsured and at the risk of the Holder, unless the Holder otherwise requests and pays the costs of such insurance in advance to the relevant Paying Agent.

(2) This Certificate Settlement Notice is not valid unless all of the paragraphs requiring completion are duly completed.

(3) The Paying Agent with whom the above-mentioned Certificates are deposited will not in any circumstances be liable to the depositing Holder or any other person for any loss or damage arising from any act, default or omission of such Paying Agent in relation to the said Certificates or any of them unless such loss or damage was caused by the fraud or gross negligence of such Paying Agent or its directors, officers or employees.

Schedule 9 to
Agency Agreement

FORM OF DEFINITIVE [NOTE][CERTIFICATE]

THIS [NOTE][CERTIFICATE] HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS [NOTE][CERTIFICATE] NOR ANY INTEREST OR PARTICIPATION IN THIS [NOTE] [CERTIFICATE] MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS [NOTE][CERTIFICATE] MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS [NOTE][CERTIFICATE] MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS [NOTE][CERTIFICATE] IS A DEFINITIVE [NOTE][CERTIFICATE] WITH INTEREST COUPONS. THE RIGHTS ATTACHING TO THIS DEFINITIVE [NOTE] [CERTIFICATE] ARE AS SPECIFIED HEREIN AND IN THE TERMS AND CONDITIONS (AS DEFINED BELOW).

THIS [NOTE][CERTIFICATE] IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNER OF THIS [NOTE][CERTIFICATE] SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

1 [This language is applicable only to [Note] [Certificates] with maturities of 183 days or less from the date of original issue.]

**[Legend on definitive bearer [[Note][Certificate]]s:**

[Unless between individuals not acting in the conduct of a profession or business, each transaction regarding this [Note][Certificate] which involves the physical delivery thereof within, from or into the Netherlands must be effected (as required by the Dutch Savings Certificates Act (*Wet inzake spaarbewijzen*)) through the mediation of the Issuer, the Guarantor or a member of Euronext Amsterdam N.V. and, unless this [Note][Certificate] qualifies as commercial paper or as a certificate of deposit and the transaction is between the professional parties, must be recorded in a transaction note which includes the name and address of each party to the transaction, the nature of the transaction and the details and serial number of this [Note][Certificate].][2]

2 Include on discounted bearer Certificates and other bearer Certificates on which interest does not become due and payable during their term but only at maturity (savings certificates, as defined in the Dutch Savings Certificates Act) and which are (a) not listed on Euronext Amsterdam and (b) physically issued in the Netherlands or physically issued outside the Netherlands but distributed in the Netherlands immediately thereafter.

B of A ISSUANCE B.V.

[Notional Amount of Tranche]
[NOTE][CERTIFICATE]S DUE [year of Settlement Date/Settlement Month]

Series No. [ ]
Tranche No. [ ]

[NOTE][CERTIFICATE]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

This [Note][Certificate] is one of a duly authorized issue of [Note][Certificate]s (the "[Note][Certificate]") of B of A Issuance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "**Issuer**") described, and having the provisions specified, in the consolidated terms and conditions (the "**Terms and Conditions**"), which provisions are incorporated herein. Words and expressions defined or set out in the Terms and Conditions shall bear the same meaning when used herein.

The Issuer, subject to and in accordance with the Terms and Conditions, promises to pay or deliver to the bearer hereof any sums payable or amount deliverable in respect thereof under the Terms and Conditions.

Payment hereunder is guaranteed by Bank of America Corporation (the "**Guarantor**"), as set forth in the Guarantee Agreement executed by the Guarantor.

This [Note] [Certificate] shall be governed by, and construed in accordance with the laws of Germany.

This [Note] [Certificate] shall not become valid or obligatory for any purpose until the certificate of authentication hereon shall have been duly signed by or on behalf of the German Paying Agent.

IN WITNESS WHEREOF the Issuer has caused this [Note][Certificate] to be duly signed on its behalf.

B OF A ISSUANCE B.V.

By:
Managing Director A

By:
Managing Director B

[NOTE][CERTIFICATE] OF AUTHENTICATION OF THE AGENT

This [Note][Certificate] is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK
as Agent

By:
Authorized Signatory
For the purposes of authentication only.

Schedule 10 to
Agency Agreement

FORM OF COUPON

THIS COUPON HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS COUPON NOR ANY INTEREST OR PARTICIPATION IN THIS COUPON MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS COUPON MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS COUPON MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS COUPON IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS COUPON SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

B OF A ISSUANCE B.V.

[Specified Currency and [Principal] [Notional] Amount of Tranche]
[NOTES/CERTIFICATES] DUE [Year of Maturity]

Series No. [ ]

ISIN:

[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

Part A

[For Fixed Rate [Notes/Certificates]]:

This Coupon is payable to bearer, separately negotiable and subject to the Terms and Conditions of the said [Notes/Certificates].

Coupon No. _____
Coupon for
[ ]
due on
[ ], 20[ ]]

Part B

[For Floating Rate [Notes/Certificates], Index Linked Interest [Notes/Certificates], Share Linked Interest [Notes/Certificates], Inflation Linked Interest [Notes/Certificates], Commodity Linked Interest [Notes/Certificates], FX Linked Interest [Notes/Certificates] and Hybrid Interest [Notes/Certificates]:-

Coupon No._____

Coupon for the amount due in accordance with the Terms and Conditions on the said [Notes/Certificates] on the Interest Payment Date falling in [20[ ]]

Coupon due in [ ], [20[ ]]

This Coupon is payable to bearer, separately negotiable and subject to such Terms and Conditions, under which it may become void before its due date.]

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][3]

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By:
Managing Director B

3 [Appears only on Coupons relating to Notes and Certificates with maturities of 183 days or less from the date of original issue.]

(Reverse of Coupon)

AGENT

The Bank of New York
One Canada Square
London
E14 5AL
United Kingdom

PAYING AGENT

The Bank of New York (Luxembourg) S.A.
Aerogolf Center
1A, Hoehenhof
L-1736 Senningerberg
Luxembourg

GERMAN PAYING AGENT

The Bank of New York
Filiale Frankfurt am Main
Niedenau 61-63
60325 Frankfurt am Main
Germany

and/or such other or further Agent and other or further Paying Agents and/or specified offices as may from time to time be duly appointed by the Issuer and notice of which has been given to the Holders.

Schedule 11 to
Agency Agreement

FORM OF RECEIPT

THIS RECEIPT HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS RECEIPT NOR ANY INTEREST OR PARTICIPATION IN THIS RECEIPT MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS RECEIPT MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS RECEIPT MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS RECEIPT IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS RECEIPT SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

1 [Appears only on Receipts relating to Notes and Certificates with maturities of 183 days or less from the date or original issue.]

B OF A ISSUANCE B.V.

[Specified Currency and Principal Amount of Tranche]

[NOTES] [CERTIFICATES] DUE [Year of Maturity]

Series No. [ ]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[common code:]

Receipt for the sum of [ ] being the installment of principal payable in accordance with the Terms and Conditions of the [Note] [Certificate]s endorsed on the [Note] [Certificate] to which this Receipt appertains (the "Terms and Conditions") on [ ].

This Receipt is issued subject to and in accordance with the Terms and Conditions which shall be binding upon the Holder of this Receipt (whether or not it is for the time being attached to such [Note] [Certificate]) and is payable at the specified office of the Agent or any of the Paying Agents set out on the reverse of the [Note] [Certificate] to which this Receipt appertains (and/or any other or further Paying Agents and/or specified offices as may from time to time be duly appointed and notified to the Holders).

This Receipt must be presented for payment together with the [Note] [Certificate] to which it appertains. The Issuer shall have no obligation in respect of any Receipt presented without the [Note] [Certificate] to which it appertains or any unmatured Receipts.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

Schedule 12 to
Agency Agreement

FORM OF TALON

THIS TALON HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS TALON NOR ANY INTEREST OR PARTICIPATION IN THIS TALON MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO ANY PERSON DEEMED A U.S. PERSON UNDER REGULATION S UNDER THE SECURITIES ACT. THIS TALON MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS TALON MAY NOT BE OFFERED, SOLD, OR DELIVERED WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TO ANY CITIZEN, NATIONAL OR RESIDENT OF THE UNITED STATES, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CREATED OR ORGANIZED IN OR UNDER THE LAWS OF THE UNITED STATES OR ANY POLITICAL SUBDIVISION THEREOF, OR TO ANY ESTATE THE INCOME OF WHICH IS SUBJECT TO UNITED STATES FEDERAL INCOME TAXATION REGARDLESS OF ITS SOURCE OR ANY TRUST WITH RESPECT TO WHICH A COURT WITHIN THE UNITED STATES IS ABLE TO EXERCISE PRIMARY SUPERVISION OVER ITS ADMINISTRATION, AND ONE OR MORE UNITED STATES PERSONS HAVE THE AUTHORITY TO CONTROL ALL OF ITS SUBSTANTIAL DECISIONS, EXCEPT AS PERMITTED UNDER APPLICABLE UNITED STATES TREASURY REGULATIONS.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

THIS TALON IS NOT A SAVINGS ACCOUNT OR A DEPOSIT, IS NOT AN OBLIGATION OF OR GUARANTEED BY ANY BANKING OR NONBANKING AFFILIATE OF THE ISSUER AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS TALON SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON EXCEPT PURSUANT TO THE PROVISIONS HEREOF.

[BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).][1]

1 [Appears only on Talons relating to Notes and Certificates with maturities of 183 days or less from the date of original issue.]

(On the front)

[Specified Currency and Principal Amount of Tranche]
[NOTES] [CERTIFICATES] DUE [Year of Maturity]

Series No. [ ]

ISIN:
[WKN:]
[VALOREN:]
SERIE:
TRANCHE:
[COMMON CODE:]

On and after [ ] further Coupons [and a further Talon] appertaining to the [Note] [Certificate] to which this Talon appertains will be issued at the specified office of the Agent or any of the Paying Agents set out on the reverse hereof (and/or any other or further Paying Agents and/or specified offices as may from time to time be duly appointed and notified to the Holders) upon production and surrender of this Talon.

This Talon may, in certain circumstances, become void under the Terms and Conditions of the [Note] [Certificate]s endorsed on the [Note] [Certificate]s to which this Talon appertains.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

(Reverse of Receipt and Talon)

AGENT

The Bank of New York
One Canada Square
London
E14 5AL
United Kingdom

PAYING AGENT

The Bank of New York (Luxembourg) S.A.
Aerogolf Center
1A, Hoehenhof
L-1736 Senningerberg
Luxembourg

GERMAN PAYING AGENT

The Bank of New York
Filiale Frankfurt am Main
Niedenau 61-63
60325 Frankfurt am Main
Germany

and/or such other or further Agent and other or further Paying Agents and/or specified offices as may from time to time be duly appointed by the Issuer and notice of which has been given to the Holders.

**Exhibit 4(hhh)**

**LASALLE FUNDING LLC,**

as Issuer,

**ABN AMRO HOLDING N.V.**

and

**ABN AMRO BANK N.V.**

as Guarantors

and

**THE BANK OF NEW YORK TRUST COMPANY, N.A.**

as Trustee

# SENIOR INDENTURE

Dated as of September 15, 2006

**TABLE OF CONTENTS**

**CROSS REFERENCE SHEET**[1]

Provisions of Trust Indenture Act of 1939 and Indenture to be dated as of September 15, 2006, between LASALLE FUNDING LLC, as Issuer, ABN AMRO HOLDING N.V. and ABN AMRO BANK N.V. as Guarantors and THE BANK OF NEW YORK TRUST COMPANY, N.A., as Trustee:

| Section of the Act | Section of Indenture |
|---|---|
| 310(a)(1) and (2) | 6.09 |
| 310(a)(3) and (4) | Inapplicable |
| 310(b) | 6.08 and 6.10 (a), (b) and (d) |
| 310(c) | Inapplicable |
| 312(a) | 4.01 and 4.02(a) |
| 312(b) | 4.02 |
| 312(c) | 4.02(b) |
| 313(a) | 4.04 |
| 313(b)(1) | Inapplicable |
| 313(b)(2) | 4.04 |
| 313(c) | 4.04 |
| 313(d) | 4.04 |
| 314(a) | 4.03 |
| 314(b) | Inapplicable |
| 314(c)(1) and (2) | 11.05 |
| 314(c)(3) | Inapplicable |
| 314(d) | Inapplicable |
| 314(e) | 11.05 |
| 314(f) | Inapplicable |
| 315(a), (c) and (d) | 6.01 |
| 315(b) | 5.11 |
| 315(e) | 5.12 |
| 316(a)(1) | 5.09 |
| 316(a)(2) | Not required |
| 316(a) (last sentence) | 7.04 |
| 316(b) | 5.07 |
| 317(a) | 5.02 |
| 317(b) | 3.04(a) and (b) |
| 318(a) | 11.07 |

1 This Cross Reference Sheet is not part of the Indenture.

THIS INDENTURE, dated as of September 15, 2006 among LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "**Issuer**"), ABN AMRO HOLDING N.V. and ABN AMRO BANK N.V., each a public limited liability company incorporated under the laws of The Netherlands (the "**Guarantors**"), and THE BANK OF NEW YORK TRUST COMPANY, N.A., a national banking association as trustee (the "**Trustee**").

**WITNESSETH:**

WHEREAS, the Issuer has duly authorized the issue from time to time of its unsecured debentures, notes or other evidences of indebtedness to be issued in one or more series (the "**Securities**") up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture;

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture to provide, among other things, for the authentication, delivery and administration of the Securities;

WHEREAS, for value received, each Guarantor has duly authorized the execution and delivery of this Indenture to provide for the issuance of the Guarantee and the indemnity provided for herein. All things necessary to make this Indenture a valid and legally binding agreement of the Guarantors, in accordance with its terms, have been done; and

WHEREAS, all things necessary to make this Indenture a valid and legally binding indenture and agreement according to its terms have been done;

NOW, THEREFORE:

In consideration of the premises and the purchases of the Securities by the holders thereof, the Issuer, the Guarantors and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective holders from time to time of the Securities as follows:

## ARTICLE1
## DEFINITIONS

Section 1.01. *Certain Terms Defined.* The following terms (except as otherwise expressly provided herein or in any indenture supplemental hereto or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939 or the definitions of which in the Securities Act of 1933 are referred to in the Trust Indenture Act of 1939, including terms defined

therein by reference to the Securities Act of 1933 (except as herein otherwise expressly provided or unless the context otherwise clearly requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of this Indenture. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles, and the term "generally accepted accounting principles" means such accounting principles as are generally accepted at the time of any computation. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

"**Authenticating Agent**" shall have the meaning set forth in Section 6.13.

"**Authorized Agent**" shall have the meaning set forth in Section 11.12.

"**Authorized Newspaper**" means a newspaper (which, in the case of The City of New York, will, if practicable, be The Wall Street Journal (Eastern Edition), in the case of the United Kingdom, will, if practicable, be the Financial Times (London Edition) and, in the case of Luxembourg, will, if practicable, be the Luxemburger Wort) published in an official language of the country of publication customarily published at least once a day for at least five days in each calendar week and of general circulation in The City of New York, the United Kingdom or in Luxembourg, as applicable. If it shall be impractical in the opinion of the Trustee to make any publication of any notice required hereby in an Authorized Newspaper, any publication or other notice in lieu thereof which is made or given with the approval of the Trustee shall constitute a sufficient publication of such notice.

"**Board**" means any Person or body authorized by the organizational documents, or the members, of the Issuer to act for it.

"**Board Resolution**" means one or more resolutions, certified by the secretary of the Board to have been duly adopted or consented to by the Board and to be in full force and effect, and delivered to the Trustee.

"**Business Day**" means, with respect to any Security, unless otherwise specified pursuant to Section 2.03 a day that in the city (or in any of the cities, if more than one) in which the Securities are payable, as specified in the form of such Security, is not a day on which banking institutions are authorized or required by law or regulation to close.

"**Commission**" means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or if at any time after the execution and delivery of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

"**Corporate Trust Office**" means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, at the date as of which this Indenture is dated, located in the City of Chicago.

"**covenant defeasance**" shall have the meaning set forth in Section 10.01(c).

"**Default**" means an event that with the giving of notice or passage of time or both will constitute an Event of Default.

"**Depositary**" means, with respect to the Securities of any series issuable or issued in the form of one or more Registered Global Securities, the Person designated as Depositary by the Issuer pursuant to Section 2.03 until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Depositary" shall mean or include each Person who is then a Depositary hereunder, and if at any time there is more than one such Person, "Depositary" as used with respect to the Securities of any such series shall mean the Depositary with respect to the Registered Global Securities of that series.

"**Dollar**" means the coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

"**Event of Default**" means any event or condition specified as such in Section 5.01.

"**Guarantee**" means the unconditional guarantee of the payment by the Guarantors, jointly and severally, of the principal of, any premium or interest on, and any additional amounts with respect to the Securities.

"**Guarantor**" means each of ABN AMRO Holding N.V. and ABN AMRO BANK N.V. until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Guarantor" shall mean each such successor Person.

"**Guarantor's Board of Directors**" means, for each Guarantor, the Managing Board of such Guarantor or any committee of that board duly authorized to act generally or in any particular respect for such Guarantor hereunder.

"**Guarantor's Board Resolution**" means, with respect to a Guarantor, a copy of one or more resolutions, certified by the Secretary or an Assistant

Secretary of such Guarantor to have been duly adopted by such Guarantor's Board of Directors and to be in full force and effect on the date of such certification, delivered to the Trustee.

"**Guarantor's Officer's Certificate**" means, with respect to a Guarantor, a certificate signed by any two duly authorized signatories of such Guarantor acting together, that complies with the requirements of Section 314(e) of the Trust Indenture Act and is delivered to the Trustee.

"**Guarantor Request**" and "**Guarantor Order**" mean, respectively, a written request or order, as the case may be, signed in the name of a Guarantor by any two duly authorized signatories acting together, and delivered to the Trustee.

"**Holder**", "**Holder of Securities**", "**Securityholder**" or other similar terms mean (a) in the case of any Registered Security, the Person in whose name such Security is registered in the security register kept by the Issuer for that purpose in accordance with the terms hereof.

"**Indebtedness**" shall have the meaning set forth in Section 5.01.

"**Indenture**" means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular series of Securities established as contemplated hereunder.

"**Interest**" means, when used with respect to non-interest bearing Securities, interest payable after maturity.

"**Issuer**" means (except as otherwise provided in Article Six) LaSalle Funding LLC, a Delaware limited liability company and, subject to Article Nine, its successors and assigns.

"**Issuer Order**" means a written statement, request or order of the Issuer signed in its name by any officer of the Issuer authorized by the Board to execute any such written statement, request or order.

"**Judgment Currency**" shall have the meaning set forth in Section 11.13.

"**New York Banking Day**" shall have the meaning set forth in Section 11.13.

"**Non-U.S. Currency**" means a currency issued by the government of a country other than the United States (or any currency unit comprised of any such currencies).

"**Officer's Certificate**" means a certificate (i) signed by any officer of the Issuer or any other person authorized by the Board to execute any such certificate

and (ii) delivered to the Trustee. Each such certificate shall comply with Section 314 of the Trust Indenture Act of 1939 and include the statements provided for in Section 11.05.

"**Opinion of Counsel**" means an opinion in writing signed by legal counsel to the Issuer or any Guarantor, who may be an employee of or counsel to the Issuer or such Guarantor. Each such opinion shall comply with Section 314 of the Trust Indenture Act of 1939 and include the statements provided for in Section 11.05.

"**original issue date**" of any Security (or portion thereof) means the earlier of (a) the date of such Security or (b) the date of any Security (or portion thereof) for which such Security was issued (directly or indirectly) on registration of transfer, exchange or substitution.

"**Original Issue Discount Security**" means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 5.01.

"**Outstanding**" when used with reference to Securities, shall, subject to the provisions of Section 7.04, mean, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except

(a) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Securities, or portions thereof, for the payment or redemption of which monies or U.S. Government Obligations (as provided for in Section 10.01) in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Issuer or a Guarantor) or shall have been set aside, segregated and held in trust by the Issuer or a Guarantor for the Holders of such Securities (if the Issuer shall act as its own, or authorize a Guarantor to act as, paying agent), provided that if such Securities, or portions thereof, are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice; and

(c) Securities which shall have been paid or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.09 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a person in whose hands such Security is a legal, valid and binding obligation of the Issuer).

In determining whether the Holders of the requisite principal amount of Outstanding Securities of any or all series have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount

of an Original Issue Discount Security that shall be deemed to be Outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the maturity thereof pursuant to Section 5.01.

"**Periodic Offering**" means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Issuer or its agents upon the issuance of such Securities.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"**principal**" whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include "and premium, if any".

"**record date**" shall have the meaning set forth in Section 2.07.

"**Redemption Notice Period**" shall have the meaning set forth in Section 12.02.

"**Registered Global Security**", means a Security evidencing all or a part of a series of Registered Securities, issued to the Depositary for such series in accordance with Section 2.04, and bearing the legend prescribed in Section 2.04.

"**Registered Security**" means any Security registered on the Security register of the Issuer.

"**Required Currency**" shall have the meaning set forth in Section 11.13.

"**Responsible Officer**" when used with respect to the Trustee means any vice president, (whether or not designated by numbers or words added before or after the title "vice president") the cashier, the secretary, the treasurer, any trust officer, any assistant trust officer, any assistant vice president, any assistant cashier, any assistant secretary, any assistant treasurer, or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"**Security**" or "**Securities**" has the meaning stated in the first recital of this Indenture, or, as the case may be, Securities that have been authenticated and delivered under this Indenture.

"**Trust Indenture Act of 1939**" means the Trust Indenture Act of 1939 as amended and in effect from time to time.

"**Trustee**" means the Person identified as "Trustee" in the first paragraph hereof and, subject to the provisions of Article 6, shall also include any successor trustee. "Trustee" shall also mean or include each Person who is then a trustee hereunder and if at any time there is more than one such Person, "Trustee" as used with respect to the Securities of any series shall mean the trustee with respect to the Securities of such series.

"**U.S. Government Obligations**" shall have the meaning set forth in Section 10.01(a).

"**Yield to Maturity**" means the yield to maturity on a series of Securities, calculated at the time of issuance of such series, or, if applicable, at the most recent redetermination of interest on such series, and calculated in accordance with accepted financial practice.

## ARTICLE 2
## SECURITIES

Section 2.01. *Forms Generally.* The Securities of each series shall be substantially in such form (not inconsistent with this Indenture) as shall be established by or pursuant to one or more Board Resolutions (as set forth in a Board Resolution or, to the extent established pursuant to rather than set forth in a Board Resolution, an Officer's Certificate detailing such establishment) or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the officers executing such Securities as evidenced by their execution of such Securities.

The definitive Securities shall be printed, lithographed on security printed paper or may be produced in any other manner, all as determined by the officers executing such Securities as evidenced by their execution of such Securities.

Section 2.02. *Form of Trustee's Certificate of Authentication.* The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

"This is one of the Securities referred to in the within-mentioned Indenture

_____
as Trustee

By:

_____
Authorized Officer

Dated: _____

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's Certificate of Authentication to be borne by the Securities of each such series shall be substantially as follows:

"This is one of the Securities referred to in the within-mentioned Indenture.

_____
as Authenticating Agent

By:

_____
Authorized Officer

Section 2.03. *Amount Unlimited; Issuable in Series.* The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series and each such series and, unless provided for otherwise in an indenture supplemental hereto, shall rank equally and pari passu with all other unsecured and unsubordinated debt of the Issuer. There shall be established in or pursuant to one or more Board Resolutions (and to the extent established pursuant to rather than set forth in a Board Resolution, in an Officer's Certificate detailing such establishment) or established in one or more indentures supplemental hereto, prior to the initial issuance of Securities of any series,

(a) the designation of the Securities of the series including cusip numbers, which shall distinguish the Securities of the series from the Securities of all other series;

(b) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08, 2.09, 8.05 or 12.03);

(c) if other than Dollars, the coin or currency in which the Securities of that series are denominated (including, but not limited to, any Non-U.S. Currency);

(d) the date or dates on which the principal of the Securities of the series is payable;

(e) the rate or rates at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and on which a record shall be taken for the determination of Holders to whom interest is payable and/or the method by which such rate or rates or date or dates shall be determined;

(f) the place or places where the principal of and any interest on Securities of the series shall be payable (if other than as provided in Section 3.02);

(g) the right, if any, of the Issuer to redeem Securities, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions, including the Redemption Notice Period, upon which Securities of the series may be so redeemed, pursuant to any sinking fund or otherwise;

(h) the obligation, if any, of the Issuer to redeem, purchase or repay Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a Holder thereof and the price or prices at which and the period or periods within which and any terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(i) if other than denominations of $1,000 and any integral multiple thereof in the case of Registered Securities, the denominations in which Securities of the series shall be issuable;

(j) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;

(k) if other than the coin or currency in which the Securities of that series are denominated, the coin or currency in which payment of the principal of or interest on the Securities of such series shall be payable;

(l) if the principal of or interest on the Securities of such series are to be payable, at the election of the Issuer or a Holder thereof, in a coin or currency other than that in which the Securities are denominated, the period or periods within which, and the terms and conditions upon which, such election may be made;

(m) if the amount of payments of principal of and interest on the Securities of the series may be determined with reference to an index based on a coin or currency other than that in which the Securities of the series are denominated, or with reference to any currencies, securities or baskets of securities, commodities or indices, the manner in which such amounts shall be determined;

(n) if the Holders of the Securities of the series may convert or exchange the Securities of the series into or for securities of the Issuer or a Guarantor or of other entities or other property (or the cash value thereof), the specific terms of and period during which such conversion or exchange may be made;

(o) **[RESERVED]**;

(p) whether and under what circumstances the Issuer will pay additional amounts on the Securities of the series held by a Person who is not a U.S. Person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Issuer will have the option to redeem such Securities rather than pay such additional amounts;

(q) if the Securities of such series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and terms of such certificates, documents or conditions;

(r) any trustees, depositaries, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Securities of such series;

(s) any additions, modifications or deletions in the Defaults, Events of Default, other events of default, or covenants of the Issuer set forth herein with respect to the Securities of such series; and

(t) any other terms of the series.

All Securities of any one series shall be substantially identical, except as to denomination and except as may otherwise be provided by or pursuant to the Board Resolution or Officer's Certificate referred to above or as set forth in any

such indenture supplemental hereto. All Securities of any one series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to such Board Resolution, such Officer's Certificate or in any such indenture supplemental hereto.

Notwithstanding Section 2.03(b) hereof and unless otherwise expressly provided with respect to a series of Securities, the aggregate principal amount of a series of Securities may be increased and additional securities of such series may be issued up to a maximum aggregate principal amount authorized with respect to such series as increased.

Section 2.04. *Authentication and Delivery of Securities.* (a) The Issuer may deliver Securities of any series executed by the Issuer to the Trustee for authentication together with the applicable documents referred to below in this Section, and the Trustee shall thereupon authenticate and deliver such Securities to or upon the order of the Issuer (contained in the Issuer Order referred to below in this Section) or pursuant to such procedures acceptable to the Trustee and to such recipients as may be specified from time to time by an Issuer Order. The maturity date, original issue date, interest rate and any other terms of the Securities of such series (including Redemption Notice Periods) shall be determined by or pursuant to such Issuer Order and procedures. If provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral instructions from the Issuer or its duly authorized agent, which instructions shall be promptly confirmed in writing. In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be provided with (in the case of subparagraphs 2.04(a)(ii), 2.04(a)(iii) and 2.04(a)(iv) below only at or before the time of the first request of the Issuer to the Trustee to authenticate Securities of such series) and (subject to Section 6.01) shall be fully protected in relying upon, unless and until such documents have been superseded or revoked:

(i) an Issuer Order requesting such authentication and setting forth delivery instructions if the Securities are not to be delivered to the Issuer, provided that, with respect to Securities of a series subject to a Periodic Offering, (A) such Issuer Order may be delivered by the Issuer to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (B) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount established for such series, pursuant to an Issuer Order or pursuant to procedures acceptable to the Trustee as may be specified from time to time by an Issuer Order, (C) the maturity date or dates, original issue date or dates, interest rate or rates and any other terms of Securities of such series (including Redemption Notice Periods) shall be determined by an Issuer Order or pursuant to such procedures and (D) if provided for in such procedures, such Issuer Order may authorize authentication and delivery

pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which oral instructions shall be promptly confirmed in writing;

(ii) any Board Resolution, Officer's Certificate and/or executed supplemental indenture referred to in Section 2.01 and 2.03 by or pursuant to which the forms and terms of the Securities were established;

(iii) an Officer's Certificate setting forth the form or forms and terms of the Securities stating that the form or forms and terms of the Securities have been established pursuant to Section 2.01 and 2.03 and comply with this Indenture, and covering such other matters as the Trustee may reasonably request; and

(iv) at the option of the Issuer, either an Opinion of Counsel, or a letter addressed to the Trustee permitting it to rely on an Opinion of Counsel, substantially to the effect that:

(A) the forms of the Securities have been duly authorized and established in conformity with the provisions of this Indenture;

(B) in the case of an underwritten offering, the terms of the Securities have been duly authorized and established in conformity with the provisions of this Indenture, and, in the case of an offering that is not underwritten, certain terms of the Securities have been established pursuant to a Board Resolution, an Officer's Certificate or a supplemental indenture in accordance with this Indenture, and when such other terms as are to be established pursuant to procedures set forth in an Issuer Order shall have been established, all such terms will have been duly authorized by the Issuer and will have been established in conformity with the provisions of this Indenture;

(C) when the Securities have been executed by the Issuer and authenticated by the Trustee in accordance with the provisions of this Indenture and delivered to and duly paid for by the purchasers thereof, they will have been duly issued under this Indenture and will be valid and binding obligations of the Issuer, enforceable in accordance with their respective terms, and will be entitled to the benefits of this Indenture; and

(D) the execution and delivery by the Issuer of, and the performance by the Issuer of its obligations under, the Securities will not contravene any provision of applicable law or the certificate of formation or limited liability company agreement

of the Issuer or any agreement or other instrument binding upon the Issuer or any of its consolidated subsidiaries that is material to the Issuer and its subsidiaries, taken as a whole, or, to the best of such counsel's knowledge, any judgment, order or decree of any U.S. governmental body, agency or court having jurisdiction over the Issuer or any of its consolidated subsidiaries, and no consent, approval or authorization of any U.S. governmental body or agency is required for the performance by the Issuer of its obligations under the Securities except such as are specified and have been obtained and 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 Securities.

In rendering such opinions, such counsel may qualify any opinions as to enforceability by stating that such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium and other similar laws affecting the rights and remedies of creditors and is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Such counsel may rely, as to all matters governed by the laws of jurisdictions other than the State of New York and the federal law of the United States, upon opinions of other counsel (copies of which shall be delivered to the Trustee), who shall be counsel reasonably satisfactory to the Trustee, in which case the opinion shall state that such counsel believes that it and the Trustee are entitled so to rely. Such counsel may also state that, insofar as such opinion involves factual matters, he has relied, to the extent he deems proper, upon certificates of officers of the Issuer or any Guarantor and its subsidiaries and certificates of public officials.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section if the Trustee, being advised by counsel, determines that such action may not lawfully be taken by the Issuer or if the Trustee in good faith by its board of directors or board of trustees, executive committee, or a trust committee of directors or trustees or Responsible Officers shall determine that such action would expose the Trustee to personal liability to existing Holders or would affect the Trustee's own rights, duties or immunities under the Securities, this Indenture or otherwise.

If the Issuer shall establish pursuant to Section 2.03 that the Securities of a series are to be issued in the form of one or more Registered Global Securities, then the Issuer shall execute and the Trustee shall, in accordance with this Section and the Issuer Order with respect to such series, authenticate and deliver one or more Registered Global Securities that (i) shall represent and shall be denominated in an amount equal to the aggregate principal amount of all of the Securities of such series issued and not yet cancelled, (ii) shall be registered in the name of the Depositary for such Registered Global Security or Securities or the nominee of such Depositary, (iii) shall be delivered by the Trustee to such

Depositary or pursuant to such Depositary's instructions and (iv) shall bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive registered form, this Security may not be transferred except as a whole by the Depositary to the nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary."

Each Depositary designated pursuant to Section 2.03 must, at the time of its designation and at all times while it serves as Depositary, be a clearing agency registered under the Securities Exchange Act of 1934 and any other applicable statute or regulation.

Section 2.05. *Execution of Securities.* The Securities shall be signed on behalf of the Issuer by any officer of the Issuer duly authorized by the Board to execute Securities which Securities may, but need not, be attested. Such signatures may be the manual or facsimile signatures of the present or any future such officers. Minor errors or defects in any such reproduction of any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

In case any officer of the Issuer who shall have signed any of the Securities pursuant to his or her authorization to do so, shall cease to be such officer, or such authorization shall be withdrawn, before the Security so signed shall be authenticated and delivered by the Trustee or disposed of by the Issuer, such Security nevertheless may be authenticated and delivered or disposed of as though the person who signed such Security had not ceased to be such officer or the authorization to sign such Security had not been withdrawn; and any Security may be signed on behalf of the Issuer by any two persons as, at the actual date of the execution of such Security shall be authorized to do so, although at the date of the execution and delivery of this Indenture any such person was not so authorized.

Section 2.06. *Certificate of Authentication.* Only such Securities as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the manual signature of one of its authorized officers, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. The execution of such certificate by the Trustee upon any Security executed by the Issuer shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

Section 2.07. *Denomination and Date of Securities; Payments of Interest.* The Securities of each series shall be issuable as Registered Securities in denominations of $1,000 and any integral multiple thereof. The Securities of each series shall be numbered, lettered or otherwise distinguished in such manner or in

accordance with such plan as the officers of the Issuer executing the same may determine with the approval of the Trustee, as evidenced by the execution and authentication thereof.

Each Registered Security shall be dated the date of its authentication. The Securities of each series shall bear interest, if any, from the date, and such interest shall be payable on the dates, established as contemplated by Section 2.03.

The Person in whose name any Registered Security of any series is registered at the close of business on any record date applicable to a particular series with respect to any interest payment date for such series shall be entitled to receive the interest, if any, payable on such interest payment date notwithstanding any transfer or exchange of such Registered Security subsequent to the record date and prior to such interest payment date, except if and to the extent the Issuer and the Guarantors shall default in the payment of the interest due on such interest payment date for such series, in which case such defaulted interest shall be paid to the Persons in whose names Outstanding Registered Securities for such series are registered at the close of business on a subsequent record date (which shall be not less than five Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuer to the Holders of Registered Securities not less than 15 days preceding such subsequent record date. The term "record date" as used with respect to any interest payment date (except a date for payment of defaulted interest) for the Securities of any series shall mean the date specified as such in the terms of the Registered Securities of such series established as contemplated by Section 2.03, or, if no such date is so established, if such interest payment date is the first day of a calendar month, the fifteenth day of the next preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the first day of such calendar month, whether or not such record date is a Business Day.

Section 2.08. *Registration, Transfer and Exchange.* The Issuer will keep or cause to be kept at each office or agency to be maintained for the purpose as provided in Section 3.02 for each series of Securities a register or registers in which, subject to such reasonable regulations as it may prescribe, it will provide for the registration of Registered Securities of such series and the registration of transfer of Registered Securities of such series. Such register shall be in written form in the English language or in any other form capable of being converted into such form within a reasonable time. At all reasonable times such register or registers shall be open for inspection by the Trustee.

Upon due presentation for registration of transfer of any Registered Security of any series at any such office or agency to be maintained for the purpose as provided in Section 3.02, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Registered Security or Registered Securities of the same series, maturity date, interest rate and original issue date in authorized denominations for a like aggregate principal amount.

At the option of the Holder thereof, Registered Securities of any series (other than a Registered Global Security, except as set forth below) may be exchanged for a Registered Security or Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Registered Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02 and upon payment, if the Issuer shall so require, of the charges hereinafter provided. Whenever any Securities are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. All Securities surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled and disposed of by the Trustee and the Trustee will deliver a certificate of disposition thereof to the Issuer.

All Registered Securities presented for registration of transfer, exchange, redemption or payment shall (if so required by the Issuer or the Trustee) be duly endorsed by, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Issuer and the Trustee duly executed by the Holder or his attorney duly authorized in writing.

The Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any exchange or registration of transfer of Securities. No service charge shall be made for any such transaction.

The Issuer shall not be required to exchange or register a transfer of (a) any Securities of any series for a period of 15 days next preceding the first mailing of notice of redemption of Securities of such series to be redeemed or (b) any Securities selected, called or being called for redemption, in whole or in part, except, in the case of any Security to be redeemed in part, the portion thereof not so to be redeemed or (c) any Securities if the Holder thereof has exercised any right to require the Issuer to repurchase such Securities, in whole or in part, except, in the case of any Security to be repurchased in part, the portion thereof not so to be repurchased.

Notwithstanding any other provision of this Section 2.08, unless and until it is exchanged in whole or in part for Securities in definitive registered form, a Registered Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary.

If at any time the Depositary for any Registered Securities of a series represented by one or more Registered Global Securities notifies the Issuer that it is unwilling or unable to continue as Depositary for such Registered Securities or if at any time the Depositary for such Registered Securities shall no longer be eligible under Section 2.04, the Issuer shall appoint a successor Depositary eligible under Section 2.04 with respect to such Registered Securities. If a successor Depositary eligible under Section 2.04 for such Registered Securities is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such ineligibility, the Issuer's election pursuant to Section 2.03 that such Registered Securities be represented by one or more Registered Global Securities shall no longer be effective and the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities in exchange for such Registered Global Security or Securities.

The Issuer may at any time and in its sole discretion determine that the Registered Securities of any series issued in the form of one or more Registered Global Securities shall no longer be represented by a Registered Global Security or Securities. In such event the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities, in exchange for such Registered Global Security or Securities.

If specified by the Issuer pursuant to Section 2.03 with respect to Securities represented by a Registered Global Security, the Depositary for such Registered Global Security may surrender such Registered Global Security in exchange in whole or in part for Securities of the same series in definitive registered form on such terms as are acceptable to the Issuer and such Depositary. Thereupon, the Issuer shall execute, and the Trustee shall authenticate and deliver, without service charge,

(i) to the Person specified by such Depositary a new Registered Security or Securities of the same series, of any authorized denominations as requested by such Person, in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Registered Global Security; and

(ii) to such Depositary a new Registered Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Registered Global Security and the aggregate principal amount of Registered Securities authenticated and delivered pursuant to clause (i) above.

Upon the exchange of a Registered Global Security for Securities in definitive registered form without coupons, in authorized denominations, such Registered Global Security shall be cancelled by the Trustee or an agent of the Issuer or the Trustee. Securities in definitive registered form without coupons issued in exchange for a Registered Global Security pursuant to this Section 2.08 shall be registered in such nominee names and in such authorized denominations as the Depositary for such Registered Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee or an agent of the Issuer or the Trustee. The Trustee or such agent shall deliver such Securities to or as directed by the Persons in whose names such Securities are so registered.

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Issuer and the Guarantors, respectively, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

Section 2.09. *Mutilated, Defaced, Destroyed, Lost and Stolen Securities.* In case any temporary or definitive Security shall become mutilated, defaced or be destroyed, lost or stolen, the Issuer in its discretion may execute, and upon the written request of any officer of the Issuer, the Trustee shall authenticate and deliver a new Security of the same series, maturity date, interest rate and original issue date, bearing a number or other distinguishing symbol not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security. In every case the applicant for a substitute Security shall furnish to the Issuer, the Guarantors and to the Trustee and any agent of the Issuer, a Guarantor or the Trustee such security or indemnity as may be required by them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof and in the case of mutilation or defacement shall surrender the Security to the Trustee or such agent.

Upon the issuance of any substitute Security, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee or its agent) connected therewith. In case any Security which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Issuer may instead of issuing a substitute Security, pay or authorize the payment of the same if the applicant for such payment shall furnish to the Issuer, the Guarantors and the Trustee and any agent of the Issuer, a Guarantor or the Trustee such security or indemnity as any of them may require to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the

Issuer, the Guarantors and the Trustee and any agent of the Issuer, a Guarantor or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof.

Every substitute Security of any series issued pursuant to the provisions of this Section by virtue of the fact that any such Security is destroyed, lost or stolen shall constitute an additional contractual obligation of the Issuer and the Guarantors, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture equally and proportionately with any and all other Securities of such series duly authenticated and delivered hereunder. All Securities shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced or destroyed, lost or stolen Securities and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

Section 2.10. *Cancellation of Securities; Disposition Thereof.* All Securities surrendered for payment, redemption, registration of transfer or exchange, or for credit against any payment in respect of a sinking or analogous fund, if surrendered to the Issuer or any agent of the Issuer or the Trustee or any agent of the Trustee, shall be delivered to the Trustee or its agent for cancellation or, if surrendered to the Trustee, shall be cancelled by it; and no Securities shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee or its agent shall dispose of cancelled Securities by it and upon request of the Issuer deliver a certificate of disposition to the Issuer. If the Issuer, any Guarantor or an agent of any of them shall acquire any of the Securities, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee or its agent for cancellation.

Section 2.11. *CUSIP Numbers*. The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

ARTICLE 3
COVENANTS OF THE ISSUER

Section 3.01. *Payment of Principal and Interest.* The Issuer covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay or cause to be paid the principal of, and interest on, each of the Securities of such series (together with any additional amounts payable pursuant to the terms of such Securities) at the place or places, at the respective times and in the manner provided in such Securities. The interest on Registered Securities (together with any additional amounts payable pursuant to the terms of such Securities) shall be payable only to or upon the written order of the Holders thereof and, at the option of the Issuer, may be paid by wire transfer or by mailing checks for such interest payable to or upon the written order of such Holders at their last addresses as they appear on the registry books of the Issuer.

Section 3.02. *Offices for Payments, etc.* So long as any Registered Securities are authorized for issuance pursuant to this Indenture or are outstanding hereunder, the Issuer and each Guarantor will maintain in the Borough of Manhattan, The City of New York or the City of Chicago, an office or agency where the Registered Securities of each series may be presented for payment, where the Securities of each series may be presented for exchange as is provided in this Indenture and, if applicable, pursuant to Section 2.03 and where the Registered Securities of each series may be presented for registration of transfer as in this Indenture provided.

The Issuer and each Guarantor will maintain in the Borough of Manhattan, The City of New York or the City of Chicago, an office or agency where notices and demands to or upon the Issuer or Guarantors in respect of the Securities of any series, or this Indenture may be served.

The Issuer and each Guarantor will give to the Trustee written notice of the location of each such office or agency and of any change of location thereof. In case the Issuer or any Guarantor shall fail to maintain any agency required by this Section to be located in the Borough of Manhattan, The City of New York or the City of Chicago, or shall fail to give such notice of the location or of any change in the location of any of the above agencies, presentations and demands may be made and notices may be served at the Corporate Trust Office of the Trustee.

The Issuer and the Guarantors may from time to time designate one or more additional offices or agencies where the Securities of a series may be presented for payment, where the Securities of that series may be presented for exchange as provided in this Indenture and pursuant to Section 2.03 and where the Registered Securities of that series may be presented for registration of transfer as in this Indenture provided, and the Issuer and the Guarantors may from time to time rescind any such designation, as the Issuer and the Guarantors may deem

desirable or expedient; provided, however, that no such designation or rescission shall in any manner relieve the Issuer and the Guarantors of its and their obligation to maintain the agencies provided for in this Section. The Issuer and the Guarantors will give to the Trustee prompt written notice of any such designation or rescission thereof.

Section 3.03. *Appointment to Fill a Vacancy in Office of Trustee.* The Issuer or any Guarantor, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 6.10, a Trustee, so that there shall at all times be a Trustee with respect to each series of Securities hereunder.

Section 3.04. *Paying Agents.* Whenever the Issuer or any Guarantor shall appoint a paying agent other than the Trustee with respect to the Securities of any series, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section,

(a) that it will hold all sums received by it as such agent for the payment of the principal of or interest on the Securities of such series (whether such sums have been paid to it by the Issuer, the Guarantors or any other obligor on the Securities of such series) in trust for the benefit of the Holders of the Securities of such series, or of the Trustee,

(b) that it will give the Trustee notice of any failure by the Issuer (or by the Guarantors or any other obligor on the Securities of such series) to make any payment of the principal of or interest on the Securities of such series when the same shall be due and payable, and

(c) that it will pay any such sums so held in trust by it to the Trustee upon the Trustee's written request at any time during the continuance of the failure referred to in clause (b) above.

The Issuer or the Guarantors will, on or prior to each due date of the principal of or interest on the Securities of such series, deposit with the paying agent a sum sufficient to pay such principal or interest so becoming due, and (unless such paying agent is the Trustee) the Issuer or a Guarantor will promptly notify the Trustee of any failure to take such action. Any payment received by the Trustee or a paying agent after 1:00 p.m. New York time shall be deemed to be received on the next Business Day.

If the Issuer shall act as its own paying agent, or if a Guarantor shall act as paying agent, with respect to the Securities of any series, it will, on or before each due date of the principal of or interest on the Securities of such series, set aside, segregate and hold in trust for the benefit of the Holders of the Securities of such series a sum sufficient to pay such principal or interest so becoming due. The Issuer or a Guarantor will promptly notify the Trustee of any failure to take such action.

Anything in this Section to the contrary notwithstanding, but subject to Section 10.01, the Issuer or any Guarantor may at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such series by the Issuer, the Guarantors or any paying agent hereunder, as required by this Section, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section is subject to the provisions of Section 10.03 and 10.04.

Section 3.05. *Written Statement to Trustee.* The Issuer will furnish to the Trustee on or before March 31 in each year (beginning with March 31, 2007) a brief certificate (which need not comply with Section 11.05) from the principal executive, financial or accounting officer of the Issuer stating that in the course of the performance by the signer of his duties as an officer of the Issuer, he would normally have knowledge of any default or non-compliance by the Issuer as the case may be, in the performance of any covenants or conditions contained in this Indenture, stating whether or not he has knowledge of any such default or non-compliance and, if so, specifying each such default or non-compliance of which the signer has knowledge and the nature thereof. The Issuer shall deliver to the Trustee, as soon as possible and in any event within five days after the Issuer becomes aware of the occurrence of any Event of Default or an event which, with notice or the lapse of time or both, would constitute an Event of Default, an Officers' Certificate setting forth the details of such Event of Default or default and the action which the Issuer proposes to take with respect thereto.

Section 3.06. *Luxembourg Publications.* In the event of the publication of any notice pursuant to Section 5.11, the party making such publication in the Borough of Manhattan, The City of New York and London shall also, to the extent that notice is required to be given to Holders of Securities of any series by applicable Luxembourg law or stock exchange regulation, as evidenced by an Officer's Certificate delivered to such party, make a similar publication in Luxembourg.

## ARTICLE 4
## SECURITYHOLDERS LISTS AND REPORTS BY THE ISSUER, THE GUARANTORS AND THE TRUSTEE

Section 4.01. *Issuer and Guarantors to Furnish Trustee Information as to Names and Addresses of Securityholders.* Each of the Issuer and each Guarantor

covenants and agrees that it will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses of the Holders of the Registered Securities of such series pursuant to Section 312 of the Trust Indenture Act of 1939:

(a) not more than 15 days after each record date for the payment of interest on such Registered Securities, as herein above specified, as of such record date and on dates to be determined pursuant to Section 2.03 for non-interest bearing Registered Securities in each year, and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Issuer of any such request as of a date not more than 15 days prior to the time such information is furnished,

*provided* that if and so long as the Trustee shall be the Security registrar for such series and all of the Securities of any series are Registered Securities, such list shall not be required to be furnished.

Section 4.02. *Preservation and Disclosure of Securityholders Lists.*

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of each series of Securities contained in the most recent list furnished to it as provided in Section 4.01. The Trustee may destroy any list furnished to it as provided in Section 4.01 upon receipt of a new list so furnished.

(b) The rights of Holders to communicate with other Holders with respect to the Indenture or the Securities are as provided by the Trust Indenture Act of 1939.

(c) None of the Issuer, the Guarantors or the Trustee will be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act of 1939.

Section 4.03. *Reports by the Issuer and the Guarantors.* Each of the Issuer and each Guarantor covenants with the Trustee to file with the Trustee, within 15 days after the Issuer or such Guarantor, as the case may be, has filed the same with the Commission, copies of the annual reports and of the information, documents, and other reports that the Issuer or such Guarantor may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 or pursuant to Section 314 of the Trust Indenture Act of 1939; *provided*, *however*, that failure by the Issuer or any Guarantor to comply with this provision or, to the extent automatically deemed to be included in this Indenture, Section 314(a) of the Trust Indenture Act of 1939, shall not constitute a Default or an Event of Default for purposes of the remedy of acceleration or the right to declare any security issued hereunder due and payable as set forth in Section 5.01 or otherwise give a right to accelerate or declare any Security issued hereunder due and payable. Other than with respect to any remedy of acceleration or declaring any Security issued hereunder due and payable, the Trustee shall, if such failure has not been cured following such notice and within the applicable cure period, each as set forth in Section 5.01(b), have all rights and remedies available to it relating to an Event of Default, including, to bring proceedings for enforcement if so directed by the Noteholders in accordance with Section 5.09. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall

not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 4.04. *Reports by the Trustee.* Any Trustee's report required under Section 313(a) of the Trust Indenture Act of 1939 shall be transmitted on or before May 15 in each year beginning May 15, 2007, as provided in Section 313(c) of the Trust Indenture Act of 1939, so long as any Securities are Outstanding hereunder, and shall be dated as of a date convenient to the Trustee no more than 60 days prior thereto.

## ARTICLE 5
## REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

Section 5.01. *Event of Default Defined; Acceleration of Maturity; Waiver of Event of Default.* Unless otherwise established in accordance with Section 2.03 or by any applicable supplemental indenture, "**Event of Default**" with respect to Securities of any series wherever used herein, means each one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default for more than 30 days in the payment of interest, premium or principal in respect of the Securities; or

(b) the failure to perform or observe any other obligations under the Securities which failure continues for the period of 60 days next following service on the Issuer and the Guarantors of notice requiring the same to be remedied, except that the failure to perform or observe any obligation under Section 4.03 or, to the extent automatically deemed to be included in this Indenture, Section 314(a) of the Trust Indenture Act of 1939, shall not constitute an Event of Default for purposes of the remedy of acceleration or the right to declare any security issued hereunder due and payable as set forth in this Section 5.01 or that otherwise gives a right to accelerate or declare any Security issued hereunder due and payable; or

(c) the entry by a court having competent jurisdiction of:

(i) a decree or order for relief in respect of the Issuer or any Guarantor in an involuntary proceeding under any applicable bankruptcy, insolvency, reorganization law (including Chapter X of the Act of the Supervision of the Credit System (Wet toezicht kredietwezen 1992) of the Netherlands) (other than a reorganization under a foreign law that does not relate to insolvency) or other similar law and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(ii) decree or order adjudging the Issuer or any Guarantor to be insolvent, or approving a petition seeking reorganization (other than a reorganization under a foreign law that does not relate to insolvency), arrangement, adjustment or composition of the Issuer or any Guarantor and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(iii) a final and non-appealable order appointing a custodian, receiver, liquidator, assignee, trustee or other similar official of the Issuer or any Guarantor of any substantial part of the property of the Issuer or such Guarantor or ordering the winding up or liquidation of the affairs of the Issuer or such Guarantor; or

(d) the commencement by the Issuer or any Guarantor of a voluntary proceeding under any applicable bankruptcy, insolvency, reorganization (other than a reorganization under a foreign law that does not relate to insolvency) or other similar law or of a voluntary proceeding seeking to be adjudicated insolvent or the consent by the Issuer or any Guarantor to the entry of a decree or order for relief in an involuntary proceeding under any applicable bankruptcy, insolvency, reorganization or other similar law or to the commencement of any insolvency proceedings against it, or the filing by the Issuer or any Guarantor of a petition or answer or consent seeking reorganization, arrangement, adjustment or composition of the Issuer or relief under any applicable law, or the consent by the Issuer or any Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or similar official of the Issuer or such Guarantor or any substantial part of the property of the Issuer or such Guarantor or the making by the Issuer or any Guarantor of an assignment for the benefit of creditors, or the taking of corporate action, including the passing of an effective resolution, by the Issuer or such Guarantor in furtherance of any such action; or

(e) an order is made or an effective resolution is passed for the winding up or liquidation of the Issuer or any Guarantor otherwise than in compliance with Section 9.01; or

(f) any other Event of Default provided in the supplemental indenture or Issuer Order under which such series of Securities is issued.

Unless otherwise set forth in any applicable supplemental indenture, if an Event of Default described in clauses (a), (b) or (f) above (if the Event of Default under clauses (b) or (f) is with respect to less than all series of Securities then Outstanding) occurs and is continuing, then, and in each and every such case, except for any series the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of all series affected thereby then Outstanding hereunder (treated as one class), by notice in writing to the Issuer (and to the

Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of any such affected series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such affected series and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. Unless otherwise set forth in any applicable supplemental indenture, if an Event of Default described in clauses (b), (e) or (f) (if the Event of Default under clauses (b) or (f) is with respect to all series of Securities at the time Outstanding) occurs and is continuing, then and in each and every such case, unless the principal of all the Securities shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of all the then Outstanding Securities hereunder (treated as one class) for which any applicable supplemental indenture does not prevent acceleration under the relevant circumstances, by notice in writing to the Issuer and the Guarantors (and to the Trustee if given by Securityholders), may declare the entire principal (or, if any Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of all the Securities then Outstanding and interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. Unless otherwise set forth in any applicable supplemental indenture, if an Event of Default described in clauses (c) or (d) has occurred and is continuing, then the principal and accrued and unpaid interest, and premium of any, with respect to any Securities then Outstanding shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

The foregoing provisions, however, are subject to the condition that if, at any time after the principal (or, if the Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of the Securities of any series (or of all the Securities, as the case may be) shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Issuer or the Guarantors shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of such series (or of all the Securities, as the case may be) and the principal of any and all Securities of each such series (or of all the Securities, as the case may be) which shall have become due otherwise than by acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of each such series (or at the respective rates of interest or Yields to Maturity of all the Securities, as the case may be) to the date of such payment or deposit) and such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other

expenses and liabilities reasonably incurred, and all advances made, by the Trustee except as a result of negligence or bad faith, and if any and all Events of Default under the Indenture, other than the non-payment of the principal of Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein, then and in every such case the Holders of a majority in aggregate principal amount of all the Securities of each such series (or of all the Securities, as the case may be) then Outstanding (in each case treated as one class), by written notice to the Issuer, the Guarantors and to the Trustee, may waive all defaults with respect to each such series (or with respect to all the Securities, as the case may be) and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

Section 5.02. *Collection of Indebtedness by Trustee; Trustee May Prove Debt.* Each of the Issuer and each Guarantor covenants that (a) in case default shall be made in the payment of any installment of interest on any of the Securities of any series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any series when the same shall have become due and payable, and such default shall have continued for a period of 30 days, whether upon maturity of the Securities of such series or upon any redemption or by declaration or otherwise — then upon demand of the Trustee, the Issuer or Guarantors, as the case may be, will pay to the Trustee for the benefit of the Holders of the Securities of such series the whole amount that then shall have become due and payable on all Securities of such series, for principal or interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee and each predecessor Trustee, their respective agents,

attorneys and counsel, and any expenses and liabilities reasonably incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of its negligence or bad faith.

Until such demand is made by the Trustee, the Issuer or the Guarantors, as the case may be, may pay the principal of and interest on the Securities of any series to the registered holders, whether or not the Securities of such series be overdue.

In case the Issuer or the Guarantors shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Issuer or the Guarantors or other obligor upon the Securities and collect in the manner provided by law out of the property of the Issuer or the Guarantors or other obligor upon the Securities, wherever situated, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Issuer or any Guarantor or any other obligor upon the Securities under Title 11 of the United States Code or any other applicable Federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or any Guarantor or such other obligor or the property of any of them, or in case of any other comparable judicial proceedings relative to the Issuer or any Guarantor or other obligor upon the Securities, or to the creditors or property of the Issuer or such Guarantor or such other obligor, the Trustee, irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(i) to file and prove a claim or claims for the whole amount of principal and interest (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) owing and unpaid in respect of the Securities of any series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all expenses and liabilities reasonably incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or bad faith) and of the Securityholders

allowed in any judicial proceedings relative to the Issuer, any Guarantor or other obligor upon the Securities, or to the creditors or property of the Issuer, or such Guarantor or such other obligor;

(ii) unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Securities of any series in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or Person performing similar functions in comparable proceedings; and

(iii) to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Securityholders and of the Trustee on their behalf; and any trustee, receiver, or liquidator, custodian or other similar official is hereby authorized by each of the Securityholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Securityholders, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other expenses and liabilities reasonably incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar Person.

All rights of action and of asserting claims under this Indenture, or under any of the Securities of any series, may be enforced by the Trustee without the possession of any of the Securities of such series or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Trustee, each predecessor Trustee and their respective agents and attorneys, shall be for the ratable benefit of the Holders of the Securities in respect of which such action was taken.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Securities in respect to which such action was taken, and it shall not be necessary to make any Holders of such Securities parties to any such proceedings.

Section 5.03. *Application of Proceeds.* Any monies collected by the Trustee pursuant to this Article in respect of any series shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such monies on account of principal or interest, upon presentation of the several Securities in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Securities of such series in reduced principal amounts in exchange for the presented Securities of like series if only partially paid, or upon surrender thereof if fully paid:

First: To the payment of costs and expenses applicable to such series in respect of which monies have been collected, including reasonable compensation to the Trustee and each predecessor Trustee and their respective agents and attorneys and of all expenses and liabilities reasonably incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or willful misconduct;

Second: In case the principal of the Securities of such series in respect of which monies have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such series in default in the order of the maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in such Securities, such payments to be made ratably to the Persons entitled thereto, without discrimination or preference;

Third: In case the principal of the Securities of such series in respect of which monies have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such series for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series; and in case such monies shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such series, then to the payment of such principal and interest or Yield to Maturity, without preference or priority of principal over interest or Yield to Maturity, or of interest or Yield to Maturity over principal, or of any installment of interest over any other installment of interest, or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and accrued and unpaid interest or Yield to Maturity; and

Fourth: To the payment of the remainder, if any, to the Issuer or any other Person lawfully entitled thereto.

Section 5.04. *Suits for Enforcement.* In case an Event of Default has occurred, has not been waived and is continuing, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem necessary to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 5.05. *Restoration of Rights on Abandonment of Proceedings.* In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer, the Guarantors and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Issuer, the Guarantors, the Trustee and the Securityholders shall continue as though no such proceedings had been taken.

Section 5.06. *Limitations on Suits by Securityholders.* No Holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder, unless such Holder previously shall have given to the Trustee written notice of default and of the continuance thereof, as hereinbefore provided, and unless also the Holders of not less than 25% in aggregate principal amount of the Securities of each affected series then Outstanding (treated as a single class) shall have made written request upon the Trustee to institute such action or proceedings in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.09; it being understood and intended, and being expressly covenanted by the taker and Holder of every Security with every other taker and Holder and the Trustee, that no one or more Holders of Securities of any series shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other

such Holder of Securities, or to obtain or seek to obtain priority over or preference to any other such Holder or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders of Securities of the applicable series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 5.07. *Unconditional Right of Securityholders to Institute Certain Suits.* Notwithstanding any other provision in this Indenture and any provision of any Security, the right of any Holder of any Security to receive payment of the principal of and interest on such Security on or after the respective due dates expressed in such Security, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 5.08. *Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default.* Except as provided in Section 5.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder of Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and, subject to Section 5.06, every power and remedy given by this Indenture or by law to the Trustee or to the Holders of Securities may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders of Securities.

Section 5.09. *Control by Holders of Securities.* The Holders of a majority in aggregate principal amount of the Securities of each series affected (with all such series voting as a single class) at the time Outstanding shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the Securities of such series by this Indenture; provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture and provided further that (subject to the provisions of Section 6.01) the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith by its board of directors, the executive committee, or a trust committee of directors or

Responsible Officers of the Trustee shall determine that the action or proceedings so directed would involve the Trustee in personal liability or if the Trustee in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of the Securities of all series so affected not joining in the giving of said direction, it being understood that (subject to Section 6.01) the Trustee shall have no duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Securityholders.

Section 5.10. *Waiver of Past Defaults.* Prior to the acceleration of the maturity of any Securities as provided in Section 5.01, the Holders of a majority in aggregate principal amount of the Securities of all series at the time Outstanding with respect to which an Event of Default shall have occurred and be continuing (voting as a single class) may on behalf of the Holders of all such Securities waive any past default or Event of Default described in Section 5.01 and its consequences, except a default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of the Holder of each Security affected. In the case of any such waiver, the Issuer, the Guarantors, the Trustee and the Holders of all such Securities shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Upon any such waiver, such default shall cease to exist and be deemed to have been cured and not to have occurred, and any Event of Default arising therefrom shall be deemed to have been cured, and not to have occurred for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 5.11. *Trustee to Give Notice of Default; But May Withhold in Certain Circumstances.*The Trustee shall, within ninety days after the occurrence of a default with respect to the Securities of any series, give notice of all defaults with respect to that series known to a Responsible Officer of the Trustee if any Registered Securities of a series affected are then Outstanding, by mailing notice to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books, unless in each case such defaults shall have been cured before the mailing or publication of such notice (the term “defaults” for the purpose of this Section being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); provided that, except in the case of default in the payment of the principal of or interest on any of the Securities of such series, or in the payment of any sinking fund installment on such series, the Trustee shall be protected in withholding such notice if and so long as a trust

committee of directors or trustees and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders of such series.

Section 5.12. *Right of Court to Require Filing of Undertaking to Pay Costs.*All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder or group of Securityholders of any series holding in the aggregate more than 10% in aggregate principal amount of the Securities of such series, or, in the case of any suit relating to or arising under clause 5.01(b) or 5.01(d) (if the suit relates to Securities of more than one but less than all series), 10% in aggregate principal amount of Securities then Outstanding and affected thereby, or in the case of any suit relating to or arising under clause 5.01(b) or 5.01(d) (if the suit under clause 5.01(b) or 5.01(d) relates to all the Securities then Outstanding), 5.01(c) or 5.01(d), 10% in aggregate principal amount of all Securities then Outstanding, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in such Security or any date fixed for redemption.

## ARTICLE 6
## CONCERNING THE TRUSTEE

Section 6.01. *Duties and Responsibilities of the Trustee; During Default; Prior to Default.*With respect to the Holders of any series of Securities issued hereunder, the Trustee, prior to the occurrence of an Event of Default with respect to the Securities of a particular series and after the curing or waiving of all Events of Default which may have occurred with respect to such series, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default with respect to the Securities of a series has occurred (which has not been cured or waived) the Trustee shall exercise with respect to such series of Securities such of the rights and powers vested in it by this Indenture, 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.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

(a) prior to the occurrence of an Event of Default with respect to the Securities of any series and after the curing or waiving of all such Events of Default with respect to such series which may have occurred:

(i) the duties and obligations of the Trustee with respect to the Securities of any series shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the 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 pursuant to Section 5.09 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the 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 there shall be reasonable ground for believing that the repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.

The provisions of this Section 6.01 are in furtherance of and subject to Section 315 of the Trust Indenture Act of 1939.

Section 6.02. *Certain Rights of the Trustee.* In furtherance of and subject to the Trust Indenture Act of 1939, and subject to Section 6.01:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, Officer's Certificate, Guarantors' Officers' Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Issuer or any Guarantor mentioned herein shall be sufficiently evidenced by an Officer's Certificate or a Guarantor's Officers' Certificate, as the case may be (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board or of any Guarantor's Board of Directors may be evidenced to the Trustee by a copy thereof certified by the secretary or an assistant secretary of the Issuer or such Guarantor, as the case may be;

(c) the Trustee may consult with counsel (at the Issuer's expense) and any advice or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred therein or thereby;

(e) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;

(f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the 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, consent, order, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested in writing so to do by the Holders of not less than a majority in aggregate principal amount of the Securities of all series affected then Outstanding; provided that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee

may require reasonable indemnity satisfactory to it against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Issuer or the Guarantors or, if paid by the Trustee or any predecessor Trustee, shall be repaid by the Issuer or the Guarantors upon demand; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder.

(h) in no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(i) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture;

(j) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder; and

Section 6.03. *Trustee Not Responsible for Recitals, Disposition of Securities or Application of Proceeds Thereof.* The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer or the Guarantors, as the case may be, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Issuer of any of the Securities or of the proceeds thereof.

Section 6.04. *Trustee and Agents May Hold Securities; Collections, Etc.* The Trustee or any agent of the Issuer, any Guarantor or the Trustee, in its or their individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not the Trustee or such agent and may otherwise deal with the Issuer or any Guarantor and receive, collect, hold and retain collections from the Issuer or any Guarantor with the same rights it would have if it were not the Trustee or such agent.

Section 6.05. *Monies Held by Trustee.* Subject to the provisions of Section 10.04 hereof, all monies received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. Neither the Trustee nor any agent of the Issuer or the Trustee shall be under any liability for interest on any monies received by it hereunder.

Section 6.06. *Compensation and Indemnification of Trustee and Its Prior Claim.* Each of the Issuer and each Guarantor, jointly and severally, covenants and agrees to pay (without duplication) to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and each of the Issuer and each Guarantor covenants and agrees to pay or reimburse the Trustee and each predecessor Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the reasonable compensation and the reasonable expenses and disbursements of its counsel and of all agents and other Persons not regularly in its employ) except any such expense, disbursement or advance as shall have been caused by its own negligence or willful misconduct. The Issuer and each Guarantor, jointly and severally, each also covenants to indemnify the Trustee and each predecessor Trustee for, and to hold it harmless against, any loss, liability, claim, damage or expense reasonably incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder and its duties hereunder, including the costs and expenses of defending itself against or investigating any claim of liability in the premises. The obligations of the Issuer and the Guarantors under this Section to compensate and indemnify the Trustee and each predecessor Trustee and to pay or reimburse the Trustee and each predecessor Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities, and the Securities are hereby subordinated to such senior claim.

Section 6.07. *Right of Trustee to Rely on Officer's Certificate, Etc.* Subject to Section 6.01 and 6.02, whenever in the administration of the trusts of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such certificate, in the absence

of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 6.08. *Intentionally Left Blank.*

Section 6.09. *Persons Eligible for Appointment as Trustee.* The Trustee for each series of Securities hereunder shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State or the District of Columbia having a combined capital and surplus of at least $5,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by Federal, State or District of Columbia authority. Such corporation shall have its principal place of business in the Borough of Manhattan, The City of New York or the City of Chicago if there be such a corporation in such location willing to act upon reasonable and customary terms and conditions. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, 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. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.10.

The provisions of this Section 6.09 are in furtherance of and subject to Section 310(a) of the Trust Indenture Act of 1939.

Section 6.10. *Resignation and Removal; Appointment of Successor Trustee.*

(a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all series of Securities by giving written notice of resignation to the Issuer and the Guarantors and by mailing notice of such resignation to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. Upon receiving such notice of resignation, the Issuer or a Guarantor shall promptly appoint a successor trustee or trustees with respect to the applicable series by written instrument in duplicate, executed by authority of its board of directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to any series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Securityholder who has been a bona fide Holder of a Security or Securities of the applicable series for at least six months may, subject to the provisions of Section 5.12, on behalf of himself and

all others similarly situated, petition at the expense of the Issuer any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 310(b) of the Trust Indenture Act of 1939 with respect to any series of Securities after written request therefor by the Issuer, any Guarantor or by any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.09 and Section 310(a) of the Trust Indenture Act of 1939 and shall fail to resign after written request therefor by the Issuer, any Guarantor or by any Securityholder; or

(iii) the Trustee shall become incapable of acting with respect to any series of Securities, or shall be adjudged a bankrupt or insolvent, or a receiver or liquidator of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Issuer or any Guarantor may remove the Trustee with respect to the applicable series of Securities and appoint a successor trustee for such series by written instrument, in duplicate, executed by order of the Board or such Guarantor's Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 315(e) of the Trust Indenture Act of 1939, any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such series. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities of each series at the time outstanding may at any time remove the Trustee with respect to Securities of such series and appoint a successor trustee with respect to the Securities of such series by delivering to the Trustee so removed, to the successor trustee so appointed and to the Issuer the evidence provided for in Section 7.01 of the action in that regard taken by the Securityholders.

(d) Any resignation or removal of the Trustee with respect to any series and any appointment of a successor trustee with respect to such series pursuant to any of the provisions of this Section 6.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.11.

Section 6.11. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 6.10 shall execute and deliver to the Issuer, the Guarantors and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all or any applicable series shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all rights, powers, duties and obligations with respect to such series of its predecessor hereunder, with like effect as if originally named as trustee for such series hereunder; but, nevertheless, on the written request of the Issuer, any Guarantor or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall, subject to Section 10.04, pay over to the successor trustee all monies at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. Upon request of any such successor trustee, the Issuer or such Guarantor shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a prior claim upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 6.06.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) series, the Issuer, each Guarantor, the predecessor Trustee and each successor trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Securities of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any series of Securities shall accept appointment as provided in this Section 6.11 unless at the time of such acceptance such successor trustee shall be qualified under Section 310(b) of the Trust Indenture Act of 1939 and eligible under the provisions of Section 6.09.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.11, the Issuer or a Guarantor shall give notice thereof by mailing

notice to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. If the acceptance of appointment is substantially contemporaneous with the resignation, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.10. If each of the Issuer and each Guarantor fails to give such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Issuer and the Guarantors.

Section 6.12. *Merger, Conversion, Consolidation or Succession to Business of Trustee.* Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under Section 310(b) of the Trust Indenture Act of 1939 and eligible under the provisions of Section 6.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Securities of any series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee and deliver such Securities so authenticated; and, in case at that time any of the Securities of any series shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificate shall have the full force which it is anywhere in the Securities of such series or in this Indenture provided that the certificate of the Trustee shall have; provided, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities of any series in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 6.13. *Appointment of Authenticating Agent.* As long as any Securities of a series remain Outstanding, the Trustee may, by an instrument in writing, appoint with the approval of the Issuer an authenticating agent (the "**Authenticating Agent**") which shall be authorized to act on behalf of the Trustee to authenticate Securities, including Securities issued upon exchange, registration of transfer, partial redemption or pursuant to Section 2.09. Securities of each such series authenticated by such Authenticating Agent shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee. Whenever reference is made in this Indenture to the authentication and delivery of Securities of any series by the Trustee or to the Trustee's Certificate of Authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent

for such series and a Certificate of Authentication executed on behalf of the Trustee by such Authenticating Agent. Such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least $5,000,000 (determined as provided in Section 6.09 with respect to the Trustee) and subject to supervision or examination by Federal or State authority.

Any corporation into which any Authenticating Agent may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency business of any Authenticating Agent, shall continue to be the Authenticating Agent with respect to all series of Securities for which it served as Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent. Any Authenticating Agent may at any time, and if it shall cease to be eligible shall, resign by giving written notice of resignation to the Trustee, the Issuer and the Guarantors.

Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.13 with respect to one or more series of Securities, the Trustee shall upon receipt of an Issuer Order or a Guarantor Order appoint a successor Authenticating Agent and the Issuer or a Guarantor shall provide notice of such appointment to all Holders of Securities of such series in the manner and to the extent provided in Section 11.04. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent. The Issuer and the Guarantors (without duplication) each agrees to pay to the Authenticating Agent for such series from time to time reasonable compensation. The Authenticating Agent for the Securities of any series shall have no responsibility or liability for any action taken by it as such at the direction of the Trustee.

Section 6.02, 6.03, 6.04, 6.06, 6.09 and 7.03 shall be applicable to any Authenticating Agent.

## ARTICLE 7
## CONCERNING THE SECURITYHOLDERS

Section 7.01. *Evidence of Action Taken by Securityholders.* Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Securityholders of any or all series may be embodied in and

evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Securityholders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Sections 6.01 and 6.02) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article.

Section 7.02. *Proof of Execution of Instruments and of Holding of Securities.* Subject to Sections 6.01 and 6.02, the execution of any instrument by a Securityholder or his agent or proxy may be proved in the following manner:

(a) The fact and date of the execution by any Holder of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction authorized to take acknowledgments of deeds or administer oaths that the person executing such instruments acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute sufficient proof of the authority of the person executing the same.

(b) In the case of Registered Securities, the ownership of such Securities shall be proved by the Security register or by a certificate of the Security registrar.

The Issuer may set a record date for purposes of determining the identity of Holders of Registered Securities of any series entitled to vote or consent to any action referred to in Section 7.01, which record date may be set at any time or from time to time by notice to the Trustee, for any date or dates (in the case of any adjournment or reconsideration) not more than 60 days nor less than five days prior to the proposed date of such vote or consent, and thereafter, notwithstanding any other provisions hereof, with respect to Registered Securities of any series, only Holders of Registered Securities of such series of record on such record date shall be entitled to so vote or give such consent or revoke such vote or consent.

Section 7.03. *Holders to Be Treated as Owners.* The Issuer, the Guarantors, the Trustee and any agent of the Issuer, any Guarantor or the Trustee may deem and treat the Person in whose name any Security shall be registered upon the Security register for such series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of this Indenture, interest on such Security and for all other purposes; and none of the Issuer, the Guarantors, the Trustee or any agent of the Issuer, any Guarantor or the Trustee shall be affected by any notice to the contrary.

Section 7.04. *Securities Owned by Issuer Deemed Not Outstanding.* In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all series have concurred in any direction, consent or waiver under this Indenture, Securities which are owned by the Issuer, any Guarantor or any other obligor on the Securities with respect to which such determination is being made or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, any Guarantor or any other obligor on the Securities with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver only Securities which the Trustee knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer, any Guarantor or any other obligor upon the Securities or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, any Guarantor or any other obligor on the Securities. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Issuer shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Issuer to be owned or held by or for the account of any of the above-described Persons; and, subject to Sections 6.01 and 6.02, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

Section 7.05. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.01, of the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action, any Holder of a Security the serial number of which is shown by the evidence to be included among the serial numbers of the Securities the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Guarantors, the Trustee and the Holders of all the Securities affected by such action.

ARTICLE 8
SUPPLEMENTAL INDENTURES

Section 8.01. *Supplemental Indentures Without Consent of Securityholders.* The Issuer, when authorized by a Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) and the Guarantors, when authorized by a resolution of their respective Guarantor's Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Securities of one or more series any property or assets;

(b) to evidence the succession of another corporation to the Issuer or any Guarantor, as the case may be, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Issuer or such Guarantor, as the case may be, pursuant to Article 9;

(c) to add to the covenants of the Issuer or the Guarantors, as the case may be, such further covenants, restrictions, conditions or provisions as the Issuer or the Guarantors, as the case may be, and the Trustee shall consider to be for the protection of the Holders of Securities, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default;

(d) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make any other provisions as the Issuer or the Guarantors may deem necessary or desirable, provided that no such action shall adversely affect the interests of the Holders of the Securities;

(e) to establish the forms or terms of Securities of any series as permitted by Section 2.01 and Section 2.03;

(f) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Section 6.11; and

(g) to evidence the assumption by the Guarantors of all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series and the release of the Issuer from its liabilities hereunder and under such Securities as obligor on the Securities of such series, all as provided in Section 13.07 hereof.

The Trustee is hereby authorized to join with the Issuer and the Guarantors in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 8.02.

Section 8.02. *Supplemental Indentures With Consent Of Securityholders.* With the consent (evidenced as provided in Article 7) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding of all series affected by such supplemental indenture (voting as one class), the Issuer, when authorized by a resolution of its Board (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order), the Guarantors, when each authorized by a Guarantor's Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order), and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series or; provided, that no such supplemental indenture shall (a) (i) extend the final maturity of any Security, (ii) reduce the principal amount thereof, (iii) reduce the rate or extend the time of payment of interest thereon, (iv) reduce any amount payable on redemption thereof, (v) make the

principal thereof (including any amount in respect of original issue discount), or interest thereon payable in any coin or currency other than that provided in the Securities or in accordance with the terms thereof, (vi) modify or amend any provisions for converting any currency into any other currency as provided in the Securities or in accordance with the terms thereof, (vii) reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon an acceleration of the maturity thereof pursuant to Section 5.01 or the amount thereof provable in bankruptcy pursuant to Section 5.02, (viii) modify or amend any provisions relating to the conversion or exchange of the Securities for securities of the Issuer or any Guarantor or of other entities or other property (or the cash value thereof), including the determination of the amount of securities or other property (or cash) into which the Securities shall be converted or exchanged, other than as provided in the antidilution provisions or other similar adjustment provisions of the Securities or otherwise in accordance with the terms thereof, (ix) alter the provisions of Section 11.11 or Section 11.13 or impair or affect the right of any Securityholder to institute suit for the payment thereof or, if the Securities provide therefor, any right of repayment at the option of the Securityholder, in each case without the consent of the Holder of each Security so affected, or (b) reduce the aforesaid percentage of Securities of any series, the consent of the Holders of which is required for any such supplemental indenture, without the consent of the Holders of each Security so affected.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of Holders of Securities of such series, with respect to such covenant or provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

Upon the request of the Issuer, accompanied by a copy of a resolution of the Board (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) certified by the secretary or an assistant secretary of the Issuer authorizing the execution of any such supplemental indenture, or upon the request of any Guarantor, accompanied by a copy of a Guarantor's Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) certified by the secretary or an assistant secretary of such Guarantor authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders of the Securities as aforesaid and other documents, if any required by Section 7.01, the Trustee shall join with the Issuer and the Guarantors in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Issuer, the Guarantors and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Trustee shall give notice thereof by mailing notice thereof by first class mail to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books, and in each case such notice shall set forth in general terms the substance of such supplemental indenture. Any failure of the Trustee to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 8.03. *Effect of Supplemental Indenture.* Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Issuer, the Guarantors and the Holders of Securities of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 8.04. *Documents to Be Given to Trustee.* The Trustee, subject to the provisions of Sections 6.01 and 6.02, shall be provided with an Officer's Certificate, a Guarantor's Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article 8 complies with the applicable provisions of this Indenture.

Section 8.05. *Notation on Securities in Respect of Supplemental Indentures.* Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee for such series as to any matter provided for by such supplemental indenture or as to any action taken by Securityholders. If the Issuer or the Trustee shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Board, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for the Securities of such series then Outstanding.

## ARTICLE 9
## CONSOLIDATION, MERGER, SALE OR CONVEYANCE

Section 9.01. *Covenant of the Issuer Not to Merge, Consolidate, Sell or Convey Property Except Under Certain Conditions.*The Issuer covenants that it will not merge or consolidate with any other Person or sell, lease or convey all or substantially all of its assets to any other Person, unless (i) either (A) the Issuer shall be the continuing legal entity, or (B) the successor legal entity or the Person which acquires by sale, lease or conveyance substantially all the assets of the Issuer (if other than the Issuer) shall expressly assume the due and punctual payment of the principal of and interest on all the Securities, if any, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Issuer, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such legal entity, and (ii) the Issuer, such Person or such successor legal entity, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.

Section 9.02. *Successor Entities Substituted for the Issuer.* In case of any such consolidation, merger, sale, lease or conveyance, and following such an assumption by the successor entity, such successor entity shall succeed to and be substituted for the Issuer, with the same effect as if it had been named herein. Such successor entity may cause to be signed, and may issue either in its own name or in the name of the Issuer prior to such succession any or all of the Securities issuable hereunder which theretofore shall not have been signed by the Issuer and delivered to the Trustee; and, upon the order of such successor entity, instead of the Issuer, and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Securities which previously shall have been signed and delivered by the officers of the Issuer to the Trustee for authentication, and any Securities which such successor entity thereafter shall cause to be signed and delivered to the Trustee for that purpose. All of the Securities so issued shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Securities had been issued at the date of the execution hereof.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phrasing and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) the Issuer or any successor entity which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

Section 9.03. *Covenant of Each Guarantor Not to Merge, Consolidate, Sell or Convey Property Except Under Certain Conditions.*Each Guarantor covenants that it will not merge or consolidate with any other Person or sell, lease or convey all or substantially all of its assets to any other Person, unless (i) either (A) such Guarantor shall be the continuing legal entity, or (B) the successor legal entity or the Person which acquires by sale, lease or conveyance substantially all the assets of such Guarantor (if other than such Guarantor) shall expressly assume the due and punctual payment of the principal of and interest on all the Securities, if any, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by such Guarantor, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such legal entity, and (ii) such Guarantor, such Person or such successor legal entity, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.

Section 9.04. *Successor Corporation Substituted for Each Guarantor.* In case of any such consolidation, merger, sale, lease or conveyance, and following such an assumption by the successor entity, such successor entity shall succeed to and be substituted for such Guarantor, with the same effect as if it had been named herein.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phrasing and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) such Guarantor or any successor entity which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

Section 9.05. *Opinion of Counsel Delivered to Trustee.* The Trustee, subject to the provisions of Section 6.01 and 6.02, may receive an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, lease or conveyance, and any such assumption, and any such liquidation or dissolution, complies with the applicable provisions of this Indenture.

## ARTICLE 10
## SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONIES

Section 10.01. *Satisfaction and Discharge of Indenture.*

(a) If at any time (i) the Issuer or the Guarantors shall have paid or caused to be paid the principal of and interest on all the Securities of any series

Outstanding hereunder (other than Securities of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.09) as and when the same shall have become due and payable, or (ii) the Issuer or any Guarantor shall have delivered to the Trustee for cancellation all Securities of any series theretofore authenticated (other than any Securities of such series which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.09) or (iii) in the case of any series of Securities where the exact amount (including the currency of payment) of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (B) below, (A) all the Securities of such series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer or the Guarantors shall have irrevocably deposited or caused to be deposited with the Trustee as trust funds the entire amount in cash (other than monies repaid by the Trustee or any paying agent to the Issuer in accordance with Section 10.04) or, in the case of any series of Securities the payments on which may only be made in Dollars, direct obligations of the United States of America, backed by its full faith and credit ("**U.S. Government Obligations**"), maturing as to principal and interest at such times and in such amounts as will insure the availability of cash, or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series; and if, in any such case, the Issuer or the Guarantors shall also pay or cause to be paid all other sums payable hereunder by the Issuer or the Guarantors, as the case may be, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Securities of such Series and the Issuer's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities, (iii) rights of holders of Securities to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, and (vi) the obligations of the Issuer and the Guarantors under Section 3.02) and the Trustee, on demand of the Issuer or any Guarantor accompanied by an Officer's Certificate or a Guarantor's Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Issuer and the Guarantors, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture; provided, that the rights of Holders of the Securities to receive

amounts in respect of principal of and interest on the Securities held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange upon which the Securities are listed. The Issuer and each Guarantor agree to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Securities of such series.

(b) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution, Officer's Certificate or indenture supplemental hereto provided pursuant to Section 2.03. In addition to discharge of the Indenture pursuant to the next preceding paragraph, in the case of any series of Securities the exact amounts (including the currency of payment) of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (i) below, the Issuer and the Guarantors shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series on the 91st day after the date of the deposit referred to in clause (i) below, and the provisions of this Indenture with respect to the Securities of such series shall no longer be in effect (except as to (1) rights of registration of transfer and exchange of Securities of such series and the Issuer's right of optional redemption, if any, (2) substitution of mutilated, defaced, destroyed, lost or stolen Securities, (3) rights of Holders of Securities to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (4) the rights, obligations, duties and immunities of the Trustee hereunder, (5) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them and (6) the obligations of the Issuer under Section 3.02) and the Trustee, at the expense of the Issuer and the Guarantors, shall at the Issuer's or any Guarantor's request, execute proper instruments acknowledging the same, if

(i) with reference to this provision the Issuer has or the Guarantors have irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series (A) cash in an amount, or (B) in the case of any series of Securities the payments on which may only be made in Dollars, U.S. Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;

(ii) such deposit will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Issuer or any Guarantor is a party or by which it is bound;

(iii) the Issuer or any Guarantor has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the Issuer or such Guarantor has received from, or there has been published by, the United States Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable United States Federal income tax law, in either case to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series will not recognize income, gain or loss for United States Federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to United States Federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred; and

(iv) the Issuer or any Guarantor has delivered to the Trustee an Officer's Certificate or Guarantors' Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with.

(c) Each of the Issuer and each Guarantor shall be released from its obligations under Section 9.01 with respect to the Securities of any Series, Outstanding, and under the Guarantee in respect thereof, on and after the date the conditions set forth below are satisfied (hereinafter, "**covenant defeasance**"). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of any Series and under the Guarantee in respect thereof, the Issuer and each Guarantor may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in such Sections, whether directly or indirectly by reason of any reference elsewhere herein to such Sections or by reason of any reference in such Sections to any other provision herein or in any other document and such omission to comply shall not constitute an Event of Default under Section 5.01, but the remainder of this Indenture and such Securities and the Guarantee shall be unaffected thereby. The following shall be the conditions to application of this subsection (c) of this Section 10.01:

(i) The Issuer has or the Guarantors have irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Securities of such series (A) cash in an amount, or (B) in the case of any

series of Securities the payments on which may only be made in Dollars, U.S. Government Obligations maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and (2) any mandatory sinking fund payments on the day on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series.

(ii) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to the Securities shall have occurred and be continuing on the date of such deposit or, insofar as subsections 5.01(c) and 5.01(d) are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(iii) Such covenant defeasance shall not cause the Trustee to have a conflicting interest for purposes of the Trust Indenture Act of 1939 with respect to any securities of the Issuer or any Guarantor.

(iv) Such covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other agreement or instrument to which the Issuer or any Guarantor is a party or by which either of them is bound.

(v) Such covenant defeasance shall not cause any Securities then listed on any registered national securities exchange under the Securities Exchange Act of 1934, as amended, to be delisted.

(vi) The Issuer or any Guarantor shall have delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate, as the case may be, and Opinion of Counsel to the effect that the Holders of the Securities of such series will not recognize income, gain or loss for United States Federal income tax purposes as a result of such covenant defeasance and will be subject to United States Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(vii) The Issuer or any Guarantor shall have delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate, as the case may be, and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the covenant defeasance contemplated by this provision have been complied with.

Section 10.02. *Application by Trustee of Funds Deposited for Payment of Securities.* Subject to Section 10.04, all monies deposited with the Trustee (or other trustee) pursuant to Section 10.01 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Issuer acting as its own paying agent or any Guarantor acting as paying agent), to the Holders of the particular Securities of such series for the payment or redemption of which such monies have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest; but such money need not be segregated from other funds except to the extent required by law.

Section 10.03. *Repayment of Monies Held by Paying Agent.* In connection with the satisfaction and discharge of this Indenture with respect to Securities of any series, all monies then held by any paying agent under the provisions of this Indenture with respect to such series of Securities shall, upon demand of the Issuer, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such monies.

Section 10.04. *Return of Monies Held by Trustee and Paying Agent Unclaimed for Two Years.* Any monies deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Security of any series and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Issuer or any Guarantor and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Issuer or the Guarantors by the Trustee for such series or such paying agent, and the Holder of the Securities of such series shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Issuer and the Guarantors for any payment which such Holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such monies shall thereupon cease; provided, however, that the Trustee or such paying agent, before being required to make any such repayment with respect to monies deposited with it for any payment (a) in respect of Registered Securities of any series, shall at the expense of the Issuer or the Guarantors, mail by first-class mail to Holders of such Securities at their addresses as they shall appear on the Security register.

Section 10.05. *Indemnity for U.S. Government Obligations.* The Issuer and the Guarantors shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 10.01 or the principal or interest received in respect of such obligations.

ARTICLE 11
MISCELLANEOUS PROVISIONS

Section 11.01. *Incorporators, Stockholders, Members, Officers and Directors of Issuer Exempt from Individual Liability.* No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such or against any past, present or future stockholder (except in a stockholder's corporate capacity as Guarantor), member, officer or director, as such, of the Issuer or any Guarantor or of any successor, either directly or through the Issuer or any Guarantor, as the case may be, or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders thereof and as part of the consideration for the issue of the Securities.

Section 11.02. *Provisions of Indenture for the Sole Benefit of Parties and Holders of Securities.* Nothing in this Indenture, in the Securities, expressed or implied, shall give or be construed to give to any person, firm or entity, other than the parties hereto and their successors and the Holders of the Securities any legal or equitable right, remedy or claim under this Indenture or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Holders of the Securities.

Section 11.03. *Successors and Assigns of Issuer Bound by Indenture.* All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Issuer shall bind its successors and assigns, whether so expressed or not. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of any Guarantor shall bind its successors and assigns, whether so expressed or not.

Section 11.04. *Notices and Demands on Issuer, Trustee and Holders of Securities.* Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Securities to or on the Issuer or any Guarantor may be given or served by being deposited postage prepaid, first-class mail or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) (except as otherwise specifically provided herein) addressed (until another address is filed with the Trustee) as follows:

If to the Issuer: LaSalle Funding LLC
135 South LaSalle Street
Chicago, Illinois 60603
Legal Department
Attention: Kimberly Lynch

If to the Guarantors: ABN AMRO Holding N.V.
Gustav Mahlerlaan 10
1082 PP Amsterdam
The Netherlands
Attention: Central Legal Department

Any notice, direction, request or demand by the Issuer, any Guarantor or any Holder of Securities to or upon the Trustee shall be deemed to have been sufficiently given or served by being deposited postage prepaid, first-class mail or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) (except as otherwise specifically provided herein) addressed (until another address of the Trustee is filed by the Trustee with the Issuer and the Guarantors) to:

The Bank of New York Trust Company, N.A.
2 North LaSalle Street, Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Department

Where this Indenture provides for notice to Holders of Registered Securities, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery), to each Holder entitled thereto, at his last address as it appears in the Security register. In any case where notice to such Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Issuer or any Guarantor when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be reasonably satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice.

Section 11.05. *Officer's Certificates and Opinions of Counsel; Statements to Be Contained Therein.* Upon any application or demand by the Issuer or any Guarantor to the Trustee to take any action under any of the provisions of this Indenture, the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee an Officer's Certificate or a Guarantor's Officer's Certificate stating that

all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the person making such certificate or opinion has read such covenant or condition, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him 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 or not, in the opinion of such person, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Issuer or any Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, information with respect to which is in the possession of the Issuer or any Guarantor, as the case may be, upon the certificate, statement or opinion of or representations by an officer or officers of the Issuer or such Guarantor, as the case may be, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Issuer, of any Guarantor or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Issuer or such Guarantor, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with and directed to the Trustee shall contain a statement that such firm is independent.

Section 11.06. *Payments Due on Saturdays, Sundays or Holidays.* If the date of maturity of interest on or principal of the Securities of any series or the date fixed for redemption or repayment of any such Security shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 11.07. *Conflict of Any Provision of Indenture with Trust Indenture Act of 1939.*If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by, or with another provision (an "**incorporated provision**") included in this Indenture by operation of, Sections 310 to 318, inclusive, of the Trust Indenture Act of 1939, such imposed duties or incorporated provision shall control.

Section 11.08. *New York Law to Govern.* This Indenture and each Security shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

Section 11.09. *Counterparts.* This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 11.10. *Effect of Headings.* The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 11.11. *Securities in a Non-U.S. Currency.* Unless otherwise specified in an Officer's Certificate delivered pursuant to Section 2.03 of this Indenture with respect to a particular series of Securities, whenever for purposes of this Indenture any action may be taken by the Holders of a specified percentage in aggregate principal amount of Securities of all series or all series affected by a particular action at the time Outstanding and, at such time, there are Outstanding Securities of any series which are denominated in a coin or currency other than Dollars, then the principal amount of Securities of such series which shall be deemed to be Outstanding for the purpose of taking such action shall be that amount of Dollars that could be obtained for such amount at the Market Exchange Rate. For purposes of this Section 11.11, Market Exchange Rate shall mean the noon Dollar buying rate in New York City for cable transfers of that currency as published by the Federal Reserve Bank of New York. If such Market Exchange Rate is not available for any reason with respect to such currency, the Trustee

shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in The City of New York or in the country of issue of the currency in question, or such other quotations as the Trustee shall deem appropriate. The provisions of this paragraph shall apply in determining the equivalent principal amount in respect of Securities of a series denominated in a currency other than Dollars in connection with any action taken by Holders of Securities pursuant to the terms of this Indenture including without limitation any determination contemplated in Section 5.01(c) or 5.01(d).

All decisions and determinations of the Trustee regarding the Market Exchange Rate or any alternative determination provided for in the preceding paragraph shall be in its sole discretion and shall, in the absence of manifest error, be conclusive to the extent permitted by law for all purposes and irrevocably binding upon the Issuer and all Holders.

Section 11.12. *Submission to Jurisdiction.* Each of the Issuer and each Guarantor agrees that any legal suit, action or proceeding arising out of or based upon this Indenture may be instituted in any State or Federal court in the Borough of Manhattan, City and State of New York, and, to the fullest extent permitted by law, waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such court in any suit, action or proceeding. Each of the Issuer and each Guarantor has appointed Herbert Biern, Esq., Chief Legal Officer and Executive Vice President, ABN AMRO North America, Inc., as its authorized agent (the "**Authorized Agent**") upon which process may be instituted in any State or Federal court in the Borough of Manhattan, City and State of New York and each of the Issuer and each Guarantor expressly accepts the jurisdiction of any such court in respect of such action. Such appointment shall be irrevocable unless and until a successor authorized agent, located or with an office in the Borough of Manhattan, City and State of New York, shall have been appointed by the Issuer or such Guarantor, as the case may be, and such appointment shall have been accepted by such successor authorized agent. Each of the Issuer and each Guarantor represents and warrants that the Authorized Agent has agreed to act as said agent for service of process, and each of the Issuer and each Guarantor agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Issuer or any Guarantor, as the case may be, shall be deemed, in every respect, effective service of process upon the Issuer or such Guarantor, as the case may be.

Section 11.13. *Judgment Currency.* Each of the Issuer and each Guarantor agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court it is necessary to convert the sum due in respect of the principal of or interest on the

Securities of any series (the "**Required Currency**") into a currency in which a judgment will be rendered (the "**Judgment Currency**"), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the day on which final unappealable judgment is entered, unless such day is not a New York Banking Day, then, to the extent permitted by applicable law, the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Banking Day preceding the day on which final unappealable judgment is entered and (b) its obligations under this Indenture to make payments in the Required Currency (i) shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment (whether or not entered in accordance with subsection (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt, by the payee, of the full amount of the Required Currency expressed to be payable in respect of such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture. For purposes of the foregoing, "**New York Banking Day**" means any day except a Saturday, Sunday or a legal holiday in The City of New York or a day on which banking institutions in The City of New York are authorized or required by law or executive order to close.

Section 11.14. *Waiver of Jury Trial.* EACH OF THE ISSUER, EACH GUARANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 11.15. *Force Majeure.* In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

ARTICLE 12
REDEMPTION OF SECURITIES AND SINKING FUNDS

Section 12.01. *Applicability of Article.* The provisions of this Article shall be applicable to the Securities of any series which are redeemable before their maturity or to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 2.03 for Securities of such series.

Section 12.02. *Notice of Redemption; Partial Redemptions.* Notice of redemption to the Holders of Registered Securities of any series to be redeemed as a whole or in part at the option of the Issuer shall be given by mailing notice of such redemption by first class mail, postage prepaid, to such Holders of Securities of such series at their last addresses as they shall appear upon the registry books at least 30 days and not more than 60 days prior to the date fixed for redemption, or within such other redemption notice period as has been designated for any Securities of such series pursuant to Section 2.03 or 2.04 (the "**Redemption Notice Period**"). Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice. Failure to give notice by mail, or any defect in the notice to the Holder of any Security of a series designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security of such series.

The notice of redemption to each such Holder shall specify, the principal amount of each Security of such series held by such Holder to be redeemed, the date fixed for redemption, the redemption price (or if not then ascertainable, the manner of calculation thereof), the place or places of payment, that payment will be made upon presentation and surrender of such Securities maturing after the date fixed for redemption, that such redemption is pursuant to the mandatory or optional sinking fund, or both, if such be the case, that interest accrued to the date fixed for redemption will be paid as specified in such notice and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. In case any Security of a series is to be redeemed in part only the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption of Securities of any series to be redeemed at the option of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer.

On or before the redemption date specified in the notice of redemption given as provided in this Section, the Issuer or the Guarantors will deposit with the Trustee or with one or more paying agents (or, if the Issuer is acting as its own

paying agent or any Guarantor is acting as paying agent, set aside, segregate and hold in trust as provided in Section 3.04) an amount of money or other property sufficient to redeem on the redemption date all the Securities of such series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption. The Issuer will deliver to the Trustee at least 70 days prior to the date fixed for redemption or at least 10 days prior to the first day of any applicable Redemption Notice Period an Officer's Certificate stating the aggregate principal amount of Securities to be redeemed. In case of a redemption at the election of the Issuer prior to the expiration of any restriction on such redemption, the Issuer shall deliver to the Trustee, prior to the giving of any notice of redemption to Holders pursuant to this Section, an Officer's Certificate stating that such restriction has been complied with.

If less than all the Securities of a series are to be redeemed, the Trustee shall select, in such manner as it shall deem appropriate and fair, Securities of such Series to be redeemed in whole or in part. Securities may be redeemed in part in multiples equal to the minimum authorized denomination for Securities of such series or any multiple thereof. The Trustee shall promptly notify the Issuer and the Guarantors in writing of the Securities of such series selected for redemption and, in the case of any Securities of such series selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities of any series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

Section 12.03. *Payment of Securities Called for Redemption.* If notice of redemption has been given as above provided, the Securities or portions of Securities specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Issuer and the Guarantors shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue, and except as provided in Section 6.05 and 10.04, such Securities shall cease from and after the date fixed for redemption to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the redemption price thereof and unpaid interest to the date fixed for redemption. On presentation and surrender of such Securities at a place of payment specified in said notice, said Securities or the specified portions thereof shall be paid and redeemed by the Issuer at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; provided that payment of interest becoming due on or prior to the date fixed for redemption shall be payable to the Holders of Securities registered as such on the relevant record date subject to the terms and provisions of Section 2.03 and 2.07 hereof.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest or Yield to Maturity (in the case of an Original Issue Discount Security) borne by such Security.

Upon presentation of any Security redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Issuer, a new Security or Securities of such series, of authorized denominations, in principal amount equal to the unredeemed portion of the Security so presented.

Section 12.04. *Exclusion of Certain Securities from Eligibility for Selection for Redemption.* Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 40 days prior to the last date on which notice of redemption may be given as being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such written statement as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer.

Section 12.05. *Mandatory and Optional Sinking Funds.* The minimum amount of any sinking fund payment provided for by the terms of the Securities of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of the Securities of any series is herein referred to as an "optional sinking fund payment". The date on which a sinking fund payment is to be made is herein referred to as the "sinking fund payment date".

In lieu of making all or any part of any mandatory sinking fund payment with respect to any series of Securities in cash, the Issuer may at its option (a) deliver to the Trustee Securities of such series theretofore purchased or otherwise acquired (except upon redemption pursuant to the mandatory sinking fund) by the Issuer or receive credit for Securities of such series (not previously so credited) theretofore purchased or otherwise acquired (except as aforesaid) by the Issuer and delivered to the Trustee for cancellation pursuant to Section 2.10, (b) receive credit for optional sinking fund payments (not previously so credited) made pursuant to this Section, or (c) receive credit for Securities of such series (not previously so credited) redeemed by the Issuer through any optional redemption provision contained in the terms of such series. Securities so delivered or credited shall be received or credited by the Trustee at the sinking fund redemption price specified in such Securities.

On or before the 60th day next preceding each sinking fund payment date or the 30th day next preceding the last day of any applicable Redemption Notice Period relating to a sinking fund payment date for any series, the Issuer will deliver to the Trustee an Officer's Certificate (which need not contain the statements required by Section 11.05) (a) specifying the portion of the mandatory sinking fund payment to be satisfied by payment of cash and the portion to be satisfied by credit of Securities of such series and the basis for such credit, (b) stating that none of the Securities of such series has theretofore been so credited, (c) stating that no defaults in the payment of interest or Events of Default with respect to such series have occurred (which have not been waived or cured) and are continuing and (d) stating whether or not the Issuer intends to exercise its right to make an optional sinking fund payment with respect to such series and, if so, specifying the amount of such optional sinking fund payment which the Issuer intends to pay on or before the next succeeding sinking fund payment date. Any Securities of such series to be credited and required to be delivered to the Trustee in order for the Issuer to be entitled to credit therefor as aforesaid which have not theretofore been delivered to the Trustee shall be delivered for cancellation pursuant to Section 2.10 to the Trustee with such Officer's Certificate (or reasonably promptly thereafter if acceptable to the Trustee). Such Officer's Certificate shall be irrevocable and upon its receipt by the Trustee the Issuer shall become unconditionally obligated to make all the cash payments or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. Failure of the Issuer, on or before any such 60th day or 30th day, if applicable, to deliver such Officer's Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute, on and as of such date, the irrevocable election of the Issuer (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Issuer will make no optional sinking fund payment with respect to such series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed $50,000 (or the equivalent thereof in any Non-U.S. Currency) or a lesser sum in Dollars (or the equivalent thereof in any Non-U.S. Currency) if the Issuer shall so request with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be $50,000 (or the equivalent thereof in any Non-U.S. Currency) or less and the Issuer makes no such request then it shall be carried over until a sum in excess of $50,000 (or the equivalent thereof in any Non-U.S. Currency) is available. The Trustee shall select, in the manner provided in Section 12.02, for redemption on such sinking fund payment date a sufficient principal amount of Securities of such

series to absorb said cash, as nearly as may be, and shall (if requested in writing by the Issuer) inform the Issuer of the serial numbers of the Securities of such series (or portions thereof) so selected. Securities shall be excluded from eligibility for redemption under this Section if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 60 days prior to the sinking fund payment date or at least 30 days prior to the last day of any applicable Redemption Notice Period relating to a sinking fund payment date as being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such Officer's Certificate as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer. The Trustee, in the name and at the expense of the Issuer (or the Issuer, if it shall so request the Trustee in writing) shall cause notice of redemption of the Securities of such series to be given in substantially the manner provided in Section 12.02 (and with the effect provided in Section 12.03) for the redemption of Securities of such series in part at the option of the Issuer. The amount of any sinking fund payments not so applied or allocated to the redemption of Securities of such series shall be added to the next cash sinking fund payment for such series and, together with such payment, shall be applied in accordance with the provisions of this Section. Any and all sinking fund monies held on the stated maturity date of the Securities of any particular series (or earlier, if such maturity is accelerated), which are not held for the payment or redemption of particular Securities of such series shall be applied, together with other monies, if necessary, sufficient for the purpose, to the payment of the principal of, and interest on, the Securities of such series at maturity.

On or before each sinking fund payment date, the Issuer or the Guarantors shall pay to the Trustee in cash or shall otherwise provide for the payment of all interest accrued to the date fixed for redemption on Securities to be redeemed on the next following sinking fund payment date.

The Trustee shall not redeem or cause to be redeemed any Securities of a series with sinking fund monies or give any notice of redemption of Securities for such series by operation of the sinking fund during the continuance of a default in payment of interest on such Securities or of any Event of Default except that, where the giving of notice of redemption of any Securities shall theretofore have been made, the Trustee shall redeem or cause to be redeemed such Securities, provided that it shall have received from the Issuer or the Guarantors a sum sufficient for such redemption. Except as aforesaid, any monies in the sinking fund for such series at the time when any such default or Event of Default shall occur, and any monies thereafter paid into the sinking fund, shall, during the continuance of such default or Event of Default, be deemed to have been collected under Article 5 and held for the payment of all such Securities. In case such Event of Default shall have been waived as provided in Section 5.10 or the default cured on or before the sixtieth day preceding the sinking fund payment date in any

year, such monies shall thereafter be applied on the next succeeding sinking fund payment date in accordance with this Section to the redemption of such Securities.

## ARTICLE 13
## GUARANTEE AND INDEMNITY

Section 13.01. *The Guarantee.* Each of the Guarantors hereby unconditionally guarantees, jointly and severally, to each Holder of a Security authenticated and delivered by the Trustee the due and punctual payment of the principal of, any premium and interest on, and any additional amounts with respect to such Security and the due and punctual payment of the sinking fund payments (if any) provided for pursuant to the terms of such Security, when and as the same shall become due and payable, whether at maturity, by acceleration, redemption, repayment or otherwise, in accordance with the terms of such Security and of this Indenture. In case of the failure of the Issuer punctually to pay any such principal, premium, interest, additional amounts or sinking fund payment, each Guarantor hereby agrees to cause any such payment to be made punctually when and as the same shall become due and payable, whether at maturity, upon acceleration, redemption, repayment or otherwise, and as if such payment were made by the Issuer.

Section 13.02. *Net Payments.* All payments of principal of and premium, if any, interest and any other amounts on, or in respect of, the Securities of any series shall be made by the Guarantors 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 or on behalf of The Netherlands, or the jurisdiction of residence or incorporation of any successor to any Guarantor, or any political subdivision or taxing authority thereof or therein (the "**Taxing Jurisdiction**"), unless such taxes, fees, duties, assessments or governmental charges are required to be withheld or deducted by (i) the laws (or any regulations or ruling promulgated thereunder) of a Taxing Jurisdiction 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 a Taxing Jurisdiction). If a withholding or deduction at source is required, the Guarantors shall, subject to certain limitations and exceptions set forth below, pay to the Holder of any such Security such additional amounts as may be necessary so that every net payment of principal, premium, if any, interest or any other amount made to such Holder, after such withholding or deduction, shall not be less than the amount provided for in such Security, and this Indenture to be then due and payable; provided, however, that the Guarantors shall not be required to make payment of such additional amounts for or on account of:

(a) any such tax, assessment or other governmental charge that would not have been so imposed but for (i) the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder, if such Holder is an estate, a trust, a partnership or a corporation) and The Netherlands and its possessions or any other Taxing Jurisdiction, including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member or shareholder) being or having been a citizen or resident thereof, being or having been engaged in a trade or business or present therein or having, or having had, a permanent establishment therein or (ii) the presentation, where presentation is required, by the Holder of a Security for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;

(b) any capital gain, estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;

(c) any tax assessment or other governmental charge that is payable otherwise than by withholding from payments on or with respect to the Securities;

(d) any tax assessment or other governmental charge that is imposed on a payment to an individual and that is required to be made pursuant to European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN council meeting of November 26 – 27, 2000 on the taxation of savings income, or any law implementing or complying with, or introduced in order to conform to, such directives;

(e) any tax assessment or other governmental charge required to be withheld by any paying agent from any payment of principal or other amounts payable, or interest on the Securities, to the extent that such payment can be made without such withholding by presentation of the Securities to any other paying agent;

(f) any tax, assessment or other governmental charge that is imposed or withheld by reason of the failure by the Holder or the beneficial owner of such Security to comply with any reasonable request by the Issuer addressed to the Holder or, if different, the direct nominee of a beneficiary of the payment, within 90 days of such request (A) to provide information or certification concerning the nationality, residence or identity of the Holder or such beneficial owner or (B) to make any declaration or other similar claim or satisfy any information or reporting requirement, which, in the case of (A) or (B), is required or imposed by statute, treaty, regulation or administrative practice of the relevant Taxing Jurisdiction as a precondition to exemption from all or part of such tax, assessment or other governmental charge; or

(g) any combination of items (a), (b), (c), (d), (e) and (f);

nor shall additional amounts be paid with respect to any payment of the principal of, or premium, if any, interest or any other amounts on, any such Security to any Holder who is a fiduciary, a partnership or any other Person, other than the sole beneficial owner of such Security to the extent such payment would be required by the laws of the relevant Taxing Jurisdiction to be included in the income for tax purposes of a beneficiary or partner or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such additional amounts had it been the Holder of the Security.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium, interest or any other amounts on, or in respect of, any Security of any series or the net proceeds received on the sale or exchange of any Security of any series, such mention shall be deemed to include mention of the payment of additional amounts provided by the terms of such series established hereby or pursuant hereto to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of additional amounts (if applicable) in any provision hereof shall not be construed as excluding the payment of additional amounts in those provisions hereof where such express mention is not made.

Except as otherwise provided in or pursuant to this Indenture or the Securities of the applicable series, at least 10 days prior to the first interest payment date with respect to a series of Securities (or if the Securities of such series shall not bear interest prior to Maturity, the first day on which a payment of principal is made), and at least 10 days prior to each date of payment of principal or interest if there has been any change with respect to the matters set forth in the below-mentioned Guarantor's Officer's Certificate, one of the Guarantors shall furnish to the Trustee and the principal paying agent, if other than the Trustee, a Guarantor's Officer's Certificate instructing the Trustee and such paying agent whether such payment of principal of and premium, if any, interest or any other amounts on the Securities of such series shall be made to Holders of Securities of such series thereto without withholding for or on account of any tax, fee, duty, assessment or other governmental charge described in this Section 13.02. If any such withholding shall be required, then such Guarantor's Officer's Certificate shall specify by Taxing Jurisdiction the amount, if any, required to be withheld on such payments to such Holders of Securities, and the Guarantors agree to pay, jointly and severally, to the Trustee or such paying agent the additional amounts required by this Section 13.02. The Guarantors covenant to indemnify, jointly and severally, the Trustee and any paying agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Guarantor's Officer's Certificate furnished pursuant to this Section 13.02.

Section 13.03. *Guarantee Unconditional, etc.* Each Guarantor hereby agrees that its obligations hereunder shall be as principal and not merely as surety, and shall be absolute, irrevocable and unconditional, irrespective of, and shall be unaffected by, any invalidity, irregularity or unenforceability of any Security or this Indenture, any failure to enforce the provisions of any Security or this Indenture, or any waiver, modification, consent or indulgence granted with respect thereto by the Holder of such Security or the Trustee, the recovery of any judgment against the Issuer or any action to enforce the same, or any other circumstances which may otherwise constitute a legal or equitable discharge of a surety or guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of merger, insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest or notice with respect to any such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenants that this Guarantee will not be discharged except by payment in full of the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, the Securities and the complete performance of all other obligations contained in the Securities. Each Guarantor further agrees, to the fullest extent that it lawfully may do so, that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, the maturity of the obligations guaranteed hereby may be accelerated as provided in Section 5.01 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or prohibition extant under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction preventing such acceleration in respect of the obligations guaranteed hereby.

Section 13.04. *Reinstatement.* This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment on any Security, in whole or in part, is rescinded or must otherwise be restored to the Issuer or any Guarantor upon the bankruptcy, liquidation or reorganization of the Issuer or otherwise.

Section 13.05. *Subrogation.* A Guarantor shall be subrogated to all rights of the Holder of any Security against the Issuer in respect of any amounts paid to such Holder by such Guarantor pursuant to the provisions of this Guarantee; provided, however, that such Guarantor shall not be entitled to enforce, or to receive any payments arising out of or based upon, such right of subrogation until the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, all Securities shall have been paid in full.

Section 13.06. *Indemnity.* As a separate and alternative stipulation, each Guarantor unconditionally and irrevocably agrees that any sum expressed to be payable by the Issuer under this Indenture or the Securities but which is for any reason (whether or not now known or becoming known to the Issuer, the Guarantors, the Trustee or any Holder of any Security) not recoverable from such

Guarantor on the basis of a guarantee will nevertheless be recoverable from it as if it were the sole principal debtor and will be paid by it to the Trustee on demand. This indemnity constitutes a separate and independent obligation from the other obligations in this Indenture, gives rise to a separate and independent cause of action and will apply irrespective of any indulgence granted by the Trustee or any Holder of any Security.

Section 13.07. *Assumption by Guarantors.*

(a) The Guarantors may, without the consent of the Holders, jointly and severally, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, after giving effect to such assumption, no Event of Default or event which with the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing. Upon such an assumption, each Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

(b) The Guarantors shall, jointly and severally, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, upon a default by the Issuer in the due and punctual payment of the principal, sinking fund payment, if any, premium, if any, or interest on such Securities, the Guarantors are prevented by any court order or judicial proceeding from fulfilling its obligations under Section 13.01 with respect to such series of Securities. Such assumption shall result in the Securities of such series becoming the direct obligations of the Guarantors, acting jointly and severally, and shall be effected without the consent of the Holders of the Securities of any Series. Upon such an assumption, the Guarantors shall execute a supplemental indenture evidencing their assumption of all such rights and obligations of the Issuer, and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of September 15, 2006.

LASALLE FUNDING LLC, as Issuer

By its Managing Member, LaSalle Bank Corporation

By: _____
Name:
Title:

By: _____
Name:
Title:

ABN AMRO HOLDING N.V.,
as Guarantor

By: _____
Name:
Title:

By: _____
Name:
Title:

THE BANK OF NEW YORK TRUST COMPANY, N.A.,
as Trustee

By: _____
Name:
Title:

ABN AMRO BANK N.V.,
as Guarantor

By: _____
Name:
Title:

By: _____
Name:
Title:

[END OF SIGNATURE PAGES
FOR LASALLE FUNDING LLC SENIOR INDENTURE]

LASALLE FUNDING LLC

as Issuer,

ABN AMRO HOLDING N.V.,

ABN AMRO BANK N.V.

and

BANK OF AMERICA CORPORATION

as Guarantors

and

THE BANK OF NEW YORK TRUST COMPANY, N.A.

as Trustee

FIRST SUPPLEMENTAL SENIOR INDENTURE

dated as of November 1, 2007

to

SENIOR INDENTURE

dated as of September 15, 2006

THIS FIRST SUPPLEMENTAL SENIOR INDENTURE dated as of November 1, 2007 among LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "Issuer"), ABN AMRO HOLDING N.V. and ABN AMRO BANK N.V., each a public limited liability company incorporated under the laws of The Netherlands (together, "ABN AMRO"), BANK OF AMERICA CORPORATION, a Delaware corporation ("Bank of America"), and THE BANK OF NEW YORK TRUST COMPANY, N.A., a national banking association as trustee (the "Trustee"),

WITNESSETH :

WHEREAS, the Issuer, ABN AMRO and the Trustee are parties to that certain Senior Indenture dated as of September 15, 2006 (the "Indenture");

WHEREAS, Section 8.01 of the Indenture provides that, without the consent of the Holders of any Securities, the Issuer, when authorized by a resolution of its Board of Directors, and ABN AMRO, when authorized by a resolution of their respective Managing Board, and the Trustee may enter into indentures supplemental to the Indenture for the purpose of, among other things, making any provisions as the Issuer may deem necessary or desirable, subject to the conditions set forth therein; *provided that* no such action shall adversely affect the interests of the Holders of the Securities;

WHEREAS, the Issuer and ABN AMRO desire to make Bank of America an additional guarantor of the Securities and Bank of America desires to become an additional guarantor hereunder;

WHEREAS, the Issuer desires to modify certain provisions of the Indenture to limit the aggregate principal amount of Securities that may be authenticated and delivered under the Indenture;

WHEREAS, the modifications contained herein shall not adversely affect the interests of the Holders of the Securities;

WHEREAS, the entry into this First Supplemental Senior Indenture by the parties hereto is in all respects authorized by the provisions of the Indenture; and

WHEREAS, all things necessary to make this First Supplemental Senior Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE:

The Issuer, ABN AMRO, Bank of America and the Trustee mutually covenant and agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01. *Defined Terms; References*. Unless otherwise specifically defined herein, each term used herein that is defined in the Indenture has the meaning assigned to such term in the Indenture. Each reference to "hereof", "hereunder", "herein" and "hereby" and each other similar reference and each reference to "this Indenture" and each other similar reference contained in the Indenture shall, after this First Supplemental Senior Indenture becomes effective, refer to the Indenture as amended hereby.

ARTICLE 2
AMENDMENTS TO THE INDENTURE

SECTION 2.01. *Definitions.* Section 1.01 of the Indenture is hereby amended by:

(a) replacing the definition of "Guarantor" with the following new definition:

"**Guarantor**" means each of ABN AMRO Holding N.V., ABN AMRO Bank N.V. and Bank of America Corporation until any successor Person shall have become such pursuant to the applicable provisions of this Indenture, as so supplemented, and thereafter "Guarantor" shall mean each such successor Person."

(b) replacing the definition of "Guarantor's Board of Directors" with the following new definition:

"**Guarantor's Board of Directors**" means, for each Guarantor, the Managing Board or Board of Directors, as applicable, of such Guarantor or any committee of that board duly authorized to act generally or in any particular respect for such Guarantor hereunder."

SECTION 2.02. *Amount Unlimited; Issuable in Series.* Section 2.03 of the Indenture is hereby amended by:

(a) inserting the following text immediately following the word "unlimited" in the first sentence of the first paragraph thereof:

*";provided, however*, that, notwithstanding anything to the contrary in this Indenture, on and after October 1, 2007, no Securities shall be issued, and the Trustee shall not authenticate any Securities (other than Securities issued (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in

lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof) and the aggregate principal amount of Securities which may be authenticated and delivered at any time shall be limited to the aggregate principal amount of Securities that are Outstanding as of October 1, 2007, as reduced (and in no event increased) by the aggregate principal amount of Securities following October 1, 2007 that are no longer Outstanding. No Security issued on or after October 1, 2007 (other than Securities issued (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof), whether or not authenticated by the Trustee, shall be entitled to the benefits of this Indenture and shall be valid or obligatory for any person."

(b) adding the phrase "Prior to October 1, 2007," immediately preceding the words "the Securities may be issued" in the first sentence of the second paragraph thereof and immediately preceding the words "there shall be established" in the second sentence of the second paragraph thereof.

(c) replacing the last paragraph thereof with the following:

"On and after October 1, 2007, the aggregate principal amount of Securities will in no event be increased, and the Trustee shall not authenticate any Securities of the same series, other than (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof."

SECTION 2.03. *Authentication and Delivery of Securities.* Section 2.04 of the Indenture is hereby amended by:

(a) adding the phrase "Prior to October 1, 2007," immediately preceding the words "the Issuer may deliver Securities" in the first sentence of clause (a) thereof; and

(b) adding the following sentence immediately preceding the second sentence of clause (a) thereof:

"On and after October 1, 2007, the Issuer and the Trustee may act as specified in the immediately preceding sentence for Securities issued only (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof."

SECTION 2.04. *Certificate of Authentication.* Section 2.06 of the Indenture is hereby amended by adding the phrase "subject to Section 2.03" immediately following the words "valid or obligatory for any purpose" in the first sentence thereof.

SECTION 2.05. *Offices for Payments, etc.* Section 3.02 of the Indenture is hereby amended by (i) replacing the words "the Guarantors" with the words "each Guarantor" in the first and sixth lines of the fourth paragraph thereof and (ii) replacing the words "the Guarantors" with the words "such Guarantor" in the seventh and eleventh lines thereof.

SECTION 2.06. *Event of Default Defined; Acceleration of Maturity; Waiver of Event of Default;* Section 5.01(f) of the Indenture is hereby amended by inserting the words "any of" immediately following the words "as hereinafter provided, the Issuer or" in the second flush paragraph immediately following clause (f) thereof.

SECTION 2.07. *Collection of Indebtedness by Trustee; Trustee May Prove Debt.* Section 5.02 of the Indenture is hereby amended by inserting the words "any of" immediately following the words "Until such demand is made by the Trustee, the Issuer or" in the second paragraph thereof.

SECTION 2.08. *Certain Rights of the Trustee.* Section 6.02(a) of the Indenture is hereby amended by replacing the words "Guarantors' Officers' Certificate" with the words "any Guarantor's Officers' Certificate".

SECTION 2.09. *Supplemental Indentures Without Consent of Securityholders.* Section 8.01(e) of the Indenture is hereby amended by adding the phrase "prior to October 1, 2007," immediately preceding the words "to establish the forms or terms of Securities".

SECTION 2.10. *Satisfaction and Discharge of Indenture.* Section 10.01 of the Indenture is hereby amended by inserting the words "any of" (I) immediately following the words (x) "If at any time (i) the Issuer or", (y) "under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer or" and (z) "and if, in any such case, the Issuer or," in each case in clause (a) thereof; (II) immediately following the words "with reference to this provision the Issuer has or" in clause (b)(i) thereof; and (III) immediately following the words (x) "The Issuer has or" in clause (c)(i) thereof.

SECTION 2.11. *Notices and Demands on Issuer.* Section 11.04 of the Indenture is hereby amended by replacing the address information for the Guarantors in the first paragraph thereof with the following:

If to the Guarantors: ABN AMRO Holding N.V.
Gustav Mahlerlaan 10
1082 PP Amsterdam
The Netherlands
Attention: Central Legal Department

and

Bank of America Corporation
Bank of America Corporate Center
100 North Tryon Street
NC1-007-07-06
Corporate Treasury Division
Charlotte, North Carolina 28255
Telephone: (980) 387-3776
Facsimile: (980) 386-0270
Attention: B. Kenneth Burton, Jr.

Together with a copy to:

Bank of America Corporation
Legal Department
NC1-002-29-01
101 South Tryon Street
Charlotte, North Carolina 28255
Telephone: (704) 386-4238
Facsimile: (704) 386-1670
Attention: Teresa M. Brenner, Esq.

SECTION 2.12. *Notice of Redemption; Partial Redemption.* Section 12.02 of the Indenture is hereby amended by inserting the words "any of" immediately following the words "notice of redemption given as provided in this Section, the Issuer or" in the fourth paragraph thereof.

ARTICLE 3
Miscellaneous Provisions

Section 3.01. *Effect of Supplemental Indenture.* Upon execution and delivery of this First Supplemental Senior Indenture by each of the Issuer, ABN AMRO, Bank of America and the Trustee, the Indenture shall be supplemented in accordance herewith, and this First Supplemental Senior Indenture shall form a part of the Indenture for all purposes, and every Holder of Securities hereafter authenticated and delivered under the Indenture shall be bound thereby.

Section 3.02. *Confirmation of Indenture*. The Indenture, as supplemented and amended by this First Supplemental Senior Indenture, is in all respects ratified and confirmed, and the Indenture, the First Supplemental Senior Indenture and all indentures supplemental thereto shall be read, taken and construed as one and the same instrument.

Section 3.03. *Concerning the Trustee.* The Trustee assumes no duties, responsibilities or liabilities by reason of this First Supplemental Senior Indenture other than as set forth in the Indenture. The Trustee makes no representations as to the validity or sufficiency of this First Supplemental Senior Indenture. The recitals and statements herein are deemed to be those of the Issuer, ABN AMRO and Bank of America and not of the Trustee.

Section 3.04. *Governing Law*. This First Supplemental Senior Indenture shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

Section 3.05. *Separability*. In case any provision contained in this First Supplemental Senior Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.06. *Counterparts.* This First Supplemental Senior Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Senior Indenture to be duly executed as of the date first written above.

LASALLE FUNDING LLC

By: /s/ ROBERT J. MOORE
Name: Robert J. Moore
Title: President

By: /s/ MICHAEL A. PICCATTO
Name: Michael A. Piccatto
Title: Vice President and Assistant Secretary

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Senior Indenture to be duly executed as of the date first written above.

ABN AMRO HOLDING N.V.

By: /s/ MARTIN EISENBERG
Name: Martin Eisenberg
Title: Senior Vice President

By: /s/ ROBERT SCHULTZE
Name: Robert Schultze
Title: Chief Operating Officer

ABN AMRO BANK N.V.

By: /s/ MARTIN EISENBERG
Name: Martin Eisenberg
Title: Senior Vice President

By: /s/ ROBERT SCHULTZE
Name: Robert Schultze
Title: Chief Operating Officer

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Senior Indenture to be duly executed as of the date first written above.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Senior Indenture to be duly executed as of the date first written above.

THE BANK OF NEW YORK TRUST COMPANY, N.A.

By: /s/ M. CALLAHAN
Name: M. Callahan
Title: Vice President

**Exhibit 4(iii)**

**LASALLE FUNDING LLC,**

as Issuer,

**ABN AMRO BANK N.V.,**

as Guarantor

and

**BNY MIDWEST TRUST COMPANY,**

as Trustee

# INDENTURE

Dated as of June 15, 2003

**TABLE OF CONTENTS**

**CROSS REFERENCE SHEET**[1]

Provisions of Trust Indenture Act of 1939 and Indenture to be dated as of June 15, 2003, between LASALLE FUNDING LLC, as Issuer, ABN AMRO BANK N.V., as Guarantor and BNY MIDWEST TRUST COMPANY, as Trustee:

| Section of the Act | Section of Indenture |
|---|---|
| 310(a)(1) and (2) | 6.09 |
| 310(a)(3) and (4) | Inapplicable |
| 310(b) | 6.08 and 6.10 (a), (b) and (d) |
| 310(c) | Inapplicable |
| 312(a) | 4.01 and 4.02(a) |
| 312(b) | 4.02 |
| 312(c) | 4.02(b) |
| 313(a) | 4.04(a) |
| 313(b)(1) | Inapplicable |
| 313(b)(2) | 4.04 |
| 313(c) | 4.04 |
| 313(d) | 4.04 |
| 314(a) | 4.03 |
| 314(b) | Inapplicable |
| 314(c)(1) and (2) | 11.05 |
| 314(c)(3) | Inapplicable |
| 314(d) | Inapplicable |
| 314(e) | 11.05 |
| 314(f) | Inapplicable |
| 315(a), (c) and (d) | 6.01 |
| 315(b) | 5.11 |
| 315(e) | 5.12 |
| 316(a)(1) | 5.09 |
| 316(a)(2) | Not required |
| 316(a) (last sentence) | 7.04 |
| 316(b) | 5.07 |
| 317(a) | 5.02 |
| 317(b) | 3.04(a) and (b) |
| 318(a) | 11.07 |

1 This Cross Reference Sheet is not part of the Indenture.

THIS INDENTURE, dated as of June 15, 2003 among LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "**Issuer**"), ABN AMRO BANK N.V., a public limited liability company incorporated under the laws of The Netherlands (the "**Guarantor**"), and BNY MIDWEST TRUST COMPANY, as trustee (the "**Trustee**").

**WITNESSETH:**

WHEREAS, the Issuer has duly authorized the issue from time to time of its unsecured debentures, notes or other evidences of indebtedness to be issued in one or more series (the "**Securities**") up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture;

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture to provide, among other things, for the authentication, delivery and administration of the Securities;

WHEREAS, for value received, the Guarantor has duly authorized the execution and delivery of this Indenture to provide for the issuance of the Guarantee and the indemnity provided for herein. All things necessary to make this Indenture a valid agreement of the Guarantor, in accordance with its terms, have been done; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE:

In consideration of the premises and the purchases of the Securities by the holders thereof, the Issuer, the Guarantor and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective holders from time to time of the Securities and of the coupons, if any, appertaining thereto as follows:

## ARTICLE 1
## DEFINITIONS

Section 1.01. *Certain Terms Defined.* The following terms (except as otherwise expressly provided or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939 or the definitions of which in the Securities Act of 1933 are referred to in the Trust Indenture Act of 1939, including terms defined therein by reference to the Securities Act of 1933

(except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of this Indenture. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles, and the term "generally accepted accounting principles" means such accounting principles as are generally accepted at the time of any computation. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

**"Authenticating Agent"** shall have the meaning set forth in Section 6.13.

**"Authorized Agent"** shall have the meaning set forth in Section 11.12.

**"Authorized Newspaper"** means a newspaper (which, in the case of The City of New York, will, if practicable, be The Wall Street Journal (Eastern Edition), in the case of the United Kingdom, will, if practicable, be the Financial Times (London Edition) and, in the case of Luxembourg, will, if practicable, be the Luxemburger Wort) published in an official language of the country of publication customarily published at least once a day for at least five days in each calendar week and of general circulation in The City of New York, the United Kingdom or in Luxembourg, as applicable. If it shall be impractical in the opinion of the Trustee to make any publication of any notice required hereby in an Authorized Newspaper, any publication or other notice in lieu thereof which is made or given with the approval of the Trustee shall constitute a sufficient publication of such notice.

**"Bearer Security"** means any Security other than a Registered Security.

**"Board"** means any Person or Body authorized by the organizational documents or by the members of the Issuer to act for it.

**"Board Resolution"** means one or more resolutions, certified by the secretary of the Board to have been duly adopted or consented to by the Board and to be in full force and effect, and delivered to the Trustee.

**"Business Day"** means, with respect to any Security, a day that in the city (or in any of the cities, if more than one) in which the Securities are payable, as specified in the form of such Security, is not a day on which banking institutions are authorized or required by law or regulation to close.

**"Commission"** means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or if at any time after the execution and delivery of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

**"Corporate Trust Office"** means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, at the date as of which this Indenture is dated, located in the City of Chicago.

**"Coupon"** means any interest coupon appertaining to a Security.

**"covenant defeasance"** shall have the meaning set forth in Section 10.01(c).

**"Depositary"** means, with respect to the Securities of any series issuable or issued in the form of one or more Registered Global Securities, the Person designated as Depositary by the Issuer pursuant to Section 2.03 until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Depositary" shall mean or include each Person who is then a Depositary hereunder, and if at any time there is more than one such Person, "Depositary" as used with respect to the Securities of any such series shall mean the Depositary with respect to the Registered Global Securities of that series.

**"Dollar"** means the coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

**"Event of Default"** means any event or condition specified as such in Section 5.01.

**"Guarantee"** means the unconditional guarantee of the payment of the principal of, any premium or interest on, and any additional amounts with respect to the Securities by the Guarantor, as more fully set forth in Article 13.

**"Guarantor"** means the Person named as the "Guarantor" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Guarantor" shall mean such successor Person.

**"Guarantor's Board of Directors"** means the Managing Board of the Guarantor or any committee of that board duly authorized to act generally or in any particular respect for the Guarantor hereunder.

**"Guarantor's Board Resolution"** means a copy of one or more resolutions, certified by the Secretary or an Assistant Secretary of the Guarantor to have been duly adopted by the Guarantor's Board of Directors and to be in full force and effect on the date of such certification, delivered to the Trustee.

**"Guarantor's Officer's Certificate"** means a certificate signed by any two duly authorized signatories of the Guarantor acting together, that complies with the requirements of Section 314(e) of the Trustee Indenture Act and is delivered to the Trustee.

**"Guarantor Request"** and **"Guarantor Order"** mean, respectively, a written request or order, as the case may be, signed in the name of the Guarantor by any two duly authorized signatories acting together, and delivered to the Trustee.

**"Holder"**, **"Holder of Securities"**, **"Securityholder"** or other similar terms mean (a) in the case of any Registered Security, the Person in whose name such Security is registered in the security register kept by the Issuer for that purpose in accordance with the terms hereof, and (b) in the case of any Bearer Security, the bearer of such Security, or any Coupon appertaining thereto, as the case may be.

**"Indebtedness"** shall have the meaning set forth in Section 5.01.

**"Indenture"** means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular series of Securities established as contemplated hereunder.

**"Interest"** means, when used with respect to non-interest bearing Securities, interest payable after maturity.

**"Issuer"** means (except as otherwise provided in Article Six) LaSalle Funding LLC, a Delaware limited liability company and, subject to Article Nine, its successors and assigns.

**"Issuer Order"** means a written statement, request or order of the Issuer signed in its name by any officer of the Issuer authorized by the Board to execute any such written statement, request or order.

**"Judgment Currency"** shall have the meaning set forth in Section 11.13.

**"New York Banking Day"** shall have the meaning set forth in Section 11.13.

**"Non-U.S. Currency"** means a currency issued by the government of a country other than the United States (or any currency unit comprised of any such currencies).

**"Officer's Certificate"** means a certificate (i) signed by any officer of the Issuer authorized by the Board to execute any such certificate and (ii) delivered to the Trustee. Each such certificate shall comply with Section 314 of the Trust Indenture Act of 1939 and include the statements provided for in Section 11.05.

**"Opinion of Counsel"** means an opinion in writing signed by legal counsel to the Issuer or the Guarantor, who may be an employee of or counsel to the Issuer or the Guarantor, and who shall be reasonably satisfactory to the Trustee. Each such opinion shall comply with Section 314 of the Trust Indenture Act of 1939 and include the statements provided for in Section 11.05.

**"original issue date"** of any Security (or portion thereof) means the earlier of (a) the date of such Security or (b) the date of any Security (or portion thereof) for which such Security was issued (directly or indirectly) on registration of transfer, exchange or substitution.

**"Original Issue Discount Security"** means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 5.01.

**"Outstanding"** when used with reference to Securities, shall, subject to the provisions of Section 7.04, mean, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except

(a) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Securities, or portions thereof, for the payment or redemption of which monies or U.S. Government Obligations (as provided for in Section 10.01) in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Issuer or the Guarantor) or shall have been set aside, segregated and held in trust by the Issuer or the Guarantor for the Holders of such Securities (if the Issuer shall act as its own, or authorize the Guarantor to act as, paying agent), provided that if such Securities, or portions thereof, are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice; and

(c) Securities which shall have been paid or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.09 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a person in whose hands such Security is a legal, valid and binding obligation of the Issuer).

In determining whether the Holders of the requisite principal amount of Outstanding Securities of any or all series have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for

such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the maturity thereof pursuant to Section 5.01.

**"Periodic Offering"** means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Issuer or its agents upon the issuance of such Securities.

**"Person"** means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

**"principal"** whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include "and premium, if any".

**"record date"** shall have the meaning set forth in Section 2.07.

**"Redemption Notice Period"** shall have the meaning set forth in Section 12.02.

**"Registered Global Security"**, means a Security evidencing all or a part of a series of Registered Securities, issued to the Depositary for such series in accordance with Section 2.04, and bearing the legend prescribed in Section 2.04.

**"Registered Security"** means any Security registered on the Security register of the Issuer.

**"Required Currency"** shall have the meaning set forth in Section 11.13.

**"Responsible Officer"** when used with respect to the Trustee means the chairman of the board of directors, any vice chairman of the board of directors, the chairman of the trust committee, the chairman of the executive committee, any vice chairman of the executive committee, the president, any vice president, (whether or not designated by numbers or words added before or after the title "vice president") the cashier, the secretary, the treasurer, any trust officer, any assistant trust officer, any assistant vice president, any assistant cashier, any assistant secretary, any assistant treasurer, or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

**"Security"** or **"Securities"** has the meaning stated in the first recital of this Indenture, or, as the case may be, Securities that have been authenticated and delivered under this Indenture.

**"Trust Indenture Act of 1939"** means the Trust Indenture Act of 1939.

**"Trustee"** means the Person identified as "Trustee" in the first paragraph hereof and, subject to the provisions of Article 6, shall also include any successor trustee. "Trustee" shall also mean or include each Person who is then a trustee hereunder and if at any time there is more than one such Person, "Trustee" as used with respect to the Securities of any series shall mean the trustee with respect to the Securities of such series.

**"U.S. Government Obligations"** shall have the meaning set forth in Section 10.01(a).

**"Yield to Maturity"** means the yield to maturity on a series of Securities, calculated at the time of issuance of such series, or, if applicable, at the most recent redetermination of interest on such series, and calculated in accordance with accepted financial practice.

## ARTICLE 2
## SECURITIES

Section 2.01. *Forms Generally.* The Securities of each series and the Coupons, if any, to be attached thereto shall be substantially in such form (not inconsistent with this Indenture) as shall be established by or pursuant to one or more Board Resolutions (as set forth in a Board Resolution or, to the extent established pursuant to rather than set forth in a Board Resolution, an Officer's Certificate detailing such establishment) or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the officers executing such Securities and Coupons, if any, as evidenced by their execution of such Securities and Coupons.

The definitive Securities and Coupons, if any, shall be printed, lithographed on security printed paper or may be produced in any other manner, all as determined by the officers executing such Securities and Coupons, if any, as evidenced by their execution of such Securities and Coupons, if any.

Section 2.02. *Form of Trustee's Certificate of Authentication.* The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

"This is one of the Securities referred to in the within-mentioned Indenture

_____
as Trustee

By:

_____
Authorized Officer

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's Certificate of Authentication to be borne by the Securities of each such series shall be substantially as follows:

"This is one of the Securities referred to in the within-mentioned Indenture.

_____
as Authenticating Agent

By:

_____
Authorized Officer

Section 2.03. *Amount Unlimited; Issuable in Series.* The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series and each such series shall rank equally and pari passu with all other unsecured and unsubordinated debt of the Issuer. There shall be established in or pursuant to one or more Board Resolutions (and to the extent established pursuant to rather than set forth in a Board Resolution, in an Officer's Certificate detailing such establishment) or established in one or more indentures supplemental hereto, prior to the initial issuance of Securities of any series,

(a) the designation of the Securities of the series, which shall distinguish the Securities of the series from the Securities of all other series;

(b) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08, 2.09, 2.11, 8.05 or 12.03);

(c) if other than Dollars, the coin or currency in which the Securities of that series are denominated (including, but not limited to, any Non-U.S. Currency);

(d) the date or dates on which the principal of the Securities of the series is payable;

(e) the rate or rates at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and (in the case of Registered Securities) on which a record shall be taken for the determination of Holders to whom interest is payable and/or the method by which such rate or rates or date or dates shall be determined;

(f) the place or places where the principal of and any interest on Securities of the series shall be payable (if other than as provided in Section 3.02);

(g) the right, if any, of the Issuer to redeem Securities, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions, including the Redemption Notice Period, upon which Securities of the series may be so redeemed, pursuant to any sinking fund or otherwise;

(h) the obligation, if any, of the Issuer to redeem, purchase or repay Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a Holder thereof and the price or prices at which and the period or periods within which and any terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(i) if other than denominations of $1,000 and any integral multiple thereof in the case of Registered Securities, or $1,000 and $5,000 in the case of Bearer Securities, the denominations in which Securities of the series shall be issuable;

(j) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;

(k) if other than the coin or currency in which the Securities of that series are denominated, the coin or currency in which payment of the principal of or interest on the Securities of such series shall be payable;

(l) if the principal of or interest on the Securities of such series are to be payable, at the election of the Issuer or a Holder thereof, in a coin or currency other than that in which the Securities are denominated, the period or periods within which, and the terms and conditions upon which, such election may be made;

(m) if the amount of payments of principal of and interest on the Securities of the series may be determined with reference to an index based on a coin or currency other than that in which the Securities of the series are denominated, or with reference to any currencies, securities or baskets of securities, commodities or indices, the manner in which such amounts shall be determined;

(n) if the Holders of the Securities of the series may convert or exchange the Securities of the series into or for securities of the Issuer or the Guarantor or of other entities or other property (or the cash value thereof), the specific terms of and period during which such conversion or exchange may be made;

(o) whether the Securities of the series will be issuable as Registered Securities (and if so, whether such Securities will be issuable as Registered Global Securities) or Bearer Securities (with or without Coupons), or any combination of the foregoing, any restrictions applicable to the offer, sale, transfer, exchange or delivery of Bearer Securities or Registered Securities or the payment of interest thereon and, if other than as provided in Section 2.08, the terms upon which Bearer Securities of any series may be exchanged for Registered Securities of such series and vice versa;

(p) whether and under what circumstances the Issuer will pay additional amounts on the Securities of the series held by a Person who is not a U.S. Person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Issuer will have the option to redeem such Securities rather than pay such additional amounts;

(q) if the Securities of such series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and terms of such certificates, documents or conditions;

(r) any trustees, depositaries, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Securities of such series;

(s) any applicable United States federal income tax consequences and Netherlands income tax consequences, including, but not limited to: whether and under what circumstances the Issuer will pay additional amounts on Securities for any tax, assessment or governmental charge withheld or deducted and, if so, whether it will have the option to redeem those Securities rather than pay the additional amounts; tax considerations applicable to any discounted Securities or to Securities issued at par that are treated as having been issued at a discount for United States federal income tax purposes; and tax considerations applicable to any Securities denominated and payable in foreign currencies;

(t) whether certain payments on the Securities will be guaranteed under a financial insurance guaranty policy and the terms of that guaranty;

(u) any applicable selling restrictions;

(v) any other events of default, modifications or elimination of any acceleration rights, or covenants with respect to the Securities of such series and any terms required by or advisable under applicable laws or regulations, including laws and regulations relating attributes required for the Securities to be afforded certain capital treatment for bank regulatory or other purposes; and

(w) any other terms of the series.

All Securities of any one series and Coupons, if any, appertaining thereto, shall be substantially identical, except in the case of Registered Securities as to denomination and except as may otherwise be provided by or pursuant to the Board Resolution or Officer's Certificate referred to above or as set forth in any such indenture supplemental hereto. All Securities of any one series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to such Board Resolution, such Officer's Certificate or in any such indenture supplemental hereto.

Section 2.04. *Authentication and Delivery of Securities.* (a) The Issuer may deliver Securities of any series having attached thereto appropriate Coupons, if any, executed by the Issuer to the Trustee for authentication together with the applicable documents referred to below in this Section, and the Trustee shall thereupon authenticate and deliver such Securities to or upon the order of the Issuer (contained in the Issuer Order referred to below in this Section) or pursuant to such procedures acceptable to the Trustee and to such recipients as may be specified from time to time by an Issuer Order. The maturity date, original issue date, interest rate and any other terms of the Securities of such series and Coupons, if any, appertaining thereto (including Redemption Notice Periods)

shall be determined by or pursuant to such Issuer Order and procedures. If provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral instructions from the Issuer or its duly authorized agent, which instructions shall be promptly confirmed in writing. In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive (in the case of subparagraphs 2.04(a)(ii), 2.04(a)(iii) and 2.04(a)(iv) below only at or before the time of the first request of the Issuer to the Trustee to authenticate Securities of such series) and (subject to Section 6.01) shall be fully protected in relying upon, unless and until such documents have been superceded or revoked:

(i) an Issuer Order requesting such authentication and setting forth delivery instructions if the Securities and Coupons, if any, are not to be delivered to the Issuer, provided that, with respect to Securities of a series subject to a Periodic Offering, (A) such Issuer Order may be delivered by the Issuer to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (B) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount established for such series, pursuant to an Issuer Order or pursuant to procedures acceptable to the Trustee as may be specified from time to time by an Issuer Order, (C) the maturity date or dates, original issue date or dates, interest rate or rates and any other terms of Securities of such series (including Redemption Notice Periods) shall be determined by an Issuer Order or pursuant to such procedures and (D) if provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which oral instructions shall be promptly confirmed in writing;

(ii) any Board Resolution, Officer's Certificate and/or executed supplemental indenture referred to in Section 2.01 and 2.03 by or pursuant to which the forms and terms of the Securities and Coupons, if any, were established;

(iii) an Officer's Certificate setting forth the form or forms and terms of the Securities and Coupons, if any, stating that the form or forms and terms of the Securities and Coupons, if any, have been established pursuant to Section 2.01 and 2.03 and comply with this Indenture, and covering such other matters as the Trustee may reasonably request; and

(iv) at the option of the Issuer, either an Opinion of Counsel, or a letter addressed to the Trustee permitting it to rely on an Opinion of Counsel, substantially to the effect that:

(A) the forms of the Securities and Coupons, if any, have been duly authorized and established in conformity with the provisions of this Indenture;

(B) in the case of an underwritten offering, the terms of the Securities have been duly authorized and established in conformity with the provisions of this Indenture, and, in the case of an offering that is not underwritten, certain terms of the Securities have been established pursuant to a Board Resolution, an Officer's Certificate or a supplemental indenture in accordance with this Indenture, and when such other terms as are to be established pursuant to procedures set forth in an Issuer Order shall have been established, all such terms will have been duly authorized by the Issuer and will have been established in conformity with the provisions of this Indenture;

(C) when the Securities and Coupons, if any, have been executed by the Issuer and authenticated by the Trustee in accordance with the provisions of this Indenture and delivered to and duly paid for by the purchasers thereof, they will have been duly issued under this Indenture and will be valid and binding obligations of the Issuer, enforceable in accordance with their respective terms, and will be entitled to the benefits of this Indenture, including the Guarantee; and

(D) the execution and delivery by the Issuer of, and the performance by the Issuer of its obligations under, the Securities and Coupons, if any, will not contravene any provision of applicable law or the certificate of formation or limited liability company agreement of the Issuer or any agreement or other instrument binding upon the Issuer or any of its consolidated subsidiaries that is material to the Issuer and its subsidiaries, taken as a whole, or, to the best of such counsel's knowledge, any judgment, order or decree of any U.S. governmental body, agency or court having jurisdiction over the Issuer or any of its consolidated subsidiaries, and no consent, approval or authorization of any U.S. governmental body or agency is required for the performance by the Issuer of its obligations under the Securities and Coupons, if any, except such as are specified and have been obtained and 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 Securities and Coupons, if any.

In rendering such opinions, such counsel may qualify any opinions as to enforceability by stating that such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium and other similar laws

affecting the rights and remedies of creditors and is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Such counsel may rely, as to all matters governed by the laws of jurisdictions other than the State of New York and the federal law of the United States, upon opinions of other counsel (copies of which shall be delivered to the Trustee), who shall be counsel reasonably satisfactory to the Trustee, in which case the opinion shall state that such counsel believes he and the Trustee are entitled so to rely. Such counsel may also state that, insofar as such opinion involves factual matters, he has relied, to the extent he deems proper, upon certificates of officers of the Issuer or the Guarantor and its subsidiaries and certificates of public officials.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section if the Trustee, being advised by counsel, determines that such action may not lawfully be taken by the Issuer or if the Trustee in good faith by its board of directors or board of trustees, executive committee, or a trust committee of directors or trustees or Responsible Officers shall determine that such action would expose the Trustee to personal liability to existing Holders or would affect the Trustee's own rights, duties or immunities under the Securities, this Indenture or otherwise.

If the Issuer shall establish pursuant to Section 2.03 that the Securities of a series are to be issued in the form of one or more Registered Global Securities, then the Issuer shall execute and the Trustee shall, in accordance with this Section and the Issuer Order with respect to such series, authenticate and deliver one or more Registered Global Securities that (i) shall represent and shall be denominated in an amount equal to the aggregate principal amount of all of the Securities of such series issued and not yet cancelled, (ii) shall be registered in the name of the Depositary for such Registered Global Security or Securities or the nominee of such Depositary, (iii) shall be delivered by the Trustee to such Depositary or pursuant to such Depositary's instructions and (iv) shall bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive registered form, this Security may not be transferred except as a whole by the Depositary to the nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary."

Each Depositary designated pursuant to Section 2.03 must, at the time of its designation and at all times while it serves as Depositary, be a clearing agency registered under the Securities Exchange Act of 1934 and any other applicable statute or regulation.

Section 2.05. *Execution of Securities.* The Securities and, if applicable, each Coupon appertaining thereto shall be signed on behalf of the Issuer by any officer of the Issuer duly authorized by the Board to execute Securities or, if

applicable, Coupons, which Securities or Coupons may, but need not, be attested. Such signatures may be the manual or facsimile signatures of the present or any future such officers. Minor errors or defects in any such reproduction of any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

In case any officer of the Issuer who shall have signed any of the Securities or Coupons, if any, pursuant to his or her authorization to do so, shall cease to be such officer, or such authorization shall be withdrawn, before the Security or Coupon so signed (or the Security to which the Coupon so signed appertains) shall be authenticated and delivered by the Trustee or disposed of by the Issuer, such Security or Coupon nevertheless may be authenticated and delivered or disposed of as though the person who signed such Security or Coupon had not ceased to be such officer or the authorization to sign such Security or Coupon had not been withdrawn; and any Security or Coupon may be signed on behalf of the Issuer by any two persons as, at the actual date of the execution of such Security or Coupon, shall be authorized to do so, although at the date of the execution and delivery of this Indenture any such person was not so authorized.

Section 2.06. *Certificate of Authentication.* Only such Securities as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the manual signature of one of its authorized officers, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. No Coupon shall be entitled to the benefits of this Indenture or shall be valid and obligatory for any purpose until the certificate of authentication on the Security to which such Coupon appertains shall have been duly executed by the Trustee. The execution of such certificate by the Trustee upon any Security executed by the Issuer shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

Section 2.07. *Denomination and Date of Securities; Payments of Interest.* The Securities of each series shall be issuable as Registered Securities or Bearer Securities in denominations established as contemplated by Section 2.03 or, with respect to the Registered Securities of any series, if not so established, in denominations of $1,000 and any integral multiple thereof. If denominations of Bearer Securities of any series are not so established, such Securities shall be issuable in denominations of $1,000 and $5,000. The Securities of each series shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plan as the officers of the Issuer executing the same may determine with the approval of the Trustee, as evidenced by the execution and authentication thereof.

Each Registered Security shall be dated the date of its authentication. Each Bearer Security shall be dated as provided in the resolution or resolutions of

the Board of the Issuer referred to in Section 2.03. The Securities of each series shall bear interest, if any, from the date, and such interest shall be payable on the dates, established as contemplated by Section 2.03.

The Person in whose name any Registered Security of any series is registered at the close of business on any record date applicable to a particular series with respect to any interest payment date for such series shall be entitled to receive the interest, if any, payable on such interest payment date notwithstanding any transfer or exchange of such Registered Security subsequent to the record date and prior to such interest payment date, except if and to the extent the Issuer and the Guarantor shall default in the payment of the interest due on such interest payment date for such series, in which case such defaulted interest shall be paid to the Persons in whose names Outstanding Registered Securities for such series are registered at the close of business on a subsequent record date (which shall be not less than five Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuer or the Guarantor to the Holders of Registered Securities not less than 15 days preceding such subsequent record date. The term "record date" as used with respect to any interest payment date (except a date for payment of defaulted interest) for the Securities of any series shall mean the date specified as such in the terms of the Registered Securities of such series established as contemplated by Section 2.03, or, if no such date is so established, if such interest payment date is the first day of a calendar month, the fifteenth day of the next preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the first day of such calendar month, whether or not such record date is a Business Day.

Section 2.08. *Registration, Transfer and Exchange.* The Issuer will keep at each office or agency to be maintained for the purpose as provided in Section 3.02 for each series of Securities a register or registers in which, subject to such reasonable regulations as it may prescribe, it will provide for the registration of Registered Securities of such series and the registration of transfer of Registered Securities of such series. Such register shall be in written form in the English language or in any other form capable of being converted into such form within a reasonable time. At all reasonable times such register or registers shall be open for inspection by the Trustee.

Upon due presentation for registration of transfer of any Registered Security of any series at any such office or agency to be maintained for the purpose as provided in Section 3.02, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Registered Security or Registered Securities of the same series, maturity date, interest rate and original issue date in authorized denominations for a like aggregate principal amount.

Bearer Securities (except for any temporary global Bearer Securities) and Coupons (except for Coupons attached to any temporary global Bearer Securities) shall be transferable by delivery.

At the option of the Holder thereof, Registered Securities of any series (other than a Registered Global Security, except as set forth below) may be exchanged for a Registered Security or Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Registered Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02 and upon payment, if the Issuer shall so require, of the charges hereinafter provided. If the Securities of any series are issued in both registered and unregistered form, except as otherwise specified pursuant to Section 2.03, at the option of the Holder thereof, Bearer Securities of any series may be exchanged for Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Bearer Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02, with, in the case of Bearer Securities that have Coupons attached, all unmatured Coupons and all matured Coupons in default thereto appertaining, and upon payment, if the Issuer shall so require, of the charges hereinafter provided. At the option of the Holder thereof, if Bearer Securities of any series, maturity date, interest rate and original issue date are issued in more than one authorized denomination, except as otherwise specified pursuant to Section 2.03, such Bearer Securities may be exchanged for Bearer Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Bearer Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02 or as specified pursuant to Section 2.03, with, in the case of Bearer Securities that have Coupons attached, all unmatured Coupons and all matured Coupons in default thereto appertaining, and upon payment, if the Issuer shall so require, of the charges hereinafter provided. Unless otherwise specified pursuant to Section 2.03, Registered Securities of any series may not be exchanged for Bearer Securities of such series. Whenever any Securities are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. All Securities and Coupons surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled and disposed of by the Trustee and the Trustee will deliver a certificate of disposition thereof to the Issuer.

All Registered Securities presented for registration of transfer, exchange, redemption or payment shall (if so required by the Issuer or the Trustee) be duly endorsed by, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Issuer and the Trustee duly executed by the Holder or his attorney duly authorized in writing.

The Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any exchange or registration of transfer of Securities. No service charge shall be made for any such transaction.

The Issuer shall not be required to exchange or register a transfer of (a) any Securities of any series for a period of 15 days next preceding the first mailing of notice of redemption of Securities of such series to be redeemed or (b) any Securities selected, called or being called for redemption, in whole or in part, except, in the case of any Security to be redeemed in part, the portion thereof not so to be redeemed or (c) any Securities if the Holder thereof has exercised any right to require the Issuer to repurchase such Securities, in whole or in part, except, in the case of any Security to be repurchased in part, the portion thereof not so to be repurchased.

Notwithstanding any other provision of this Section 2.08, unless and until it is exchanged in whole or in part for Securities in definitive registered form, a Registered Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary.

If at any time the Depositary for any Registered Securities of a series represented by one or more Registered Global Securities notifies the Issuer that it is unwilling or unable to continue as Depositary for such Registered Securities or if at any time the Depositary for such Registered Securities shall no longer be eligible under Section 2.04, the Issuer shall appoint a successor Depositary eligible under Section 2.04 with respect to such Registered Securities. If a successor Depositary eligible under Section 2.04 for such Registered Securities is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such ineligibility, the Issuer's election pursuant to Section 2.03 that such Registered Securities be represented by one or more Registered Global Securities shall no longer be effective and the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities in exchange for such Registered Global Security or Securities.

The Issuer may at any time and in its sole discretion determine that the Registered Securities of any series issued in the form of one or more Registered Global Securities shall no longer be represented by a Registered Global Security or Securities. In such event the Issuer will execute, and the Trustee, upon receipt

of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities, in exchange for such Registered Global Security or Securities.

If specified by the Issuer pursuant to Section 2.03 with respect to Securities represented by a Registered Global Security, the Depositary for such Registered Global Security may surrender such Registered Global Security in exchange in whole or in part for Securities of the same series in definitive registered form on such terms as are acceptable to the Issuer and such Depositary. Thereupon, the Issuer shall execute, and the Trustee shall authenticate and deliver, without service charge,

(i) to the Person specified by such Depositary a new Registered Security or Securities of the same series, of any authorized denominations as requested by such Person, in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Registered Global Security; and

(ii) to such Depositary a new Registered Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Registered Global Security and the aggregate principal amount of Registered Securities authenticated and delivered pursuant to Section 2.08(i) above.

Upon the exchange of a Registered Global Security for Securities in definitive registered form without coupons, in authorized denominations, such Registered Global Security shall be cancelled by the Trustee or an agent of the Issuer or the Trustee. Securities in definitive registered form without coupons issued in exchange for a Registered Global Security pursuant to this Section 2.08 shall be registered in such nominee names and in such authorized denominations as the Depositary for such Registered Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee or an agent of the Issuer or the Trustee. The Trustee or such agent shall deliver such Securities to or as directed by the Persons in whose names such Securities are so registered.

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Issuer and the Guarantor, respectively, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

Notwithstanding anything herein or in the terms of any series of Securities to the contrary, none of the Issuer, the Trustee or any agent of the Issuer or the

Trustee (any of which, other than the Issuer, shall rely on an Officer's Certificate and an Opinion of Counsel) shall be required to exchange any Bearer Security for a Registered Security if such exchange would result in adverse Federal income tax consequences to the Issuer (such as, for example, the inability of the Issuer to deduct from its income, as computed for Federal income tax purposes, the interest payable on the Bearer Securities) under then applicable United States Federal income tax laws.

Section 2.09. *Mutilated, Defaced, Destroyed, Lost and Stolen Securities.* In case any temporary or definitive Security or any Coupon appertaining to any Security shall become mutilated, defaced or be destroyed, lost or stolen, the Issuer in its discretion may execute, and upon the written request of any officer of the Issuer, the Trustee shall authenticate and deliver a new Security of the same series, maturity date, interest rate and original issue date, bearing a number or other distinguishing symbol not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen with Coupons corresponding to the Coupons appertaining to the Securities so mutilated, defaced, destroyed, lost or stolen, or in exchange or substitution for the Security to which such mutilated, defaced, destroyed, lost or stolen Coupon appertained, with Coupons appertaining thereto corresponding to the Coupons so mutilated, defaced, destroyed, lost or stolen. In every case the applicant for a substitute Security or Coupon shall furnish to the Issuer, the Guarantor and the Trustee and any agent of the Issuer, the Guarantor or the Trustee such security or indemnity as may be required by them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security or Coupon and of the ownership thereof and in the case of mutilation or defacement shall surrender the Security and related Coupons to the Trustee or such agent.

Upon the issuance of any substitute Security or Coupon, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee or its agent) connected therewith. In case any Security or Coupon which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Issuer may instead of issuing a substitute Security, pay or authorize the payment of the same or the relevant Coupon (without surrender thereof except in the case of a mutilated or defaced Security or Coupon), if the applicant for such payment shall furnish to the Issuer, the Guarantor and the Trustee and any agent of the Issuer, the Guarantor or the Trustee such security or indemnity as any of them may require to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Issuer, the Guarantor and the Trustee and any agent of the Issuer, the Guarantor or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security or Coupon and of the ownership thereof.

Every substitute Security or Coupon of any series issued pursuant to the provisions of this Section by virtue of the fact that any such Security or Coupon is destroyed, lost or stolen shall constitute an additional contractual obligation of the Issuer and the Guarantor, whether or not the destroyed, lost or stolen Security or Coupon shall be at any time enforceable by anyone and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture equally and proportionately with any and all other Securities or Coupons of such series duly authenticated and delivered hereunder. All Securities and Coupons shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced or destroyed, lost or stolen Securities and Coupons and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

Section 2.10. *Cancellation of Securities; Disposition Thereof.* All Securities and Coupons surrendered for payment, redemption, registration of transfer or exchange, or for credit against any payment in respect of a sinking or analogous fund, if surrendered any Person other than the Trustee or any agent of the Trustee, shall be delivered to the Trustee or its agent for cancellation or, if surrendered to the Trustee, shall be cancelled by it; and no Securities or Coupons shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee or its agent shall dispose of cancelled Securities and Coupons held by it and deliver a certificate of disposition to the Issuer. If the Issuer, the Guarantor or an agent of either of them shall acquire any of the Securities or Coupons, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities or Coupons unless and until the same are delivered to the Trustee or its agent for cancellation.

Section 2.11. *Temporary Securities.* Pending the preparation of definitive Securities for any series, the Issuer may execute and the Trustee shall authenticate and deliver temporary Securities for such series (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Trustee). Temporary Securities of any series shall be issuable as Registered Securities without Coupons, or as Bearer Securities with or without Coupons attached thereto, of any authorized denomination, and substantially in the form of the definitive Securities of such series but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Issuer with the concurrence of the Trustee as evidenced by the execution and authentication thereof. Temporary Securities may contain such references to any provisions of this Indenture as may be appropriate. Every temporary Security shall be executed by the Issuer and be authenticated by the

Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities. Without unreasonable delay the Issuer shall execute and shall furnish definitive Securities of such series and thereupon temporary Registered Securities of such series may be surrendered in exchange therefor without charge at each office or agency to be maintained by the Issuer for that purpose pursuant to Section 3.02 and, in the case of Bearer Securities, at any agency maintained by the Issuer for such purpose as specified pursuant to Section 2.03, and the Trustee shall authenticate and deliver in exchange for such temporary Securities of such series an equal aggregate principal amount of definitive Securities of the same series having authorized denominations and, in the case of Bearer Securities, having attached thereto any appropriate Coupons. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as definitive Securities of such series, unless otherwise established pursuant to Section 2.03. The provisions of this Section are subject to any restrictions or limitations on the issue and delivery of temporary Bearer Securities of any series that may be established pursuant to Section 2.03 (including any provision that Bearer Securities of such series initially be issued in the form of a single global Bearer Security to be delivered to a depositary or agency located outside the United States and the procedures pursuant to which definitive or global Bearer Securities of such series would be issued in exchange for such temporary global Bearer Security).

## ARTICLE 3
## COVENANTS OF THE ISSUER

Section 3.01. *Payment of Principal and Interest.* The Issuer covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay or cause to be paid the principal of, and interest on, each of the Securities of such series (together with any additional amounts payable pursuant to the terms of such Securities) at the place or places, at the respective times and in the manner provided in such Securities and in the Coupons, if any, appertaining thereto and in this Indenture. The interest on Securities with Coupons attached (together with any additional amounts payable pursuant to the terms of such Securities) shall be payable only upon presentation and surrender of the several Coupons for such interest installments as are evidenced thereby as they severally mature. If any temporary Bearer Security provides that interest thereon may be paid while such Security is in temporary form, the interest on any such temporary Bearer Security (together with any additional amounts payable pursuant to the terms of such Security) shall be paid, as to the installments of interest evidenced by Coupons attached thereto, if any, only upon presentation and surrender thereof, and, as to the other installments of interest, if any, only upon presentation of such Securities for notation thereon of the payment of such interest, in each case subject to any restrictions that may be established pursuant to Section 2.03. The interest on Registered Securities (together with any additional amounts payable

pursuant to the terms of such Securities) shall be payable only to or upon the written order of the Holders thereof and, at the option of the Issuer, may be paid by wire transfer or by mailing checks for such interest payable to or upon the written order of such Holders at their last addresses as they appear on the registry books of the Issuer.

Section 3.02. *Offices for Payments, etc.* So long as any Registered Securities are authorized for issuance pursuant to this Indenture or are outstanding hereunder, the Issuer and the Guarantor will maintain in the Borough of Manhattan, The City of New York or the City of Chicago, an office or agency where the Registered Securities of each series may be presented for payment, where the Securities of each series may be presented for exchange as is provided in this Indenture and, if applicable, pursuant to Section 2.03 and where the Registered Securities of each series may be presented for registration of transfer as in this Indenture provided.

The Issuer will maintain one or more offices or agencies in a city or cities located outside the United States (including any city in which such an agency is required to be maintained under the rules of any stock exchange on which the Securities of such series are listed) where the Bearer Securities, if any, of each series and Coupons, if any, appertaining thereto may be presented for payment. No payment on any Bearer Security or Coupon will be made upon presentation of such Bearer Security or Coupon at an agency of the Issuer or the Guarantor within the United States nor will any payment be made by transfer to an account in, or by mail to an address in, the United States unless pursuant to applicable United States laws and regulations then in effect such payment can be made without adverse tax consequences to the Issuer. Notwithstanding the foregoing, payments in Dollars of Bearer Securities of any series and Coupons appertaining thereto which are payable in Dollars may be made at an agency of the Issuer or the Guarantor maintained in the Borough of Manhattan, The City of New York or the City of Chicago if such payment in Dollars at each agency maintained by the Issuer outside the United States for payment on such Bearer Securities is illegal or effectively precluded by exchange controls or other similar restrictions.

The Issuer and the Guarantor will maintain in the Borough of Manhattan, The City of New York or the City of Chicago, an office or agency where notices and demands to or upon the Issuer or the Guarantor in respect of the Securities of any series, the Coupons appertaining thereto or this Indenture may be served.

The Issuer and the Guarantor will give to the Trustee written notice of the location of each such office or agency and of any change of location thereof. In case the Issuer or the Guarantor shall fail to maintain any agency required by this Section to be located in the Borough of Manhattan, The City of New York or the City of Chicago, or shall fail to give such notice of the location or of any change in the location of any of the above agencies, presentations and demands may be made and notices may be served at the Corporate Trust Office of the Trustee.

The Issuer and the Guarantor may from time to time designate one or more additional offices or agencies where the Securities of a series and any Coupons appertaining thereto may be presented for payment, where the Securities of that series may be presented for exchange as provided in this Indenture and pursuant to Section 2.03 and where the Registered Securities of that series may be presented for registration of transfer as in this Indenture provided, and the Issuer and the Guarantor may from time to time rescind any such designation, as the Issuer and the Guarantor may deem desirable or expedient; provided, however, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain the agencies provided for in this Section. The Issuer and the Guarantor will give to the Trustee prompt written notice of any such designation or rescission thereof.

Section 3.03. *Appointment to Fill a Vacancy in Office of Trustee.* The Issuer or the Guarantor, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 6.10, a Trustee, so that there shall at all times be a Trustee with respect to each series of Securities hereunder.

Section 3.04. *Paying Agents.* Whenever the Issuer shall appoint a paying agent other than the Trustee with respect to the Securities of any series, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section,

(a) that it will hold all sums received by it as such agent for the payment of the principal of or interest on the Securities of such series (whether such sums have been paid to it by the Issuer, the Guarantor or any other obligor on the Securities of such series) in trust for the benefit of the Holders of the Securities of such series, or Coupons appertaining thereto, if any, or of the Trustee,

(b) that it will give the Trustee notice of any failure by the Issuer (or by the Guarantor or any other obligor on the Securities of such series) to make any payment of the principal of or interest on the Securities of such series when the same shall be due and payable, and

(c) that it will pay any such sums so held in trust by it to the Trustee upon the Trustee's written request at any time during the continuance of the failure referred to in Section 3.04(b) above.

The Issuer or the Guarantor will, on or prior to each due date of the principal of or interest on the Securities of such series, deposit with the paying agent a sum sufficient to pay such principal or interest so becoming due, and (unless such paying agent is the Trustee) the Issuer or the Guarantor will promptly notify the Trustee of any failure to take such action. Any payment received by the Trustee or a paying agent after 1:00 p.m. New York time shall be deemed to be received on the next Business Day.

If the Issuer shall act as its own paying agent, or if the Guarantor shall act as paying agent, with respect to the Securities of any series, it will, on or before each due date of the principal of or interest on the Securities of such series, set aside, segregate and hold in trust for the benefit of the Holders of the Securities of such series or the Coupons appertaining thereto a sum sufficient to pay such principal or interest so becoming due. The Issuer or the Guarantor will promptly notify the Trustee of any failure to take such action.

Anything in this Section to the contrary notwithstanding, but subject to Section 10.01, the Issuer or the Guarantor may at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such series by the Issuer, the Guarantor or any paying agent hereunder, as required by this Section, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section is subject to the provisions of Section 10.03 and 10.04.

Section 3.05. *Written Statement to Trustee.* Each of the Issuer and the Guarantor will furnish to the Trustee on or before March 31 in each year (beginning with March 31, 2004) a brief certificate (which need not comply with Section 11.05) from the principal executive, financial or accounting officer of the Issuer or the Guarantor, as the case may be, stating that in the course of the performance by the signer of his duties as an officer of the Issuer or the Guarantor, as the case may be, he would normally have knowledge of any default or non-compliance by the Issuer or the Guarantor, as the case may be, in the performance of any covenants or conditions contained in this Indenture, stating whether or not he has knowledge of any such default or non-compliance and, if so, specifying each such default or non-compliance of which the signer has knowledge and the nature thereof.

Section 3.06. *Luxembourg Publications.* In the event of the publication of any notice pursuant to Section 5.11, 6.10(a), 6.11, 8.02, 10.04, 12.02 and 12.05, the party making such publication in the Borough of Manhattan, The City of New York and London shall also, to the extent that notice is required to be given to Holders of Securities of any series by applicable Luxembourg law or stock exchange regulation, as evidenced by an Officer's Certificate delivered to such party, make a similar publication in Luxembourg.

ARTICLE 4

SECURITYHOLDERS LISTS AND REPORTS BY THE ISSUER, GUARANTOR AND THE TRUSTEE

Section 4.01. *Issuer and Guarantor to Furnish Trustee Information as to Names and Addresses of Securityholders.* Each of the Issuer and Guarantor covenants and agrees that it will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses of the Holders of the Registered Securities of such series pursuant to Section 312 of the Trust Indenture Act of 1939:

(a) not more than 15 days after each record date for the payment of interest on such Registered Securities, as herein above specified, as of such record date and on dates to be determined pursuant to Section 2.03 for non-interest bearing Registered Securities in each year, and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Issuer of any such request as of a date not more than 15 days prior to the time such information is furnished, provided that if and so long as the Trustee shall be the Security registrar for such series and all of the Securities of any series are Registered Securities, such list shall not be required to be furnished.

Section 4.02. *Preservation and Disclosure of Securityholders Lists.*

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of each series of Securities contained in the most recent list furnished to it as provided in Section 4.01. The Trustee may destroy any list furnished to it as provided in Section 4.01 upon receipt of a new list so furnished.

(b) The rights of Holders to communicate with other Holders with respect to the Indenture or the Securities are as provided by the Trust Indenture Act of 1939.

(c) None of the Issuer, the Guarantor or the Trustee will be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act of 1939.

Section 4.03. *Reports by the Issuer and the Guarantor.* Each of the Issuer and the Guarantor covenants to file with the Trustee, within 15 days after the Issuer or the Guarantor, as the case may be, is required to file the same with the Commission, copies of the annual reports and of the information, documents, and other reports that the Issuer may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 or pursuant to Section 314 of the Trust Indenture Act of 1939.

Section 4.04. *Reports by the Trustee.* Any Trustee's report required under Section 313(a) of the Trust Indenture Act of 1939 shall be transmitted on or before January 15 in each year beginning January 15, 2000, as provided in Section 313(c) of the Trust Indenture Act of 1939, so long as any Securities are Outstanding hereunder, and shall be dated as of a date convenient to the Trustee no more than 60 days prior thereto.

## ARTICLE 5
## REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

Section 5.01. *Event of Default Defined; Acceleration of Maturity; Waiver of Default.* **"Event of Default"** with respect to Securities of any series wherever used herein, means each one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default for more than 30 days in the payment of interest, premium or principal in respect of the Securities; or

(b) the failure to perform or observe any other obligations under the Securities which failure continues for the period of 60 days next following service on the Issuer and the Guarantor of notice requiring the same to be remedied; or

(c) the entry by a court having competent jurisdiction of:

(i) a decree or order for relief in respect of the Issuer or the Guarantor in an involuntary proceeding under any applicable bankruptcy, insolvency, reorganization law (including Chapter X of the Act of the Supervision of the Credit System (Wet toezicht kredietwezen 1992) of the Netherlands) (other than a reorganization under a foreign law that does not relate to insolvency) or other similar law and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(ii) decree or order adjudging the Issuer or the Guarantor to be insolvent, or approving a petition seeking reorganization (other than a reorganization under a foreign law that does not relate to insolvency), arrangement, adjustment or composition of the Issuer or the Guarantor and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(iii) a final and non-appealable order appointing a custodian, receiver, liquidator, assignee, trustee or other similar official of the Issuer or the Guarantor of any substantial part of the property of the Issuer or the Guarantor or ordering the winding up or liquidation of the affairs of the Issuer or the Guarantor; or

(d) the commencement by the Issuer or the Guarantor of a voluntary proceeding under any applicable bankruptcy, insolvency, reorganization (other than a reorganization under a foreign law that does not relate to insolvency) or other similar law or of a voluntary proceeding seeking to be adjudicated insolvent or the consent by the Issuer or the Guarantor to the entry of a decree or order for relief in an involuntary proceeding under any applicable bankruptcy, insolvency, reorganization or other similar law or to the commencement of any insolvency proceedings against it, or the filing by the Issuer or the Guarantor of a petition or answer or consent seeking reorganization, arrangement, adjustment or composition of the Issuer or relief under any applicable law, or the consent by the Issuer or the Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or similar official of the Issuer or the Guarantor or any substantial part of the property of the Issuer or the Guarantor or the making by the Issuer or the Guarantor of an assignment for the benefit of creditors, or the taking of corporate action, including the passing of an effective resolution, by the Issuer or the Guarantor in furtherance of any such action; or

(e) any other Event of Default provided in the supplemental indenture or Issuer Order under which such series of Securities is issued.

Unless otherwise set forth in any applicable supplemental indenture, if an Event of Default described in clauses (a), (b) or (e) above (if the Event of Default under clauses (b) or (e) is with respect to less than all series of Securities then Outstanding) occurs and is continuing, then, and in each and every such case, except for any series the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of all series affected thereby then Outstanding hereunder (treated as one class), by notice in writing to the Issuer and the Guarantor (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of any such affected series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such affected series and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. Unless otherwise set forth in any applicable supplemental indenture, if an Event of Default described in clauses (b) or (e) (if the Event of Default under clauses (b) or (e) is with respect to all series of Securities at the time Outstanding) occurs and is continuing, then and in each and every such case, unless the principal of all the Securities shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of all the then Outstanding Securities hereunder (treated as one class) for which any applicable supplemental indenture does not prevent acceleration under the relevant

circumstances, by notice in writing to the Issuer and the Guarantor (and to the Trustee if given by Securityholders), may declare the entire principal (or, if any Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of all the Securities then Outstanding and interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. Unless otherwise set forth in any applicable supplemental indenture, if an Event of Default described in clauses (c) or (d), then the principal and accrued and unpaid interest, and premium of any, with respect to any Securities then Outstanding shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

The foregoing provisions, however, are subject to the condition that if, at any time after the principal (or, if the Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of the Securities of any series (or of all the Securities, as the case may be) shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Issuer or the Guarantor shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of such series (or of all the Securities, as the case may be) and the principal of any and all Securities of each such series (or of all the Securities, as the case may be) which shall have become due otherwise than by acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of each such series (or at the respective rates of interest or Yields to Maturity of all the Securities, as the case may be) to the date of such payment or deposit) and such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of negligence or bad faith, and if any and all Events of Default under the Indenture, other than the non-payment of the principal of Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein, then and in every such case the Holders of a majority in aggregate principal amount of all the Securities of each such series (or of all the Securities, as the case may be) then Outstanding (in each case treated as one class), by written notice to the Issuer, the Guarantor and the Trustee, may waive all defaults with respect to each such series (or with respect to all the Securities, as the case may be) and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due

and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

Section 5.02. *Collection of Indebtedness by Trustee; Trustee May Prove Debt.* Each of the Issuer and the Guarantor covenants that (a) in case default shall be made in the payment of any installment of interest on any of the Securities of any series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any series when the same shall have become due and payable, and such default shall have continued for a period of 30 days, whether upon maturity of the Securities of such series or upon any redemption or by declaration or otherwise — then upon demand of the Trustee, the Issuer or the Guarantor, as the case may be, will pay to the Trustee for the benefit of the Holders of the Securities of such series the whole amount that then shall have become due and payable on all Securities of such series, and such Coupons, for principal or interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee and each predecessor Trustee, their respective agents, attorneys and counsel, and any expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of its negligence or bad faith.

Until such demand is made by the Trustee, the Issuer may pay the principal of and interest on the Securities of any series to the registered holders, whether or not the Securities of such series be overdue.

In case the Issuer or the Guarantor shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Issuer or the Guarantor or other obligor upon the Securities and collect in the manner provided by law out of the property of the Issuer or the Guarantor or other obligor upon the Securities, wherever situated, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Issuer or the Guarantor or any other obligor upon the Securities under Title 11 of the United States Code or any other applicable Federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or the Guarantor or such other obligor or the property of any of them, or in case of any other comparable judicial proceedings relative to the Issuer or the Guarantor or other obligor upon the Securities, or to the creditors or property of the Issuer or the Guarantor or such other obligor, the Trustee, irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(i) to file and prove a claim or claims for the whole amount of principal and interest (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) owing and unpaid in respect of the Securities of any series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or bad faith) and of the Securityholders allowed in any judicial proceedings relative to the Issuer, the Guarantor or other obligor upon the Securities, or to the creditors or property of the Issuer, the Guarantor or such other obligor;

(ii) unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Securities of any series in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or Person performing similar functions in comparable proceedings; and

(iii) to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Securityholders and of the Trustee on their behalf; and any trustee, receiver, or liquidator, custodian or other similar official is hereby authorized by each of the Securityholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Securityholders, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar Person.

All rights of action and of asserting claims under this Indenture, or under any of the Securities of any series or Coupons appertaining to such Securities, may be enforced by the Trustee without the possession of any of the Securities of such series or Coupons appertaining to such Securities or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Trustee, each predecessor Trustee and their respective agents and attorneys, shall be for the ratable benefit of the Holders of the Securities or Coupons appertaining to such Securities in respect of which such action was taken.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Securities or Coupons appertaining to such Securities in respect to which such action was taken, and it shall not be necessary to make any Holders of such Securities or Coupons appertaining to such Securities parties to any such proceedings.

Section 5.03. *Application of Proceeds.* Any monies collected by the Trustee pursuant to this Article in respect of any series shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such monies on account of principal or interest, upon presentation of the several Securities and Coupons appertaining to such Securities in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Securities of such series in reduced principal amounts in exchange for the presented Securities of like series if only partially paid, or upon surrender thereof if fully paid:

First: To the payment of costs and expenses applicable to such series in respect of which monies have been collected, including reasonable compensation to the Trustee and each predecessor Trustee and their respective agents and attorneys and of all expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith;

Second: In case the principal of the Securities of such series in respect of which monies have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such series in default in the order of the maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in such Securities, such payments to be made ratably to the Persons entitled thereto, without discrimination or preference;

Third: In case the principal of the Securities of such series in respect of which monies have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such series for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series; and in case such monies shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such series, then to the payment of such principal and interest or Yield to Maturity, without preference or priority of principal over interest or Yield to Maturity, or of interest or Yield to Maturity over principal, or of any installment of interest over any other installment of interest, or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and accrued and unpaid interest or Yield to Maturity; and

Fourth: To the payment of the remainder, if any, to the Issuer, the Guarantor or any other Person lawfully entitled thereto.

Section 5.04. *Suits for Enforcement.* In case an Event of Default has occurred, has not been waived and is continuing, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 5.05. *Restoration of Rights on Abandonment of Proceedings.* In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Issuer, the Guarantor, the Trustee and the Securityholders shall continue as though no such proceedings had been taken.

Section 5.06. *Limitations on Suits by Securityholders.* No Holder of any Security of any series or of any Coupon appertaining thereto shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder, unless such Holder previously shall have given to the Trustee written notice of default and of the continuance thereof, as hereinbefore provided, and unless also the Holders of not less than 25% in aggregate principal amount of the Securities of each affected series then Outstanding (treated as a single class) shall have made written request upon the Trustee to institute such action or proceedings in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.09; it being understood and intended, and being expressly covenanted by the taker and Holder of every Security or Coupon with every other taker and Holder and the Trustee, that no one or more Holders of Securities of any series or Coupons appertaining to such Securities shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other such Holder of Securities or Coupons appertaining to such Securities, or to obtain or seek to obtain priority over or preference to any other such Holder or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders of Securities of the applicable series and Coupons appertaining to such Securities. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 5.07. *Unconditional Right of Securityholders to Institute Certain Suits.* Notwithstanding any other provision in this Indenture and any provision of any Security, the right of any Holder of any Security or Coupon to receive

payment of the principal of and interest on such Security or Coupon on or after the respective due dates expressed in such Security or Coupon, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 5.08. *Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default.* Except as provided in Section 5.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities or Coupons is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder of Securities or Coupons to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and, subject to Section 5.06, every power and remedy given by this Indenture or by law to the Trustee or to the Holders of Securities or Coupons may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders of Securities or Coupons.

Section 5.09. *Control by Holders of Securities.* The Holders of a majority in aggregate principal amount of the Securities of each series affected (with all such series voting as a single class) at the time Outstanding shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the Securities of such series by this Indenture; provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture and provided further that (subject to the provisions of Section 6.01) the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith by its Board, the executive committee, or a trust committee of directors or Responsible Officers of the Trustee shall determine that the action or proceedings so directed would involve the Trustee in personal liability or if the Trustee in good faith shall so determine that the actions or forebearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of the Securities of all series so affected not joining in the giving of said direction, it being understood that (subject to Section 6.01) the Trustee shall have no duty to ascertain whether or not such actions or forebearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Securityholders.

Section 5.10. *Waiver of Past Defaults.* Prior to the acceleration of the maturity of any Securities as provided in Section 5.01, the Holders of a majority in aggregate principal amount of the Securities of all series at the time Outstanding with respect to which an Event of Default shall have occurred and be continuing (voting as a single class) may on behalf of the Holders of all such Securities waive any past default or Event of Default described in Section 5.01 and its consequences, except a default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of the Holder of each Security affected. In the case of any such waiver, the Issuer, the Guarantor, the Trustee and the Holders of all such Securities shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Upon any such waiver, such default shall cease to exist and be deemed to have been cured and not to have occurred, and any Event of Default arising therefrom shall be deemed to have been cured, and not to have occurred for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 5.11. *Trustee to Give Notice of Default; But May Withhold in Certain Circumstances.*The Trustee shall, within ninety days after the occurrence of a default with respect to the Securities of any series, give notice of all defaults with respect to that series known to the Trustee (i) if any Bearer Securities of a series affected are then Outstanding, to the Holders thereof, (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York, and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), and (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books, unless in each case such defaults shall have been cured before the mailing or publication of such notice (the term "defaults" for the purpose of this Section being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); provided that, except in the case of default in the payment of the principal of or interest on any of the Securities of such series, or in the payment of any sinking fund installment on such series, the Trustee shall be

protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors or trustees and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders of such series.

Section 5.12. *Right of Court to Require Filing of Undertaking to Pay Costs.*All parties to this Indenture agree, and each Holder of any Security or Coupon by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder or group of Securityholders of any series holding in the aggregate more than 10% in aggregate principal amount of the Securities of such series, or, in the case of any suit relating to or arising under clause 5.01(b) or 5.01(e) (if the suit relates to Securities of more than one but less than all series), 10% in aggregate principal amount of Securities then Outstanding and affected thereby, or in the case of any suit relating to or arising under clause 5.01(b) or 5.01(e) (if the suit under clause 5.01(b) or 5.01(e) relates to all the Securities then Outstanding), 5.01(c) or 5.01(d), 10% in aggregate principal amount of all Securities then Outstanding, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in such Security or any date fixed for redemption.

## ARTICLE 6
## CONCERNING THE TRUSTEE

Section 6.01. *Duties and Responsibilities of the Trustee; During Default; Prior to Default.*With respect to the Holders of any series of Securities issued hereunder, the Trustee, prior to the occurrence of an Event of Default with respect to the Securities of a particular series and after the curing or waiving of all Events of Default which may have occurred with respect to such series, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default with respect to the Securities of a series has occurred (which has not been cured or waived) the Trustee shall exercise with respect to such series of Securities such of the rights and powers vested in it by this Indenture, 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.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

(a) prior to the occurrence of an Event of Default with respect to the Securities of any series and after the curing or waiving of all such Events of Default with respect to such series which may have occurred:

(i) the duties and obligations of the Trustee with respect to the Securities of any series shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the 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 pursuant to Section 5.09 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the 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 there shall be reasonable ground for believing that the repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.

The provisions of this Section 6.01 are in furtherance of and subject to Section 315 of the Trust Indenture Act of 1939.

Section 6.02. *Certain Rights of the Trustee.* In furtherance of and subject to the Trust Indenture Act of 1939, and subject to Section 6.01:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate, Guarantor's Officers' Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Issuer or the Guarantor mentioned herein shall be sufficiently evidenced by an Officer's Certificate or a Guarantor's Officers' Certificate, as the case may be (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board or of the Guarantor's Board of Directors may be evidenced to the Trustee by a copy thereof certified by the secretary or an assistant secretary of the Issuer or Guarantor, as the case may be;

(c) the Trustee may consult with counsel (at the Issuer's expense) and any written advice or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby;

(e) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;

(f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the 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, consent, order, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested in writing so to do by the Holders of not less than a majority in aggregate principal amount of the Securities of all series affected then Outstanding; provided that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee

may require reasonable indemnity against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Issuer or the Guarantor or, if paid by the Trustee or any predecessor Trustee, shall be repaid by the Issuer or the Guarantor upon demand; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder.

Section 6.03. *Trustee Not Responsible for Recitals, Disposition of Securities or Application of Proceeds Thereof.* The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer or the Guarantor, as the case may be, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities or Coupons. The Trustee shall not be accountable for the use or application by the Issuer of any of the Securities or of the proceeds thereof.

Section 6.04. *Trustee and Agents May Hold Securities or Coupons; Collections, Etc.* The Trustee or any agent of the Issuer, the Guarantor or the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities or Coupons with the same rights it would have if it were not the Trustee or such agent and may otherwise deal with the Issuer or the Guarantor and receive, collect, hold and retain collections from the Issuer or the Guarantor with the same rights it would have if it were not the Trustee or such agent.

Section 6.05. *Monies Held by Trustee.* Subject to the provisions of Section 10.04 hereof, all monies received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. Neither the Trustee nor any agent of the Issuer or the Trustee shall be under any liability for interest on any monies received by it hereunder.

Section 6.06. *Compensation and Indemnification of Trustee and Its Prior Claim.* Each of the Issuer and the Guarantor covenants and agrees to pay (without duplication) to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and each of the Issuer and the Guarantor covenants and agrees to pay or reimburse the Trustee and each predecessor Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the reasonable compensation and the

expenses and disbursements of its counsel and of all agents and other Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Issuer and the Guarantor each also covenants to indemnify the Trustee and each predecessor Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder and its duties hereunder, including the costs and expenses of defending itself against or investigating any claim of liability in the premises. The obligations of the Issuer and the Guarantor under this Section to compensate and indemnify the Trustee and each predecessor Trustee and to pay or reimburse the Trustee and each predecessor Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities or Coupons, and the Securities are hereby subordinated to such senior claim.

Section 6.07. *Right of Trustee to Rely on Officer's Certificate, Etc.* Subject to Section 6.01 and 6.02, whenever in the administration of the trusts of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 6.08. *Intentionally Left Blank.*

Section 6.09. *Persons Eligible for Appointment as Trustee.* The Trustee for each series of Securities hereunder shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State or the District of Columbia having a combined capital and surplus of at least $5,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by Federal, State or District of Columbia authority. Such corporation shall have its principal place of business in the Borough of Manhattan, The City of New York or the City of Chicago if there be such a corporation in such location willing to act upon reasonable and customary terms and conditions. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, 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. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.10.

The provisions of this Section 6.09 are in furtherance of and subject to Section 310(a) of the Trust Indenture Act of 1939.

Section 6.10. *Resignation and Removal; Appointment of Successor Trustee.*

(a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all series of Securities by giving written notice of resignation to the Issuer and the Guarantor and (i) if any Bearer Securities of a series affected are then Outstanding, by giving notice of such resignation to the Holders thereof (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York, and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), and (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice of such resignation to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. Upon receiving such notice of resignation, the Issuer or the Guarantor shall promptly appoint a successor trustee or trustees with respect to the applicable series by written instrument in duplicate, executed pursuant to a Board Resolution, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to any series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Securityholder who has been a bona fide Holder of a Security or Securities of the applicable series for at least six months may, subject to the provisions of Section 5.12, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 310(b) of the Trust Indenture Act of 1939 with respect to any series of Securities after written request therefor by the Issuer, the Guarantor or by any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.09 and Section 310(a) of the Trust Indenture Act of 1939 and shall fail to resign after written request therefor by the Issuer, the Guarantor or by any Securityholder; or

(iii) the Trustee shall become incapable of acting with respect to any series of Securities, or shall be adjudged a bankrupt or insolvent, or a receiver or liquidator of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Issuer or the Guarantor may remove the Trustee with respect to the applicable series of Securities and appoint a successor trustee for such series by written instrument, in duplicate, executed pursuant to a Board Resolution, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 315(e) of the Trust Indenture Act of 1939, any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such series. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities of each series at the time outstanding may at any time remove the Trustee with respect to Securities of such series and appoint a successor trustee with respect to the Securities of such series by delivering to the Trustee so removed, to the successor trustee so appointed and to the Issuer the evidence provided for in Section 7.01 of the action in that regard taken by the Securityholders.

(d) Any resignation or removal of the Trustee with respect to any series and any appointment of a successor trustee with respect to such series pursuant to any of the provisions of this Section 6.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.11.

Section 6.11. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 6.10 shall execute and deliver to the Issuer, the Guarantor and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all or any applicable series shall become

effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all rights, powers, duties and obligations with respect to such series of its predecessor hereunder, with like effect as if originally named as trustee for such series hereunder; but, nevertheless, on the written request of the Issuer, the Guarantor or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall, subject to Section 10.04, pay over to the successor trustee all monies at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. Upon request of any such successor trustee, the Issuer or the Guarantor shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a prior claim upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 6.06.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) series, the Issuer, the Guarantor, the predecessor Trustee and each successor trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Securities of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any series of Securities shall accept appointment as provided in this Section 6.11 unless at the time of such acceptance such successor trustee shall be qualified under Section 310(b) of the Trust Indenture Act of 1939 and eligible under the provisions of Section 6.09.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.11, the Issuer or the Guarantor shall give notice thereof (i) if any Bearer Securities of a series affected are then Outstanding, to the Holders thereof, (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), and (ii) if any Registered Securities of a series

affected are then Outstanding, by mailing notice to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. If the acceptance of appointment is substantially contemporaneous with the resignation, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.10. If the Issuer or the Guarantor fails to give such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Issuer or the Guarantor.

Section 6.12. *Merger, Conversion, Consolidation or Succession to Business of Trustee.* Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under Section 310(b) of the Trust Indenture Act of 1939 and eligible under the provisions of Section 6.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Securities of any series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee and deliver such Securities so authenticated; and, in case at that time any of the Securities of any series shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificate shall have the full force which it is anywhere in the Securities of such series or in this Indenture provided that the certificate of the Trustee shall have; provided, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities of any series in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 6.13. *Appointment of Authenticating Agent.* As long as any Securities of a series remain Outstanding, the Trustee may, by an instrument in writing, appoint with the approval of the Issuer and the Guarantor an authenticating agent (the "**Authenticating Agent**") which shall be authorized to act on behalf of the Trustee to authenticate Securities, including Securities issued upon exchange, registration of transfer, partial redemption or pursuant to Section 2.09. Securities of each such series authenticated by such Authenticating Agent shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee. Whenever reference is made in this Indenture to the authentication and delivery of Securities of any series by the Trustee or to the Trustee's Certificate of Authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an

Authenticating Agent for such series and a Certificate of Authentication executed on behalf of the Trustee by such Authenticating Agent. Such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least $5,000,000 (determined as provided in Section 6.09 with respect to the Trustee) and subject to supervision or examination by Federal or State authority.

Any corporation into which any Authenticating Agent may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency business of any Authenticating Agent, shall continue to be the Authenticating Agent with respect to all series of Securities for which it served as Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent. Any Authenticating Agent may at any time, and if it shall cease to be eligible shall, resign by giving written notice of resignation to the Trustee, the Issuer and the Guarantor.

Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.13 with respect to one or more series of Securities, the Trustee shall upon receipt of an Issuer Order or a Guarantor Order appoint a successor Authenticating Agent and the Issuer or the Guarantor shall provide notice of such appointment to all Holders of Securities of such series in the manner and to the extent provided in Section 11.04. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent. The Issuer and the Guarantor (without duplication) each agrees to pay to the Authenticating Agent for such series from time to time reasonable compensation. The Authenticating Agent for the Securities of any series shall have no responsibility or liability for any action taken by it as such at the direction of the Trustee.

Section 6.02, 6.03, 6.04, 6.06, 6.09 and 7.03 shall be applicable to any Authenticating Agent.

## ARTICLE 7
## CONCERNING THE SECURITYHOLDERS

Section 7.01. *Evidence of Action Taken by Securityholders.* Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Securityholders of any or all series may be embodied in and

evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Securityholders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Sections 6.01 and 6.02) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article.

Section 7.02. *Proof of Execution of Instruments and of Holding of Securities.* Subject to Sections 6.01 and 6.02, the execution of any instrument by a Securityholder or his agent or proxy may be proved in the following manner:

(a) The fact and date of the execution by any Holder of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction authorized to take acknowledgments of deeds or administer oaths that the person executing such instruments acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute sufficient proof of the authority of the person executing the same. The fact of the holding by any Holder of an Bearer Security of any series, and the identifying number of such Security and the date of his holding the same, may be proved by the production of such Security or by a certificate executed by any trust company, bank, banker or recognized securities dealer wherever situated satisfactory to the Trustee, if such certificate shall be deemed by the Trustee to be satisfactory. Each such certificate shall be dated and shall state that on the date thereof a Security of such series bearing a specified identifying number was deposited with or exhibited to such trust company, bank, banker or recognized securities dealer by the Person named in such certificate.

Any such certificate may be issued in respect of one or more Bearer Securities of one or more series specified therein. The holding by the Person named in any such certificate of any Bearer Securities of any series specified therein shall be presumed to continue for a period of one year from the date of such certificate unless at the time of any determination of such holding (1) another certificate bearing a later date issued in respect of the same Securities shall be produced, or (2) the Security of such series specified in such certificate shall be produced by some other Person, or (3) the Security of such series specified in such certificate shall have ceased to be Outstanding. Subject to Sections 6.01 and 6.02, the fact and date of the execution of any such instrument and the amount and numbers of Securities of any series held by the Person so executing such instrument and the amount and numbers of any Security or Securities for such series may also be proven in accordance with such reasonable rules and regulations as may be prescribed by the Trustee for such series or in any other manner which the Trustee for such series may deem sufficient.

(b) In the case of Registered Securities, the ownership of such Securities shall be proved by the Security register or by a certificate of the Security registrar.

The Issuer may set a record date for purposes of determining the identity of Holders of Registered Securities of any series entitled to vote or consent to any action referred to in Section 7.01, which record date may be set at any time or from time to time by notice to the Trustee, for any date or dates (in the case of any adjournment or reconsideration) not more than 60 days nor less than five days prior to the proposed date of such vote or consent, and thereafter, notwithstanding any other provisions hereof, with respect to Registered Securities of any series, only Holders of Registered Securities of such series of record on such record date shall be entitled to so vote or give such consent or revoke such vote or consent.

Section 7.03. *Holders to Be Treated as Owners.* The Issuer, the Guarantor, the Trustee and any agent of the Issuer, the Guarantor or the Trustee may deem and treat the Person in whose name any Security shall be registered upon the Security register for such series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of this Indenture, interest on such Security and for all other purposes; and none of the Issuer, the Guarantor, the Trustee or any agent of the Issuer, the Guarantor or the Trustee shall be affected by any notice to the contrary. The Issuer, the Guarantor, the Trustee and any agent of the Issuer, the Guarantor or the Trustee may treat the Holder of any Bearer Security and the Holder of any Coupon as the absolute owner of such Bearer Security or Coupon (whether or not such Bearer Security or Coupon shall be overdue) for the purpose of receiving payment thereof or on account thereof and for all other purposes and none of the Issuer, the Guarantor, the Trustee, nor any agent of the Issuer, the Guarantor or the Trustee shall be affected by any notice to the contrary. All such payments so made to any such Person, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for monies payable upon any such Bearer Security or Coupon.

Section 7.04. *Securities Owned by Issuer Deemed Not Outstanding.* In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all series have concurred in any direction, consent or waiver under this Indenture, Securities which are owned by the Issuer, the Guarantor or any other obligor on the Securities with respect to which such determination is being made or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, the Guarantor or any other obligor on the Securities with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver only Securities which the Trustee knows are so

owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer, the Guarantor or any other obligor upon the Securities or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, the Guarantor or any other obligor on the Securities. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Issuer shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Issuer to be owned or held by or for the account of any of the above-described Persons; and, subject to Sections 6.01 and 6.02, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

Section 7.05. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.01, of the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action, any Holder of a Security the serial number of which is shown by the evidence to be included among the serial numbers of the Securities the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Guarantor, the Trustee and the Holders of all the Securities affected by such action.

## ARTICLE 8
## SUPPLEMENTAL INDENTURES

Section 8.01. *Supplemental Indentures Without Consent of Securityholders.* The Issuer, when authorized by a Board Resolution (which resolutions may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) and the Guarantor, when authorized by a

resolution of the Guarantor's Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Securities of one or more series any property or assets;

(b) to evidence the succession of another corporation to the Issuer or the Guarantor, as the case may be, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Issuer or the Guarantor, as the case may be, pursuant to Article 9;

(c) to add to the covenants of the Issuer or the Guarantor, as the case may be, such further covenants, restrictions, conditions or provisions as the Issuer or the Guarantor, as the case may be, and the Trustee shall consider to be for the protection of the Holders of Securities or Coupons, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default;

(d) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make any other provisions as the Issuer or the Guarantor may deem necessary or desirable, provided that no such action shall adversely affect the interests of the Holders of the Securities or Coupons;

(e) to establish the forms or terms of Securities of any series or of the Coupons appertaining to such Securities as permitted by Section 2.01 and Section 2.03;

(f) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Section 6.11; and

(g) to evidence the assumption by the Guarantor of all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series and the release of the Issuer from its liabilities hereunder and under such Securities as obligor on the Securities of such series, all as provided in Section 13.07 hereof.

The Trustee is hereby authorized to join with the Issuer and the Guarantor in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 8.02.

Section 8.02. *Supplemental Indentures with Consent of Securityholders*. With the consent (evidenced as provided in Article 7) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding of all series affected by such supplemental indenture (voting as one class), the Issuer, when authorized by a Board Resolution, and of the Guarantor, when authorized by a Board Resolution of the Guarantor (which resolutions may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order or a Guarantor Order, as the case may be), and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series or of the Coupons appertaining to such Securities; provided, that no such supplemental indenture shall (a) (i) extend the final maturity of any Security, (ii) reduce the principal amount thereof, (iii) reduce the rate or extend the time of payment of interest thereon, (iv) reduce any amount payable on redemption thereof, (v) make the principal thereof (including any amount in respect of original issue discount), or interest thereon payable in any coin or currency other than that provided in the Securities and Coupons or in accordance with the terms thereof, (vi) modify or amend any provisions for converting any currency into any other currency as provided in the Securities or Coupons or in accordance with the terms thereof, (vii) reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon an acceleration of the maturity thereof pursuant to Section 5.01 or the amount thereof provable in bankruptcy pursuant to Section 5.02, (viii) modify or amend any provisions relating to the conversion or exchange of the Securities or Coupons for securities of the Issuer or the Guarantor or of other entities or other

property (or the cash value thereof), including the determination of the amount of securities or other property (or cash) into which the Securities shall be converted or exchanged, other than as provided in the antidilution provisions or other similar adjustment provisions of the Securities or Coupons or otherwise in accordance with the terms thereof, (ix) alter the provisions of Section 11.11 or Section 11.13 or impair or affect the right of any Securityholder to institute suit for the payment thereof or, if the Securities provide therefor, any right of repayment at the option of the Securityholder, in each case without the consent of the Holder of each Security so affected, or (b) reduce the aforesaid percentage of Securities of any series, the consent of the Holders of which is required for any such supplemental indenture, without the consent of the Holders of each Security so affected.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of Holders of Securities of such series, or of Coupons appertaining to such Securities, with respect to such covenant or provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series or of the Coupons appertaining to such Securities.

Upon the request of the Issuer, accompanied by a copy of a Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) certified by the secretary or an assistant secretary of the Issuer authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders of the Securities as aforesaid and other documents, if any required by Section 7.01, the Trustee shall join with the Issuer and the Guarantor in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Issuer, the Guarantor and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Trustee shall give notice thereof (i) if any Bearer Securities of a series affected are then Outstanding, to the Holders thereof, (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an

Authorized Newspaper in the Borough of Manhattan, The City of New York, and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice thereof by first class mail to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books, and in each case such notice shall set forth in general terms the substance of such supplemental indenture. Any failure of the Trustee to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 8.03. *Effect of Supplemental Indenture.* Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Issuer, the Guarantor and the Holders of Securities of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 8.04. *Documents to Be Given to Trustee.* The Trustee, subject to the provisions of Sections 6.01 and 6.02, may receive an Officer's Certificate, a Guarantor's Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article 8 complies with the applicable provisions of this Indenture.

Section 8.05. *Notation on Securities in Respect of Supplemental Indentures.* Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee for such series as to any matter provided for by such supplemental indenture or as to any action taken by Securityholders. If the Issuer or the Trustee shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Board, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for the Securities of such series then Outstanding.

## ARTICLE 9
## CONSOLIDATION, MERGER, SALE OR CONVEYANCE

Section 9.01. *Covenant of the Issuer Not to Merge, Consolidate, Sell or Convey Property Except Under Certain Conditions.* The Issuer covenants that it will not merge or consolidate with any other Person or sell, lease or convey all or

substantially all of its assets to any other Person, unless (i) either (A) the Issuer shall be the continuing legal entity, or (B) the successor legal entity or the Person which acquires by sale, lease or conveyance substantially all the assets of the Issuer (if other than the Issuer) shall expressly assume the due and punctual payment of the principal of and interest on all the Securities and Coupons, if any, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Issuer, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such legal entity, and (ii) the Issuer, such Person or such successor legal entity, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.

Section 9.02. *Successor Entities Substituted for the Issuer*. In case of any such consolidation, merger, sale, lease or conveyance, and following such an assumption by the successor entity, such successor entity shall succeed to and be substituted for the Issuer, with the same effect as if it had been named herein. Such successor entity may cause to be signed, and may issue either in its own name or in the name of the Issuer prior to such succession any or all of the Securities issuable hereunder which together with any Coupons appertaining thereto theretofore shall not have been signed by the Issuer and delivered to the Trustee; and, upon the order of such successor entity, instead of the Issuer, and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Securities together with any Coupons appertaining thereto which previously shall have been signed and delivered by the officers of the Issuer to the Trustee for authentication, and any Securities which such successor entity thereafter shall cause to be signed and delivered to the Trustee for that purpose. All of the Securities so issued together with any Coupons appertaining thereto shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Securities had been issued at the date of the execution hereof.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phrasing and form (but not in substance) may be made in the Securities and Coupons thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) the Issuer or any successor entity which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

Section 9.03. *Covenant of the Guarantor Not to Merge, Consolidate, Sell or Convey Property Except Under Certain Conditions.*The Guarantor covenants that it will not merge or consolidate with any other Person or sell, lease or convey

all or substantially all of its assets to any other Person, unless (i) either (A) the Guarantor shall be the continuing legal entity, or (B) the successor legal entity or the Person which acquires by sale, lease or conveyance substantially all the assets of the Guarantor (if other than the Guarantor) shall expressly assume the due and punctual payment of the principal of and interest on all the Securities and Coupons, if any, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Guarantor, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such legal entity, and (ii) the Guarantor, such Person or such successor legal entity, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.

Section 9.04. *Successor Corporation Substituted for the Guarantor.* In case of any such consolidation, merger, sale, lease or conveyance, and following such an assumption by the successor entity, such successor entity shall succeed to and be substituted for the Guarantor, with the same effect as if it had been named herein.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phrasing and form (but not in substance) may be made in the Securities and Coupons thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) the Guarantor or any successor entity which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

Section 9.05. *Opinion of Counsel Delivered to Trustee.* The Trustee, subject to the provisions of Section 6.01 and 6.02, may receive an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, lease or conveyance, and any such assumption, and any such liquidation or dissolution, complies with the applicable provisions of this Indenture.

## ARTICLE 10
## SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONIES

Section 10.01. *Satisfaction and Discharge of Indenture.*

(a) If at any time (i) the Issuer or the Guarantor shall have paid or caused to be paid the principal of and interest on all the Securities of any series Outstanding hereunder and all unmatured Coupons appertaining thereto (other than Securities of such series and Coupons appertaining thereto which have been destroyed, lost or stolen and which have been replaced or paid as provided in

Section 2.09) as and when the same shall have become due and payable, or (ii) the Issuer shall have delivered to the Trustee for cancellation all Securities of any series theretofore authenticated and all unmatured Coupons appertaining thereto (other than any Securities of such series and Coupons appertaining thereto which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.09) or (iii) in the case of any series of Securities where the exact amount (including the currency of payment) of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (B) below, (A) all the Securities of such series and all unmatured Coupons appertaining thereto not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer or the Guarantor shall have irrevocably deposited or caused to be deposited with the Trustee as trust funds the entire amount in cash (other than monies repaid by the Trustee or any paying agent to the Issuer in accordance with Section 10.04) or, in the case of any series of Securities the payments on which may only be made in Dollars, direct obligations of the United States of America, backed by its full faith and credit ("**U.S. Government Obligations**"), maturing as to principal and interest at such times and in such amounts as will insure the availability of cash, or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and Coupons appertaining thereto on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series; and if, in any such case, the Issuer or the Guarantor shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Securities of such Series and of Coupons appertaining thereto and the Issuer's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities or Coupons, (iii) rights of holders of Securities and Coupons appertaining thereto to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) the rights of the Holders of Securities of such series and Coupons appertaining thereto as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, and (vi) the obligations of the Issuer under Section 3.02) and the Trustee, on demand of the Issuer or the Guarantor accompanied by an Officer's Certificate or a Guarantor's Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Issuer and the Guarantor, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture; provided, that

the rights of Holders of the Securities and Coupons to receive amounts in respect of principal of and interest on the Securities and Coupons held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange upon which the Securities are listed. The Issuer and the Guarantor agree to reimburse the Trustee for any costs or expenses thereafter reasonably incurred and to compensate the Trustee for any services thereafter reasonably rendered by the Trustee in connection with this Indenture or the Securities of such series.

(b) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution, Officer's Certificate or indenture supplemental hereto provided pursuant to Section 2.03. In addition to discharge of the Indenture pursuant to the next preceding paragraph, in the case of any series of Securities the exact amounts (including the currency of payment) of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (i) below, the Issuer shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series and the Coupons appertaining thereto on the 91st day after the date of the deposit referred to in clause (i) below, and the provisions of this Indenture with respect to the Securities of such series and Coupons appertaining thereto shall no longer be in effect (except as to (1) rights of registration of transfer and exchange of Securities of such series and of Coupons appertaining thereto and the Issuer's right of optional redemption, if any, (2) substitution of mutilated, defaced, destroyed, lost or stolen Securities or Coupons, (3) rights of Holders of Securities and Coupons appertaining thereto to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (4) the rights, obligations, duties and immunities of the Trustee hereunder, (5) the rights of the Holders of Securities of such series and Coupons appertaining thereto as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them and (6) the obligations of the Issuer under Section 3.02) and the Trustee, at the expense of the Issuer and the Guarantor, shall at the Issuer's or the Guarantor's request, execute proper instruments acknowledging the same, if

(i) with reference to this provision the Issuer or the Guarantor has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series and Coupons appertaining thereto (A) cash in an amount, or (B) in the case of any series of Securities the payments on which may only be made in Dollars, U.S. Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants

expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and Coupons appertaining thereto on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;

(ii) such deposit will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Issuer is a party or by which it is bound;

(iii) the Issuer or the Guarantor has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable Federal income tax law, in either case to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series and Coupons appertaining thereto will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to Federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred; and

(iv) the Issuer or the Guarantor has delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with.

(c) Each of the Issuer and the Guarantor shall be released from its obligations under Section 9.01 with respect to the Securities of any Series, and any Coupons appertaining thereto, Outstanding, and under the Guarantee in respect thereof, on and after the date the conditions set forth below are satisfied (hereinafter, "**covenant defeasance**"). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of any Series and any Coupon appertaining thereto, and under the Guarantee in respect thereof, the Issuer and the Guarantor may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in such Sections, whether directly or indirectly by reason of any reference elsewhere herein to such Sections or by reason of any reference in such Sections to any other provision herein or in any other document and such omission to comply shall not constitute an Event of Default under Section 5.01, but the remainder of this Indenture and such Securities and Coupons and the Guarantee shall be unaffected thereby. The following shall be the conditions to application of this subsection (c) of this Section 10.01:

(i) The Issuer or the Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Securities of such series and Coupons appertaining thereto, (A) cash in an amount, or (B) in the case of any series of Securities the payments on which may only be made in Dollars, U.S. Government Obligations maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and Coupons appertaining thereto and (2) any mandatory sinking fund payments on the day on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series.

(ii) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to the Securities shall have occurred and be continuing on the date of such deposit or, insofar as subsections 5.01(d) and 5.01(e) are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(iii) Such covenant defeasance shall not cause the Trustee to have a conflicting interest for purposes of the Trust Indenture Act of 1939 with respect to any securities of the Issuer.

(iv) Such covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other agreement or instrument to which the Issuer or the Guarantor is a party or by which either of them is bound.

(v) Such covenant defeasance shall not cause any Securities then listed on any registered national securities exchange under the Securities Exchange Act of 1934, as amended, to be delisted.

(vi) The Issuer or the Guarantor shall have delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate, as the case may be, and Opinion of Counsel to the effect that the Holders of the Securities of such series and Coupons appertaining thereto will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(vii) The Issuer or the Guarantor shall have delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate, as the case may be, and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the covenant defeasance contemplated by this provision have been complied with.

Section 10.02. *Application by Trustee of Funds Deposited for Payment of Securities.* Subject to Section 10.04, all monies deposited with the Trustee (or other trustee) pursuant to Section 10.01 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Issuer acting as its own paying agent or the Guarantor acting as paying agent), to the Holders of the particular Securities of such series and of Coupons appertaining thereto for the payment or redemption of which such monies have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest; but such money need not be segregated from other funds except to the extent required by law.

Section 10.03. *Repayment of Monies Held by Paying Agent.* In connection with the satisfaction and discharge of this Indenture with respect to Securities of any series, all monies then held by any paying agent under the provisions of this Indenture with respect to such series of Securities shall, upon demand of the Issuer, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such monies.

Section 10.04. *Return of Monies Held by Trustee and Paying Agent Unclaimed for Two Years.* Any monies deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Security of any series or Coupons attached thereto and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Issuer and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Issuer by the Trustee for such series or such paying agent, and the Holder of the Securities of such series and of any Coupons appertaining thereto shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Issuer and the Guarantor for any payment which such Holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such monies shall thereupon cease; provided, however, that the Trustee or such paying agent, before being required to make any such repayment with respect to monies deposited with it for any payment (a) in respect of Registered Securities of any series, shall at the expense of the Issuer, mail by first-class mail to Holders of such Securities at their addresses as they shall appear on the Security register, and (b) in respect of Bearer Securities of any series, shall at the expense of the Issuer either give through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer

Securities are owned if such Bearer Securities are held only in global form or cause to be published once, in an Authorized Newspaper in the Borough of Manhattan, The City of New York and once in an Authorized Newspaper in London (and if required by Section 3.06, once in an Authorized Newspaper in Luxembourg), notice, that such monies remain and that, after a date specified therein, which shall not be less than thirty days from the date of such mailing or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

Section 10.05. *Indemnity for U.S. Government Obligations.* The Issuer and the Guarantor shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 10.01 or the principal or interest received in respect of such obligations.

## ARTICLE 11
## MISCELLANEOUS PROVISIONS

Section 11.01. *Incorporators, Stockholders, Members, Officers and Directors of Issuer Exempt from Individual Liability.* No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such or against any past, present or future stockholder (except in a stockholder's corporate capacity as Guarantor), member, officer or director, as such, of the Issuer or the Guarantor or of any successor, either directly or through the Issuer or the Guarantor, as the case may be, or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities and the Coupons appertaining thereto by the Holders thereof and as part of the consideration for the issue of the Securities and the Coupons appertaining thereto.

Section 11.02. *Provisions of Indenture for the Sole Benefit of Parties and Holders of Securities and Coupons.* Nothing in this Indenture, in the Securities or in the Coupons appertaining thereto, expressed or implied, shall give or be construed to give to any person, firm or entity, other than the parties hereto and their successors and the Holders of the Securities or Coupons, if any, any legal or equitable right, remedy or claim under this Indenture or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Holders of the Securities or Coupons, if any.

Section 11.03. *Successors and Assigns of Issuer Bound by Indenture.* All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Issuer shall bind its successors and assigns, whether so

expressed or not. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Guarantor shall bind its successors and assigns, whether so expressed or not.

Section 11.04. *Notices and Demands on Issuer, Trustee and Holders of Securities and Coupons.* Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Securities or Coupons to or on the Issuer or the Guarantor may be given or served by being deposited postage prepaid, first-class mail or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) (except as otherwise specifically provided herein) addressed (until another address is filed with the Trustee) as follows:

If to the Issuer: LaSalle Funding LLC
135 South LaSalle Street
Chicago, Illinois 60674
Attention: John P. Murphy

If to the Guarantor: ABN AMRO Bank N.V.
Gustav Mahlerlaan 10
1082 PP Amsterdam
The Netherlands
Attention: Central Legal Department

Any notice, direction, request or demand by the Issuer, the Guarantor or any Holder of Securities or Coupons to or upon the Trustee shall be deemed to have been sufficiently given or served by being deposited postage prepaid, first-class mail or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) (except as otherwise specifically provided herein) addressed (until another address of the Trustee is filed by the Trustee with the Issuer and the Guarantor) to:

BNY Midwest Trust Company
2 North LaSalle Street, Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Department

Where this Indenture provides for notice to Holders of Registered Securities, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) to each Holder entitled thereto, at his last address as it appears in the Security register. In any case where notice to such Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such

notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Issuer or the Guarantor when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be reasonably satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice.

Section 11.05. *Officer's Certificates and Opinions of Counsel; Statements to Be Contained Therein.* Upon any application or demand by the Issuer or the Guarantor to the Trustee to take any action under any of the provisions of this Indenture, the Issuer or the Guarantor, as the case may be, shall furnish to the Trustee an Officer's Certificate or a Guarantor's Officer's Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the person making such certificate or opinion has read such covenant or condition, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him 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 or not, in the opinion of such person, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Issuer or the Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, information with respect to which is in the possession of the

Issuer or the Guarantor, as the case may be, upon the certificate, statement or opinion of or representations by an officer or officers of the Issuer or the Guarantor, as the case may be, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Issuer, of the Guarantor or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Issuer, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with and directed to the Trustee shall contain a statement that such firm is independent.

Section 11.06. *Payments Due on Saturdays, Sundays or Holidays.* If the date of maturity of interest on or principal of the Securities of any series or any Coupons appertaining thereto or the date fixed for redemption or repayment of any such Security or Coupon shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 11.07. *Conflict of Any Provision of Indenture with Trust Indenture Act of 1939.*If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by, or with another provision (an "**incorporated provision**") included in this Indenture by operation of, Sections 310 to 318, inclusive, of the Trust Indenture Act of 1939, such imposed duties or incorporated provision shall control.

Section 11.08. *New York Law to Govern.* This Indenture and each Security and Coupon shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

Section 11.09. *Counterparts.* This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 11.10. *Effect of Headings.* The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 11.11. *Securities in a Non-U.S. Currency.* Unless otherwise specified in an Officer's Certificate delivered pursuant to Section 2.03 of this Indenture with respect to a particular series of Securities, whenever for purposes of this Indenture any action may be taken by the Holders of a specified percentage in aggregate principal amount of Securities of all series or all series affected by a particular action at the time Outstanding and, at such time, there are Outstanding Securities of any series which are denominated in a coin or currency other than Dollars, then the principal amount of Securities of such series which shall be deemed to be Outstanding for the purpose of taking such action shall be that amount of Dollars that could be obtained for such amount at the Market Exchange Rate. For purposes of this Section 11.11, Market Exchange Rate shall mean the noon Dollar buying rate in New York City for cable transfers of that currency as published by the Federal Reserve Bank of New York. If such Market Exchange Rate is not available for any reason with respect to such currency, the Trustee shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in The City of New York or in the country of issue of the currency in question, or such other quotations as the Trustee shall deem appropriate. The provisions of this paragraph shall apply in determining the equivalent principal amount in respect of Securities of a series denominated in a currency other than Dollars in connection with any action taken by Holders of Securities pursuant to the terms of this Indenture including without limitation any determination contemplated in Section 5.01(c) or 5.01(d).

All decisions and determinations of the Trustee regarding the Market Exchange Rate or any alternative determination provided for in the preceding paragraph shall be in its sole discretion and shall, in the absence of manifest error, be conclusive to the extent permitted by law for all purposes and irrevocably binding upon the Issuer and all Holders.

Section 11.12. *Submission to Jurisdiction.* Each of the Issuer and the Guarantor agrees that any legal suit, action or proceeding arising out of or based upon this Indenture may be instituted in any State or Federal court in the Borough of Manhattan, City and State of New York, and, to the fullest extent permitted by law, waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such court in any suit, action or proceeding. Each of the Issuer and the Guarantor has appointed Willie J. Miller, Jr., Esq., Chief Legal Officer and Executive Vice President, ABN AMRO North America, Inc., as its authorized agent (the "**Authorized Agent**") upon which process may be instituted in any State or Federal court in the Borough of Manhattan, City and State of New York and each of the Issuer and the Guarantor expressly accepts the jurisdiction of any such

court in respect of such action. Such appointment shall be irrevocable unless and until a successor authorized agent, located or with an office in the Borough of Manhattan, City and State of New York, shall have been appointed by the Issuer or the Guarantor, as the case may be, and such appointment shall have been accepted by such successor authorized agent. Each of the Issuer and the Guarantor represents and warrants that the Authorized Agent has agreed to act as said agent for service of process, and each of the Issuer and the Guarantor agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Issuer or the Guarantor, as the case may be, shall be deemed, in every respect, effective service of process upon the Issuer or the Guarantor, as the case may be.

Section 11.13. *Judgment Currency*. Each of the Issuer and the Guarantor agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court it is necessary to convert the sum due in respect of the principal of or interest on the Securities of any series (the "**Required Currency**") into a currency in which a judgment will be rendered (the "**Judgment Currency**"), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the day on which final unappealable judgment is entered, unless such day is not a New York Banking Day, then, to the extent permitted by applicable law, the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Banking Day preceding the day on which final unappealable judgment is entered and (b) its obligations under this Indenture to make payments in the Required Currency (i) shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment (whether or not entered in accordance with subsection (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt, by the payee, of the full amount of the Required Currency expressed to be payable in respect of such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture. For purposes of the foregoing, "**New York Banking Day**" means any day except a Saturday, Sunday or a legal holiday in The City of New York or a day on which banking institutions in The City of New York are authorized or required by law or executive order to close.

ARTICLE 12
REDEMPTION OF SECURITIES AND SINKING FUNDS

Section 12.01. *Applicability of Article.* The provisions of this Article shall be applicable to the Securities of any series which are redeemable before their maturity or to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 2.03 for Securities of such series.

Section 12.02. *Notice of Redemption; Partial Redemptions.* Notice of redemption to the Holders of Registered Securities of any series to be redeemed as a whole or in part at the option of the Issuer shall be given by mailing notice of such redemption by first class mail, postage prepaid, to such Holders of Securities of such series at their last addresses as they shall appear upon the registry books at least 30 days and not more than 60 days prior to the date fixed for redemption, or within such other redemption notice period as has been designated for any Securities of such series pursuant to Section 2.03 or 2.04 (the "**Redemption Notice Period**"). Notice of redemption to the Holders of Bearer Securities to be redeemed as a whole or in part, who have filed their names and addresses with the Trustee within two years preceding such notice of redemption, shall be given by mailing notice of such redemption, by first class mail, postage prepaid, at least 30 and not more than 60 days prior to the date fixed for redemption or within any applicable Redemption Notice Period to such Holders at such addresses as were so furnished to the Trustee (and, in the case of any such notice given by the Issuer, the Trustee shall make such information available to the Issuer for such purpose). Notice of redemption to all other Holders of Bearer Securities shall be published in an Authorized Newspaper in the Borough of Manhattan, The City of New York and in an Authorized Newspaper in London (and, if required by Section 3.06, in an Authorized Newspaper in Luxembourg), in each case, once in each of three successive calendar weeks, the first publication to be not less than 30 nor more than 60 days prior to the date fixed for redemption or within any applicable Redemption Notice Period; provided that notice to Holders of Bearer Securities held only in global form and issued after June 15, 2003 may be made, at the option of the Issuer, through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice. Failure to give notice by mail, or any defect in the notice to the Holder of any Security of a series designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security of such series.

The notice of redemption to each such Holder shall specify, the principal amount of each Security of such series held by such Holder to be redeemed, the date fixed for redemption, the redemption price (or if not then ascertainable, the manner of calculation thereof), the place or places of payment, that payment will

be made upon presentation and surrender of such Securities and, in the case of Securities with Coupons attached thereto, of all Coupons appertaining thereto maturing after the date fixed for redemption, that such redemption is pursuant to the mandatory or optional sinking fund, or both, if such be the case, that interest accrued to the date fixed for redemption will be paid as specified in such notice and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. In case any Security of a series is to be redeemed in part only the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption of Securities of any series to be redeemed at the option of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer.

On or before the redemption date specified in the notice of redemption given as provided in this Section, the Issuer or the Guarantor will deposit with the Trustee or with one or more paying agents (or, if the Issuer is acting as its own paying agent or the Guarantor is acting as paying agent, set aside, segregate and hold in trust as provided in Section 3.04) an amount of money or other property sufficient to redeem on the redemption date all the Securities of such series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption. The Issuer will deliver to the Trustee at least 70 days prior to the date fixed for redemption or at least 10 days prior to the first day of any applicable Redemption Notice Period an Officer's Certificate stating the aggregate principal amount of Securities to be redeemed. In case of a redemption at the election of the Issuer prior to the expiration of any restriction on such redemption, the Issuer shall deliver to the Trustee, prior to the giving of any notice of redemption to Holders pursuant to this Section, an Officer's Certificate stating that such restriction has been complied with.

If less than all the Securities of a series are to be redeemed, the Trustee shall select, in such manner as it shall deem appropriate and fair, Securities of such Series to be redeemed in whole or in part. Securities may be redeemed in part in multiples equal to the minimum authorized denomination for Securities of such series or any multiple thereof. The Trustee shall promptly notify the Issuer and the Guarantor in writing of the Securities of such series selected for redemption and, in the case of any Securities of such series selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities of any series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

Section 12.03. *Payment of Securities Called for Redemption.* If notice of redemption has been given as above provided, the Securities or portions of Securities specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Issuer and the Guarantor shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue, and the unmatured Coupons, if any, appertaining thereto shall be void, and, except as provided in Section 6.05 and 11.04, such Securities shall cease from and after the date fixed for redemption to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the redemption price thereof and unpaid interest to the date fixed for redemption. On presentation and surrender of such Securities at a place of payment specified in said notice, together with all Coupons, if any, appertaining thereto maturing after the date fixed for redemption, said Securities or the specified portions thereof shall be paid and redeemed by the Issuer at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; provided that payment of interest becoming due on or prior to the date fixed for redemption shall be payable in the case of Securities with Coupons attached thereto, to the Holders of the Coupons for such interest upon surrender thereof, and in the case of Registered Securities, to the Holders of such Registered Securities registered as such on the relevant record date subject to the terms and provisions of Section 2.03 and 2.07 hereof.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest or Yield to Maturity (in the case of an Original Issue Discount Security) borne by such Security.

If any Security with Coupons attached thereto is surrendered for redemption and is not accompanied by all appurtenant Coupons maturing after the date fixed for redemption, the surrender of such missing Coupon or Coupons may be waived by the Issuer, the Guarantor and the Trustee, if there be furnished to each one of them such security or indemnity as they may require to save each of them harmless.

Upon presentation of any Security redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Issuer, a new Security or Securities of such series, of authorized denominations, in principal amount equal to the unredeemed portion of the Security so presented.

Section 12.04. *Exclusion of Certain Securities from Eligibility for Selection for Redemption.* Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 40 days prior to the last date on which notice of redemption may be given as being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such written statement as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer.

Section 12.05. *Mandatory and Optional Sinking Funds*. The minimum amount of any sinking fund payment provided for by the terms of the Securities of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of the Securities of any series is herein referred to as an "optional sinking fund payment". The date on which a sinking fund payment is to be made is herein referred to as the "sinking fund payment date".

In lieu of making all or any part of any mandatory sinking fund payment with respect to any series of Securities in cash, the Issuer may at its option (a) deliver to the Trustee Securities of such series theretofore purchased or otherwise acquired (except upon redemption pursuant to the mandatory sinking fund) by the Issuer or receive credit for Securities of such series (not previously so credited) theretofore purchased or otherwise acquired (except as aforesaid) by the Issuer and delivered to the Trustee for cancellation pursuant to Section 2.10, (b) receive credit for optional sinking fund payments (not previously so credited) made pursuant to this Section, or (c) receive credit for Securities of such series (not previously so credited) redeemed by the Issuer through any optional redemption provision contained in the terms of such series. Securities so delivered or credited shall be received or credited by the Trustee at the sinking fund redemption price specified in such Securities.

On or before the 60th day next preceding each sinking fund payment date or the 30th day next preceding the last day of any applicable Redemption Notice Period relating to a sinking fund payment date for any series, the Issuer will deliver to the Trustee an Officer's Certificate (which need not contain the statements required by Section 11.05) (a) specifying the portion of the mandatory sinking fund payment to be satisfied by payment of cash and the portion to be satisfied by credit of Securities of such series and the basis for such credit, (b) stating that none of the Securities of such series has theretofore been so credited, (c) stating that no defaults in the payment of interest or Events of Default with respect to such series have occurred (which have not been waived or cured) and are continuing and (d) stating whether or not the Issuer intends to exercise its right to make an optional sinking fund payment with respect to such series and, if so, specifying the amount of such optional sinking fund payment which the Issuer intends to pay on or before the next succeeding sinking fund payment date. Any

Securities of such series to be credited and required to be delivered to the Trustee in order for the Issuer to be entitled to credit therefor as aforesaid which have not theretofore been delivered to the Trustee shall be delivered for cancellation pursuant to Section 2.10 to the Trustee with such Officer's Certificate (or reasonably promptly thereafter if acceptable to the Trustee). Such Officer's Certificate shall be irrevocable and upon its receipt by the Trustee the Issuer shall become unconditionally obligated to make all the cash payments or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. Failure of the Issuer, on or before any such 60th day or 30th day, if applicable, to deliver such Officer's Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute, on and as of such date, the irrevocable election of the Issuer (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Issuer will make no optional sinking fund payment with respect to such series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed $50,000 (or the equivalent thereof in any Non-U.S. Currency) or a lesser sum in Dollars (or the equivalent thereof in any Non-U.S. Currency) if the Issuer shall so request with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be $50,000 (or the equivalent thereof in any Non-U.S. Currency) or less and the Issuer makes no such request then it shall be carried over until a sum in excess of $50,000 (or the equivalent thereof in any Non-U.S. Currency) is available. The Trustee shall select, in the manner provided in Section 12.02, for redemption on such sinking fund payment date a sufficient principal amount of Securities of such series to absorb said cash, as nearly as may be, and shall (if requested in writing by the Issuer) inform the Issuer of the serial numbers of the Securities of such series (or portions thereof) so selected. Securities shall be excluded from eligibility for redemption under this Section if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 60 days prior to the sinking fund payment date or at least 30 days prior to the last day of any applicable Redemption Notice Period relating to a sinking fund payment date as being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such Officer's Certificate as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer. The Trustee, in the name and at the expense of the Issuer (or the Issuer, if it shall so request the Trustee in writing) shall cause notice of redemption of the Securities of such series to be given in substantially the manner provided in Section 12.02 (and with the effect

provided in Section 12.03) for the redemption of Securities of such series in part at the option of the Issuer. The amount of any sinking fund payments not so applied or allocated to the redemption of Securities of such series shall be added to the next cash sinking fund payment for such series and, together with such payment, shall be applied in accordance with the provisions of this Section. Any and all sinking fund monies held on the stated maturity date of the Securities of any particular series (or earlier, if such maturity is accelerated), which are not held for the payment or redemption of particular Securities of such series shall be applied, together with other monies, if necessary, sufficient for the purpose, to the payment of the principal of, and interest on, the Securities of such series at maturity.

On or before each sinking fund payment date, the Issuer or the Guarantor shall pay to the Trustee in cash or shall otherwise provide for the payment of all interest accrued to the date fixed for redemption on Securities to be redeemed on the next following sinking fund payment date.

The Trustee shall not redeem or cause to be redeemed any Securities of a series with sinking fund monies or give any notice of redemption of Securities for such series by operation of the sinking fund during the continuance of a default in payment of interest on such Securities or of any Event of Default except that, where the giving of notice of redemption of any Securities shall theretofore have been made, the Trustee shall redeem or cause to be redeemed such Securities, provided that it shall have received from the Issuer or the Guarantor a sum sufficient for such redemption. Except as aforesaid, any monies in the sinking fund for such series at the time when any such default or Event of Default shall occur, and any monies thereafter paid into the sinking fund, shall, during the continuance of such default or Event of Default, be deemed to have been collected under Article 5 and held for the payment of all such Securities. In case such Event of Default shall have been waived as provided in Section 5.10 or the default cured on or before the sixtieth day preceding the sinking fund payment date in any year, such monies shall thereafter be applied on the next succeeding sinking fund payment date in accordance with this Section to the redemption of such Securities.

## ARTICLE 13
## GUARANTEE AND INDEMNITY

Section 13.01. *The Guarantee.* The Guarantor hereby unconditionally guarantees to each Holder of a Security authenticated and delivered by the Trustee the due and punctual payment of the principal of, any premium and interest on, and any additional amounts with respect to such Security and the due and punctual payment of the sinking fund payments (if any) provided for pursuant to the terms of such Security, when and as the same shall become due and payable,

whether at maturity, by acceleration, redemption, repayment or otherwise, in accordance with the terms of such Security and of this Indenture. In case of the failure of the Issuer punctually to pay any such principal, premium, interest, additional amounts or sinking fund payment, the Guarantor hereby agrees to cause any such payment to be made punctually when and as the same shall become due and payable, whether at maturity, upon acceleration, redemption, repayment or otherwise, and as if such payment were made by the Issuer.

Section 13.02. *Net Payments.* All payments of principal of and premium, if any, interest and any other amounts on, or in respect of, the Securities of any series or any Coupon appertaining thereto shall be made by the Guarantor 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 or on behalf of The Netherlands (the "**taxing jurisdiction**") or any political subdivision or taxing authority thereof or therein, unless such taxes, fees, duties, assessments or governmental charges are required to be withheld or deducted by (i) the laws (or any regulations or ruling promulgated thereunder) of a taxing jurisdiction 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 a taxing jurisdiction or any political subdivision thereof). If a withholding or deduction at source is required, the Guarantor shall, subject to certain limitations and exceptions set forth below, pay to the Holder of any such Security or any Coupon appertaining thereto such additional amounts as may be necessary so that every net payment of principal, premium, if any, interest or any other amount made to such Holder, after such withholding or deduction, shall not be less than the amount provided for in such Security, any Coupons appertaining thereto and this Indenture to be then due and payable; provided, however, that the Guarantor shall not be required to make payment of such additional amounts for or on account of:

(a) any tax, fee, duty, assessment or governmental charge of whatever nature which would not have been imposed but for the fact that such Holder: (A) was a resident, domiciliary or national of, or engaged in business or maintained a permanent establishment or was physically present in, the relevant taxing jurisdiction or any political subdivision thereof or otherwise had some connection with the relevant taxing jurisdiction other than by reason of the mere ownership of, or receipt of payment under, such Security; (B) presented such Security for payment in the relevant taxing jurisdiction or any political subdivision thereof, unless such Security could not have been presented for payment elsewhere; or (C) presented such Security more than thirty (30) days after the date on which the payment in respect of such Security first became due and payable or provided for, whichever is later, except to the extent that the Holder would have been entitled to such additional amounts if it had presented such Security for payment on any day within such period of thirty (30) days;

(b) any estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;

(c) any tax assessment or other governmental charge imposed on a payment that is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN council meetings of November 26 – 27, 2000 and June 3, 2003 or any law implementing or complying with, or introduced in order to confirm such directive;

(d) any tax, assessment or other governmental charge that is imposed or withheld by reason of the failure by the Holder or the beneficial owner of such Security to comply with any reasonable request by the Guarantor addressed to the Holder within 90 days of such request (A) to provide information concerning the nationality, residence or identity of the Holder or such beneficial owner or (B) to make any declaration or other similar claim or satisfy any information or reporting requirement, which, in the case of (A) or (B), is required or imposed by statute, treaty, regulation or administrative practice of the relevant taxing jurisdiction or any political subdivision thereof as a precondition to exemption from all or part of such tax, assessment or other governmental charge; or

(e) any combination of items (a), (b) (c) and (d);

nor shall additional amounts be paid with respect to any payment of the principal of, or premium, if any, interest or any other amounts on, any such Security to any Holder who is a fiduciary or partnership or other than the sole beneficial owner of such Security to the extent such payment would be required by the laws of the relevant taxing jurisdiction (or any political subdivision or relevant taxing authority thereof or therein) to be included in the income for tax purposes of a beneficiary or partner or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such additional amounts had it been the Holder of the Security.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium, interest or any other amounts on, or in respect of, any Security of any series or any Coupon or the net proceeds received on the sale or exchange of any Security of any series, such mention shall be deemed to include mention of the payment of additional amounts provided by the terms of such series established hereby or pursuant hereto to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of additional amounts (if applicable) in any provision hereof shall not be construed as excluding the payment of additional amounts in those provisions hereof where such express mention is not made.

Except as otherwise provided in or pursuant to this Indenture or the Securities of the applicable series, at least 10 days prior to the first Interest Payment Date with respect to a series of Securities (or if the Securities of such series shall not bear interest prior to Maturity, the first day on which a payment of principal is made), and at least 10 days prior to each date of payment of principal or interest if there has been any change with respect to the matters set forth in the below-mentioned Guarantor's Officer's Certificate, the Guarantor shall furnish to the Trustee and the principal paying agent, if other than the Trustee, a Guarantor's Officer's Certificate instructing the Trustee and such paying agent whether such payment of principal of and premium, if any, interest or any other amounts on the Securities of such series shall be made to Holders of Securities of such series or the Coupons appertaining thereto without withholding for or on account of any tax, fee, duty, assessment or other governmental charge described in Section 13.02. If any such withholding shall be required, then such Guarantor's Officer's Certificate shall specify by taxing jurisdiction the amount, if any, required to be withheld on such payments to such Holders of Securities or Coupons, and the Guarantor agrees to pay to the Trustee or such paying agent the additional amounts required by Section 13.02. The Guarantor covenants to indemnify the Trustee and any paying agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Guarantor's Officer's Certificate furnished pursuant to Section 13.02.

Section 13.03. *Guarantee Unconditional, etc.* The Guarantor hereby agrees that its obligations hereunder shall be as principal and not merely as surety, and shall be absolute, irrevocable and unconditional, irrespective of, and shall be unaffected by, any invalidity, irregularity or unenforceability of any Security or this Indenture, any failure to enforce the provisions of any Security or this Indenture, or any waiver, modification, consent or indulgence granted with respect thereto by the Holder of such Security or the Trustee, the recovery of any judgment against the Issuer or any action to enforce the same, or any other circumstances which may otherwise constitute a legal or equitable discharge of a surety or guarantor. The Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of merger, insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest or notice with respect to any such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenants that this Guarantee will not be discharged except by payment in full of the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, the Securities and the complete performance of all other obligations contained in the Securities. The Guarantor further agrees, to the fullest extent that it lawfully may do so, that, as between the Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, the maturity of the obligations guaranteed hereby may be accelerated as provided in Section 5.01

hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or prohibition extant under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction preventing such acceleration in respect of the obligations guaranteed hereby.

Section 13.04. *Reinstatement.* This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment on any Security, in whole or in part, is rescinded or must otherwise be restored to the Issuer or the Guarantor upon the bankruptcy, liquidation or reorganization of the Issuer or otherwise.

Section 13.05. *Subrogation.* The Guarantor shall be subrogated to all rights of the Holder of any Security against the Issuer in respect of any amounts paid to such Holder by the Guarantor pursuant to the provisions of this Guarantee; provided, however, that the Guarantor shall not be entitled to enforce, or to receive any payments arising out of or based upon, such right of subrogation until the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, all Securities shall have been paid in full.

Section 13.06. *Indemnity.* As a separate and alternative stipulation, the Guarantor unconditionally and irrevocably agrees that any sum expressed to be payable by the Issuer under this Indenture, the Securities or the Coupons but which is for any reason (whether or not now known or becoming known to the Issuer, the Guarantor, the Trustee or any Holder of any Security or Coupon) not recoverable from the Guarantor on the basis of a guarantee will nevertheless be recoverable from it as if it were the sole principal debtor and will be paid by it to the Trustee on demand. This indemnity constitutes a separate and independent obligation from the other obligations in this Indenture, gives rise to a separate and independent cause of action and will apply irrespective of any indulgence granted by the Trustee or any Holder of any Security or Coupon.

Section 13.07. *Assumption by Guarantor.*

(a) The Guarantor may, without the consent of the Holders, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, after giving effect to such assumption, no Event of Default or event which with the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing. Upon such an assumption, the Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

(b) The Guarantor shall assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of

such series if, upon a default by the Issuer in the due and punctual payment of the principal, sinking fund payment, if any, premium, if any, or interest on such Securities, the Guarantor is prevented by any court order or judicial proceeding from fulfilling its obligations under Section 13.01 with respect to such series of Securities. Such assumption shall result in the Securities of such series becoming the direct obligations of the Guarantor and shall be effected without the consent of the Holders of the Securities of any Series. Upon such an assumption, the Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer, and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of June 15, 2003.

LASALLE FUNDING LLC

By: _____
Name:
Title:

By: _____
Name:
Title:

ABN AMRO BANK N.V.

By: _____
Name:
Title:

By: _____
Name:
Title:

BNY MIDWEST TRUST COMPANY, as Trustee

By: _____
Name:
Title:

**LA SALLE FUNDING LLC**

as Issuer,

**ABN AMRO HOLDING N.V.**
**ABN AMRO BANK N.V.**

as Guarantors,

and

**BNY MIDWEST TRUST COMPANY,**

as Trustee

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# FIRST SUPPLEMENTAL INDENTURE

**dated as of September 22, 2003**

to

**INDENTURE**

**dated as of June 15, 2003**

FIRST SUPPLEMENTAL INDENTURE ("**First Supplemental Indenture**"), dated as of September 22, 2003 , between LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "**Issuer**"), ABN AMRO HOLDING N.V., a public limited liability company incorporated under the laws of The Netherlands ("**Holding**"), ABN AMRO BANK N.V., a public limited liability company incorporated under the laws of The Netherlands (the "**Bank**"), and BNY MIDWEST TRUST COMPANY, an Illinois trust company, as trustee (the "**Trustee**").

Capitalized terms used herein and not otherwise defined herein have the meanings assigned to those terms in the Indenture (as defined below).

**WITNESSETH**

WHEREAS, the Issuer, the Bank and the Trustee executed and delivered an Indenture, dated as of June 15, 2003 (the "**Indenture**"), to provide for the issuance of the Issuer's Securities;

WHEREAS, the Issuer and the Bank desire to make Holding an additional guarantor of the Securities;

WHEREAS, Holding desires to guarantee the Issuer's obligations under the Securities;

WHEREAS, the Issuer, the Bank and Holding have requested that the Trustee execute and deliver this First Supplemental Indenture, and all requirements necessary to make this First Supplemental Indenture a valid, binding and enforceable instrument in accordance with its terms, have been done and performed, and the execution and delivery of this First Supplemental Indenture has been duly authorized in all respects;

NOW, THEREFORE,

With respect to the Securities issued on or after the date hereof, the Issuer, Holding, the Bank and the Trustee mutually covenant and agree as follows:

ARTICLE 1
GUARANTEE

Section 1.01. *Guarantee and Indemnity.* Article 13 of the Indenture is hereby replaced in its entirety with the following:

"ARTICLE 13
GUARANTEE AND INDEMNITY.

Section 13.01. *The Guarantee.* Each of ABN AMRO Holding N.V. and ABN AMRO Bank N.V. (each a "**Guarantor**" and, collectively, the "**Guarantors**") hereby unconditionally guarantees, jointly and severally, to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee the due and punctual payment of the principal of, any premium and interest on, and any additional amounts with respect to such Security and the due and punctual payment of the sinking fund payments (if any) provided for pursuant to the terms of such Security, when and as the same shall become due and payable, whether at maturity, by acceleration, redemption, repayment or otherwise, in accordance with the terms of such Security and of this Indenture, as supplemented, and all other amounts owed by the Issuer thereunder. In case of the failure of the Issuer punctually to pay any such principal, premium, interest, additional amounts or sinking fund payment, each Guarantor hereby agrees to cause any such payment to be made punctually when and as the same shall become due and payable, whether at maturity, upon acceleration, redemption, repayment or otherwise, and as if such payment were made by the Issuer.

Section 13.02. *Net Payments.* All payments of principal of and premium, if any, interest and any other amounts on, or in respect of, the Securities of any series or any Coupon appertaining thereto shall be made by the Guarantors 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 or on behalf of The Netherlands (the "**taxing jurisdiction**") or any political subdivision or taxing authority thereof or therein, unless such taxes, fees, duties, assessments or governmental charges are required to be withheld or deducted by (i) the laws (or any regulations or ruling promulgated thereunder) of a taxing jurisdiction 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 a taxing jurisdiction or any political subdivision thereof). If a withholding or deduction at source is required, the Guarantors shall, subject to certain limitations and exceptions set forth below, be obligated to pay, jointly and severally, to the Holder of any such Security or any Coupon appertaining thereto such additional amounts as may be necessary so that every net payment of principal, premium, if any, interest or any other amount made to such Holder, after such withholding or deduction, shall not be less than the amount provided for in such Security, any Coupons appertaining thereto and this Indenture to be then due and payable; provided, however, that the Guarantors shall not be required to make payment of such additional amounts for or on account of:

(a) any tax, fee, duty, assessment or governmental charge of whatever nature which would not have been imposed but for the fact that such Holder: (A) was a resident, domiciliary or national of, or engaged in business or maintained a permanent establishment or was physically present in, the relevant taxing jurisdiction or any political subdivision thereof or otherwise had some connection with the relevant taxing jurisdiction other than by reason of the mere ownership of, or receipt of payment under, such Security; (B) presented such Security for payment in the relevant taxing jurisdiction or any political subdivision thereof, unless such Security could not have been presented for payment elsewhere; or (C) presented such Security more than thirty (30) days after the date on which the payment in respect of such Security first became due and payable or provided for, whichever is later, except to the extent that the Holder would have been entitled to such additional amounts if it had presented such Security for payment on any day within such period of thirty (30) days;

(b) any estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;

(c) any tax assessment or other governmental charge imposed on a payment that is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN council meetings of November 26 – 27, 2000 and June 3, 2003 or any law implementing or complying with, or introduced in order to confirm such directive;

(d) any tax, assessment or other governmental charge that is imposed or withheld by reason of the failure by the Holder or the beneficial owner of such Security to comply with any reasonable request by a Guarantor addressed to the Holder within 90 days of such request (A) to provide information concerning the nationality, residence or identity of the Holder or such beneficial owner or (B) to make any declaration or other similar claim or satisfy any information or reporting requirement, which, in the case of (A) or (B), is required or imposed by statute, treaty, regulation or administrative practice of the relevant taxing jurisdiction or any political subdivision thereof as a precondition to exemption from all or part of such tax, assessment or other governmental charge; or

(e) any combination of items (a), (b) (c) and (d);

nor shall additional amounts be paid with respect to any payment of the principal of, or premium, if any, interest or any other amounts on, any such Security to any Holder who is a fiduciary or partnership or other than the sole beneficial owner of such Security to the extent such payment would be required by the laws of the relevant taxing jurisdiction (or any political subdivision or relevant taxing authority thereof or therein) to be included in the income for tax purposes of a beneficiary or partner or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such additional amounts had it been the Holder of the Security.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium, interest or any other amounts on, or in respect of, any Security of any series or any Coupon or the net proceeds received on the sale or exchange of any Security of any series, such mention shall be deemed to include mention of the payment of additional amounts provided by the terms of such series established hereby or pursuant hereto to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of additional amounts (if applicable) in any provision hereof shall not be construed as excluding the payment of additional amounts in those provisions hereof where such express mention is not made.

Except as otherwise provided in or pursuant to this Indenture or the Securities of the applicable series, at least 10 days prior to the first Interest Payment Date with respect to a series of Securities (or if the Securities of such series shall not bear interest prior to Maturity, the first day on which a payment of principal is made), and at least 10 days prior to each date of payment of principal or interest if there has been any change with respect to the matters set forth in the below-mentioned Guarantor's Officer's Certificate, one of the Guarantors shall furnish to the Trustee and the principal paying agent, if other than the Trustee, such Guarantor's Officer's Certificate instructing the Trustee and such paying agent whether such payment of principal of and premium, if any, interest or any other amounts on the Securities of such series shall be made to Holders of Securities of such series or the Coupons appertaining thereto without withholding for or on account of any tax, fee, duty, assessment or other governmental charge described in Section 13.02. If any such withholding shall be required, then such Guarantor's Officer's Certificate shall specify by taxing jurisdiction the amount, if any, required to be withheld on such payments to such Holders of Securities or Coupons, and the Guarantors agree to pay, jointly and severally, to the Trustee or such paying agent the additional amounts required by Section 13.02. The Guarantors covenant to indemnify, jointly and severally, the Trustee and any paying agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Guarantor's Officer's Certificate furnished pursuant to Section 13.02.

Section 13.03. *Guarantee Unconditional, etc.* Each Guarantor hereby agrees that its obligations hereunder shall be as principal and not merely as surety, and shall be absolute, irrevocable and unconditional, irrespective of, and shall be unaffected by, any invalidity, irregularity or unenforceability of any Security or this Indenture, any failure to enforce the provisions of any Security or this Indenture, or any waiver, modification, consent or indulgence granted with respect thereto by the Holder of such Security or the Trustee, the recovery of any judgment against the Issuer or any action to enforce the same, or any other circumstances which may otherwise constitute a legal or equitable discharge of a surety or guarantor. Each Guarantor hereby waives diligence, presentment,

demand of payment, filing of claims with a court in the event of merger, insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest or notice with respect to any such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenants that this Guarantee will not be discharged except by payment in full of the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, the Securities and the complete performance of all other obligations contained in the Securities. Each Guarantor further agrees, to the fullest extent that it lawfully may do so, that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, the maturity of the obligations guaranteed hereby may be accelerated as provided in Section 5.01 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or prohibition extant under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction preventing such acceleration in respect of the obligations guaranteed hereby.

Section 13.04. *Reinstatement.* This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment on any Security, in whole or in part, is rescinded or must otherwise be restored to the Issuer or any Guarantor upon the bankruptcy, liquidation or reorganization of the Issuer or otherwise.

Section 13.05. *Subrogation.* A Guarantor shall be subrogated to all rights of the Holder of any Security against the Issuer in respect of any amounts paid to such Holder by such Guarantor pursuant to the provisions of this Guarantee; provided, however, that such Guarantor shall not be entitled to enforce, or to receive any payments arising out of or based upon, such right of subrogation until the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, all Securities shall have been paid in full.

Section 13.06. *Indemnity.* As a separate and alternative stipulation, each Guarantor unconditionally and irrevocably agrees that any sum expressed to be payable by the Issuer under this Indenture, the Securities or the Coupons but which is for any reason (whether or not now known or becoming known to the Issuer, the Guarantors, the Trustee or any Holder of any Security or Coupon) not recoverable from such Guarantor on the basis of a guarantee will nevertheless be recoverable from it as if it were the sole principal debtor and will be paid by it to the Trustee on demand. This indemnity constitutes a separate and independent obligation from the other obligations in this Indenture, gives rise to a separate and independent cause of action and will apply irrespective of any indulgence granted by the Trustee or any Holder of any Security or Coupon.

Section 13.07. *Assumption by Guarantors*.

(a) The Guarantors may, without the consent of the Holders, jointly and severally, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, after giving effect to such assumption, no Event of Default or event which with the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing. Upon such an assumption, each Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such series.

(b) The Guarantors shall, jointly and severally, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, upon a default by the Issuer in the due and punctual payment of the principal, sinking fund payment, if any, premium, if any, or interest on such Securities, the Guarantors are prevented by any court order or judicial proceeding from fulfilling its obligations under Section 13.01 with respect to such series of Securities. Such assumption shall result in the Securities of such series becoming the direct obligations of the Guarantors, acting jointly and severally, and shall be effected without the consent of the Holders of the Securities of any Series. Upon such an assumption, the Guarantors shall execute a supplemental indenture evidencing their assumption of all such rights and obligations of the Issuer, and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series."

Section 1.02 *Holding as Guarantor.* By executing this First Supplemental Indenture, Holding agrees to be a Guarantor under the Indenture, as supplemented by this First Supplemental Indenture, and to be bound by, and subject to, the terms of the Indenture, as supplemented by this First Supplemental Indenture.

Section 1.03. *Definition of "Guarantor".* The definition of "Guarantor" in Section 1.01 of the Indenture is hereby replaced in its entirety with the following:

"**Guarantor**" means each Person named as the "Guarantor" in Section 13.01 of this Indenture, as supplemented by the First Supplemental Indenture, until any successor Person shall have become such pursuant to the applicable provisions of this Indenture, as so supplemented, and thereafter "Guarantor" shall mean each such successor Person."

ARTICLE 2
MISCELLANEOUS

Section 2.01. *Effect Of Supplemental Indenture.* Upon the execution and delivery of this First Supplemental Indenture by each of the Issuer, Holding, the Bank and the Trustee, the Indenture shall be supplemented in accordance herewith, and this First Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Securities hereafter authenticated and delivered under the Indenture shall be bound thereby.

Section 2.02. *Confirmation Of Indenture.* The Indenture, as supplemented and amended by this First Supplemental Indenture, is in all respects ratified and confirmed, and the Indenture, First Supplemental Indenture and all indentures supplemental thereto shall be read, taken and construed as one and the same instrument.

Section 2.03. *Concerning The Trustee.* The Trustee assumes no duties, responsibilities or liabilities by reason of this First Supplemental Indenture other than as set forth in the Indenture. The Trustee makes no representations as to the validity or sufficiency of this First Supplemental Indenture. The recitals and statements herein are deemed to be those of the Issuer, Holding and the Bank and not of the Trustee.

Section 2.04. *Governing Law.* This First Supplemental Indenture shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

Section 2.05. *Separability.* In case any provision contained in this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 2.06. *Counterparts.* This First Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

LASALLE FUNDING LLC

By: _____
Name:
Title:

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

ABN AMRO HOLDING N.V.

By: _____
Name:
Title:

By: _____
Name:
Title:

ABN AMRO BANK N.V.

_____
Name:
Title:

_____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

BNY MIDWEST TRUST COMPANY

By: _____
Name:
Title:

LASALLE FUNDING LLC

as Issuer,

ABN AMRO HOLDING N.V.,

ABN AMRO BANK N.V.

and

BANK OF AMERICA CORPORATION

as Guarantors

and

BNY MIDWEST TRUST COMPANY

as Trustee

SECOND SUPPLEMENTAL INDENTURE

dated as of November 1, 2007

to

INDENTURE

dated as of June 15, 2003

THIS SECOND SUPPLEMENTAL INDENTURE dated as of November 1, 2007 among LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "Issuer"), ABN AMRO HOLDING N.V. and ABN AMRO BANK N.V., each a public limited liability company incorporated under the laws of The Netherlands (together, "ABN AMRO"), BANK OF AMERICA CORPORATION, a Delaware corporation ("Bank of America"), and BNY MIDWEST TRUST COMPANY, an Illinois trust company as trustee (the "Trustee"),

WITNESSETH :

WHEREAS, the Issuer, ABN AMRO BANK N.V. and the Trustee are parties to that certain Indenture dated as of June 15, 2003, as supplemented by the First Supplemental Indenture dated as of September 22, 2003 among the Issuer, ABN AMRO and the Trustee (together, the "Indenture");

WHEREAS, Section 8.01 of the Indenture provides that, without the consent of the Holders of any Securities, the Issuer, when authorized by a resolution of its Board of Directors, ABN AMRO, when authorized by a resolution of their respective Managing Board, and the Trustee may enter into indentures supplemental to the Indenture for the purpose of, among other things, making any provisions as the Issuer may deem necessary or desirable, subject to the conditions set forth therein; *provided that* no such action shall adversely affect the interests of the Holders of the Securities;

WHEREAS, the Issuer and ABN AMRO desire to make Bank of America an additional guarantor of the Securities and Bank of America desires to become an additional guarantor hereunder;

WHEREAS, the Issuer desires to modify certain provisions of the Indenture to limit the aggregate principal amount of Securities that may be authenticated and delivered under the Indenture;

WHEREAS, the modifications contained herein shall not adversely affect the interests of the Holders of the Securities;

WHEREAS, the entry into this Second Supplemental Indenture by the parties hereto is in all respects authorized by the provisions of the Indenture; and

WHEREAS, all things necessary to make this Second Supplemental Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE:

The Issuer, ABN AMRO, Bank of America and the Trustee mutually covenant and agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01. *Defined Terms; References*. Unless otherwise specifically defined herein, each term used herein that is defined in the Indenture has the meaning assigned to such term in the Indenture. Each reference to "hereof", "hereunder", "herein" and "hereby" and each other similar reference and each reference to "this Indenture" and each other similar reference contained in the Indenture shall, after this Second Supplemental Indenture becomes effective, refer to the Indenture as amended hereby.

ARTICLE 2
AMENDMENTS TO THE INDENTURE

SECTION 2.01. *Definitions.* Section 1.01 of the Indenture is hereby amended by:

(a) replacing the definition of "Guarantor" with the following new definition:

"**Guarantor**" means each Person named as the Guarantor in Section 13.01 of this Indenture, as supplemented by the First Supplemental Indenture and the Second Supplemental Indenture, until any successor Person shall have become such pursuant to the applicable provisions of this Indenture, as so supplemented, and thereafter "Guarantor" shall mean each such successor Person."

(b) replacing the definition of "Guarantor's Board of Directors" with the following new definition:

"**Guarantor's Board of Directors**" means, for each Guarantor, the Managing Board or Board of Directors, as applicable, of such Guarantor or any committee of that board duly authorized to act generally or in any particular respect for such Guarantor hereunder."

SECTION 2.02. *Amount Unlimited; Issuable in Series.* Section 2.03 of the Indenture is hereby amended by:

(a) inserting the following text immediately following the word "unlimited" in the first sentence of the first paragraph thereof:

*";provided, however*, that, notwithstanding anything to the contrary in this Indenture, on and after October 1, 2007, no Securities shall be issued, and the Trustee shall not authenticate any Securities (other than Securities issued (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with

Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof) and the aggregate principal amount of Securities which may be authenticated and delivered at any time shall be limited to the aggregate principal amount of Securities that are Outstanding as of October 1, 2007, as reduced (and in no event increased) by the aggregate principal amount of Securities following October 1, 2007 that are no longer Outstanding. No Security issued on or after October 1, 2007 (other than Securities issued (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof), whether or not authenticated by the Trustee, shall be entitled to the benefits of this Indenture and shall be valid or obligatory for any person."

(b) adding the phrase "Prior to October 1, 2007," immediately preceding the words "the Securities may be issued" in the first sentence of the second paragraph thereof and immediately preceding the words "there shall be established" in the second sentence of the second paragraph thereof.

(c) adding the following paragraph at the end thereof:

"On and after October 1, 2007, the aggregate principal amount of Securities will in no event be increased, and the Trustee shall not authenticate any Securities of the same series, other than (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof."

SECTION 2.03. *Authentication and Delivery of Securities.* Section 2.04 of the Indenture is hereby amended by:

(a) adding the phrase "Prior to October 1, 2007," immediately preceding the words "the Issuer may deliver Securities" in the first sentence of clause (a) thereof; and

(b) adding the following sentence immediately preceding the second sentence of clause (a) thereof:

"On and after October 1, 2007, the Issuer and the Trustee may act as specified in the immediately preceding sentence for Securities issued only (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof."

SECTION 2.04. *Certificate of Authentication.* Section 2.06 of the Indenture is hereby amended by adding the phrase "subject to Section 2.03" immediately following the words "valid or obligatory for any purpose" in the first sentence thereof.

SECTION 2.05. *Offices for Payments, etc.* Section 3.02 of the Indenture is hereby amended by (i) replacing the words "the Guarantor" with the words "each Guarantor" in the first and seventh lines of the fifth paragraph thereof and (ii) replacing the words "the Guarantor" with the words "such Guarantor" in the eighth and eleventh lines thereof.

SECTION 2.06. *Event of Default Defined; Acceleration of Maturity; Waiver of Event of Default;* Section 5.01(e) of the Indenture is hereby amended by replacing the words "the Guarantor" with the words "any of the Guarantors" immediately following the words "as hereinafter provided, the Issuer or" in the second flush paragraph immediately following clause (e) thereof.

SECTION 2.07. *Collection of Indebtedness by Trustee; Trustee May Prove Debt.* Section 5.02 of the Indenture is hereby amended by inserting the words "or any of the Guarantors, as the case may be," immediately following the words "Until such demand is made by the Trustee, the Issuer" in the second paragraph thereof.

SECTION 2.08. *Certain Rights of the Trustee.* Section 6.02(a) of the Indenture is hereby amended by replacing the words "Guarantor's Officers' Certificate" with the words "any Guarantor's Officers' Certificate".

SECTION 2.09. *Supplemental Indentures Without Consent of Securityholders.* Section 8.01(e) of the Indenture is hereby amended by adding the phrase "prior to October 1, 2007," immediately preceding the words "to establish the forms or terms of Securities".

SECTION 2.10. *Satisfaction and Discharge of Indenture.* Section 10.01 of the Indenture is hereby amended by (I) replacing the words "the Guarantor" with the words "any of the Guarantors" immediately following the words (x) "If at any time (i) the Issuer or", (y) "under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer or" and (z) "and if, in any such case, the Issuer or," in each case in clause (a) thereof; and (II) replacing the words "the Guarantor has" with the words "any of the Guarantors have" immediately following the words (a) "with reference to this provision the Issuer has or" in clause (b)(i) thereof and (b) "The Issuer or" in clause (c)(i) thereof.

SECTION 2.11. *Notices and Demands on Issuer.* Section 11.04 of the Indenture is hereby amended by replacing the address information for the Guarantor in the first paragraph thereof with the following:

If to the Guarantors:

ABN AMRO Holding N.V.
Gustav Mahlerlaan 10
1082 PP Amsterdam
The Netherlands
Attention: Central Legal Department

and

Bank of America Corporation
Bank of America Corporate Center
100 North Tryon Street
NC1-007-07-06
Corporate Treasury Division
Charlotte, North Carolina 28255
Telephone: (980) 387-3776
Facsimile: (980) 386-0270
Attention: B. Kenneth Burton, Jr.

Together with a copy to:

Bank of America Corporation
Legal Department
NC1-002-29-01
101 South Tryon Street
Charlotte, North Carolina 28255
Telephone: (704) 386-4238
Facsimile: (704) 386-1670
Attention: Teresa M. Brenner, Esq.

SECTION 2.12. *Notice of Redemption; Partial Redemptions.* Section 12.02 of the Indenture is hereby amended by replacing the words "the Guarantor" with the words "any of the Guarantors" immediately following the words "notice of redemption given as provided in this Section, the Issuer or" in the fourth paragraph thereof.

SECTION 2.13. *The Guarantee*. Section 13.01 of the Indenture is hereby amended by adding the words "Bank of America Corporation," immediately preceding the words "ABN AMRO Holding N.V." in the first line of the first paragraph thereof.

ARTICLE 3
Miscellaneous Provisions

Section 3.01. *Effect of Supplemental Indenture*. Upon execution and delivery of this Second Supplemental Indenture by each of the Issuer, ABN AMRO, Bank of America and the Trustee, the Indenture shall be supplemented in accordance herewith, and this Second Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Securities hereafter authenticated and delivered under the Indenture shall be bound thereby.

Section 3.02. *Confirmation of Indenture*. The Indenture, as supplemented and amended by this Second Supplemental Indenture, is in all respects ratified and confirmed, and the Indenture, the Second Supplemental Indenture and all indentures supplemental thereto shall be read, taken and construed as one and the same instrument.

Section 3.03. *Concerning the Trustee.* The Trustee assumes no duties, responsibilities or liabilities by reason of this Second Supplemental Indenture other than as set forth in the Indenture. The Trustee makes no representations as to the validity or sufficiency of this Second Supplemental Indenture. The recitals and statements herein are deemed to be those of the Issuer, ABN AMRO and Bank of America and not of the Trustee.

Section 3.04. *Governing Law*. This Second Supplemental Indenture shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

Section 3.05. *Separability*. In case any provision contained in this Second Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.06. *Counterparts*. This Second Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed as of the date first written above.

LASALLE FUNDING LLC

By: /s/ ROBERT J. MOORE
Name: Robert J. Moore
Title: President

By: /s/ MICHAEL A. PICCATTO
Name: Michael A. Piccatto
Title: Vice President and Assistant Secretary

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed as of the date first written above.

ABN AMRO HOLDING N.V.

By: /s/ MARTIN EISENBERG
Name: Martin Eisenberg
Title: Senior Vice President

By: /s/ ROBERT SCHULTZE
Name: Robert Schultze
Title: Chief Operating Officer

ABN AMRO BANK N.V.

By: /s/ MARTIN EISENBERG
Name: Martin Eisenberg
Title: Senior Vice President

By: /s/ ROBERT SCHULTZE
Name: Robert Schultze
Title: Chief Operating Officer

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed as of the date first written above.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed as of the date first written above.

BNY MIDWEST TRUST COMPANY

By: /s/ M. CALLAHAN
Name: M. Callahan
Title: Vice President

**Exhibit 4(jjj)**

LASALLE FUNDING LLC,

as Issuer,

ABN AMRO BANK N.V.,

as Guarantor

and

BNY Midwest Trust Company,

Trustee

Indenture

Dated as of April 1, 2002

CROSS REFERENCE SHEET[1]

Provisions of Trust Indenture Act of 1939 and Indenture to be dated as of April 1, 2002, between LASALLE FUNDING LLC, as Issuer, ABN AMRO BANK N.V., as Guarantor and BNY Midwest Trust Company, as Trustee:

| Section of the Act | Section of Indenture |
|---|---|
| 310(a)(l) and (2) | 6.09 |
| 310(a)(3) and (4) | Inapplicable |
| 310(b) | 6.08 and 6.10 (a), (b) and (d) |
| 310(c) | Inapplicable |
| 312(a) | 4.01 and 4.02(a) |
| 312(b) | 4.02 |
| 312(c) | 4.02(b) |
| 313(a) | 4.04(a) |
| 313(b)(1) | Inapplicable |
| 313(b)(2) | 4.04 |
| 313(c) | 4.04 |
| 313(d) | 4.04 |
| 314(a) | 4.03 |
| 314(b) | Inapplicable |
| 314(c)(l) and (2) | 11.05 |
| 314(c)(3) | Inapplicable |
| 314(d) | Inapplicable |
| 314(e) | 11.05 |
| 3 14(f) | Inapplicable |
| 315(a), (c) and (d) | 6.01 |
| 315(b) | 5.11 |
| 315(e) | 5.12 |
| 316(a)(l) | 5.09 |
| 316(a)(2) | Not required |
| 316(a) (last sentence) | 7.04 |
| 316(b) | 5.07 |
| 317(a) | 5.02 |
| 317(b) | 3.04(a) and (b) |
| 318(a) | 11.07 |

1 This Cross Reference Sheet is not part of the Indenture.

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(continued)

THIS INDENTURE, dated as of April 1,2002, among LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "Issuer"), ABN AMRO BANK N.V., a public limited liability company incorporated under the laws of The Netherlands (the "Guarantor"), and BNY MIDWEST TRUST COMPANY, as trustee (the "Trustee").

W I T N E S S E T H :

WHEREAS, the Issuer has duly authorized the issue from time to time of its unsecured debentures, notes or other evidences of indebtedness to be issued in one or more series (the "Securities") up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture;

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture to provide, among other things, for the authentication, delivery and administration of the Securities;

WHEREAS, for value received, the Guarantor has duly authorized the execution and delivery of this Indenture to provide for the issuance of the Guarantee and the indemnity provided for herein. All things necessary to make this Indenture a valid agreement of the Guarantor, in accordance with its terms, have been done; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE:

In consideration of the premises and the purchases of the Securities by the holders thereof, the Issuer, the Guarantor and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective holders from time to time of the Securities and of the coupons, if any, appertaining thereto as follows:

## ARTICLE 1

## DEFINITIONS

SECTION 1.01 Certain Terms Defined. The following terms (except as otherwise expressly provided or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939 or the definitions of which in the Securities Act of 1933 are referred to in the Trust Indenture Act of 1939, including terms defined therein by reference to the Securities Act of 1933 (except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of this Indenture. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles, and the term "generally accepted accounting principles" means such accounting principles as are generally accepted at the time of any computation. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Indenture as a

whole and not to any particular Article, Section or other subdivision. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

"Authenticating Agent" shall have the meaning set forth in Section 6.13.

"Authorized Agent" shall have the meaning set forth in Section 11.12.

"Authorized Newspaper" means a newspaper (which, in the case of The City of New York, will, if practicable, be The Wall Street Journal (Eastern Edition), in the case of the United Kingdom, will, if practicable, be the Financial Times (London Edition) and, in the case of Luxembourg, will, if practicable, be the Luxemburger Wort) published in an official language of the country of publication customarily published at least once a day for at least five days in each calendar week and of general circulation in The City of New York, the United Kingdom or in Luxembourg, as applicable. If it shall be impractical in the opinion of the Trustee to make any publication of any notice required hereby in an Authorized Newspaper, any publication or other notice in lieu thereof which is made or given with the approval of the Trustee shall constitute a sufficient publication of such notice.

"Bearer Security" means any Security other than a Registered Security.

"Board" means any Person or Body authorized by the organizational documents or by the members of the Issuer to act for it.

"Board Resolution" means one or more resolutions, certified by the secretary of the Board to have been duly adopted or consented to by the Board and to be in full force and effect, and delivered to the Trustee.

"Business Day" means, with respect to any Security, a day that in the city (or in any of the cities, if more than one) in which the Securities are payable, as specified in the form of such Security, is not a day on which banking institutions are authorized or required by law or regulation to close.

"Commission" means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or if at any time after the execution and delivery of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

"Corporate Trust Office" means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, at the date as of which this Indenture is dated, located in the City of Chicago.

"Coupon" means any interest coupon appertaining to a Security.

"covenant defeasance" shall have the meaning set forth in Section 10.01(c).

"Depositary" means, with respect to the Securities of any series issuable or issued in the form of one or more Registered Global Securities, the Person designated as Depositary by the Issuer pursuant to Section 2.03 until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Depositary" shall mean or include each Person who is then a Depositary hereunder, and if at any time there is more than one such Person, "Depositary" as used with respect to the Securities of any such series shall mean the Depositary with respect to the Registered Global Securities of that series.

"Dollar" means the coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

"Event of Default" means any event or condition specified as such in Section 5.01.

"Guarantee" means the unconditional guarantee of the payment of the principal of, any premium or interest on, and any additional amounts with respect to the Securities by the Guarantor, as more fully set forth in Article 13.

"Guarantor" means the Person named as the "Guarantor" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Guarantor" shall mean such successor Person.

"Guarantor's Board of Directors" means the Managing Board of the Guarantor or any committee of that board duly authorized to act generally or in any particular respect for the Guarantor hereunder.

"Guarantor's Board Resolution" means a copy of one or more resolutions, certified by the Secretary or an Assistant Secretary of the Guarantor to have been duly adopted by the Guarantor's Board of Directors and to be in full force and effect on the date of such certification, delivered to the Trustee.

"Guarantor's Officer's Certificate" means a certificate signed by signed by any two duly authorized signatories of the Guarantor acting together, that complies with the requirements of Section 314(e) of the Trustee Indenture Act and is delivered to the Trustee.

"Guarantor Request" and "Guarantor Order" mean, respectively, a written request or order, as the case may be, signed in the name of the Guarantor by any two duly authorized signatories acting together, and delivered to the Trustee.

"Holder", "Holder of Securities", "Securityholder" or other similar terms mean (a) in the case of any Registered Security, the Person in whose name such Security is registered in the security register kept by the Issuer for that purpose in accordance with the terms hereof, and (b) in the case of any Bearer Security, the bearer of such Security, or any Coupon appertaining thereto, as the case may be.

"Indenture" means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular series of Securities established as contemplated hereunder

"Interest" means, when used with respect to non-interest bearing Securities, interest payable after maturity.

"Issuer" means (except as otherwise provided in Article Six) LaSalle Funding LLC, a Delaware limited liability company and, subject to Article Nine, its successors and assigns.

"Issuer Order" means a written statement, request or order of the Issuer signed in its name by any officer of the Issuer authorized by the Board to execute any such written statement, request or order.

"Judgment Currency" shall have the meaning set forth in Section 11.13.

"New York Banking Day" shall have the meaning set forth in Section 11.13.

"Non-US. Currency" means a currency issued by the government of a country other than the United States (or any currency unit comprised of any such currencies).

"Officer's Certificate" means a certificate (i) signed by any officer of the Issuer authorized by the Board to execute any such certificate and (ii) delivered to the Trustee. Each such certificate shall comply with Section 314 of the Trust Indenture Act of 1939 and include the statements provided for in Section 11.05.

"Opinion of Counsel" means an opinion in writing signed by legal counsel to the Issuer or the Guarantor, who may be an employee of or counsel to the Issuer or the Guarantor, and who shall be reasonably satisfactory to the Trustee. Each such opinion shall comply with Section 314 of the Trust Indenture Act of 1939 and include the statements provided for in Section 11.05.

"original issue date" of any Security (or portion thereof) means the earlier of (a) the date of such Security or (b) the date of any Security (or portion thereof) for which such Security was issued (directly or indirectly) on registration of transfer, exchange or substitution.

"Original Issue Discount Security" means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 5.01.

"Outstanding" when used with reference to Securities, shall, subject to the provisions of Section 7.04, mean, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except

(a) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Securities, or portions thereof, for the payment or redemption of which monies or U.S. Government Obligations (as provided for in Section 10.01) in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Issuer or the Guarantor) or shall have been set aside, segregated and held in trust by the Issuer or the Guarantor for the Holders of such Securities (if the Issuer shall act as its own, or authorize the Guarantor to act as, paying agent), provided that if such Securities, or portions thereof, are to be

redeemed prior to the maturity thereof, notice of such redemption shall have been given as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice; and

(c) Securities which shall have been paid or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.09 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a person in whose hands such Security is a legal, valid and binding obligation of the Issuer).

In determining whether the Holders of the requisite principal amount of Outstanding Securities of any or all series have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the maturity thereof pursuant to Section 5.01.

"Periodic Offering" means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Issuer or its agents upon the issuance of such Securities.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"principal" whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include "and premium, if any".

"record date" shall have the meaning set forth in Section 2.07.

"Redemption Notice Period" shall have the meaning set forth in Section 12.02.

"Registered Global Security", means a Security evidencing all or a part of a series of Registered Securities, issued to the Depositary for such series in accordance with Section 2.04, and bearing the legend prescribed in Section 2.04.

"Registered Security" means any Security registered on the Security register of the Issuer.

"Required Currency" shall have the meaning set forth in Section 11.13.

"Responsible Officer" when used with respect to the Trustee means the chairman of the board of directors, any vice chairman of the board of directors, the chairman of the trust committee, the chairman of the executive committee, any vice chairman of the executive committee, the president, any vice president, (whether or not designated by numbers or words added before or after the title "vice president") the cashier, the secretary, the treasurer, any trust

officer, any assistant trust officer, any assistant vice president, any assistant cashier, any assistant secretary, any assistant treasurer, or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

"Security" or "Securities" has the meaning stated in the first recital of this Indenture, or, as the case may be, Securities that have been authenticated and delivered under this Indenture.

"Trust Indenture Act of 1939" means the Trust Indenture Act of 1939.

"Trustee" means the Person identified as "Trustee" in the first paragraph hereof and, subject to the provisions of Article 6, shall also include any successor trustee. "Trustee" shall also mean or include each Person who is then a trustee hereunder and if at any time there is more than one such Person, "Trustee" as used with respect to the Securities of any series shall mean the trustee with respect to the Securities of such series.

"U.S. Government Obligations" shall have the meaning set forth in Section 10.01(a).

"Yield to Maturity" means the yield to maturity on a series of Securities, calculated at the time of issuance of such series, or, if applicable, at the most recent redetermination of interest on such series, and calculated in accordance with accepted financial practice.

## ARTICLE 2

## SECURITIES

SECTION 2.01 Forms Generally. The Securities of each series and the Coupons, if any, to be attached thereto shall be substantially in such form (not inconsistent with this Indenture) as shall be established by or pursuant to one or more Board Resolutions (as set forth in a Board Resolution or, to the extent established pursuant to rather than set forth in a Board Resolution, an Officer's Certificate detailing such establishment) or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the officers executing such Securities and Coupons, if any, as evidenced by their execution of such Securities and Coupons.

The definitive Securities and Coupons, if any, shall be printed, lithographed on security printed paper or may be produced in any other manner, all as determined by the officers executing such Securities and Coupons, if any, as evidenced by their execution of such Securities and Coupons, if any.

SECTION 2.02 Form of Trustee's Certificate of Authentication. The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

"This is one of the Securities referred to in the within-mentioned Indenture.

as Trustee

By:

Authorized Officer"

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's Certificate of Authentication to be borne by the Securities of each such series shall be substantially as follows:

"This is one of the Securities referred to in the within-mentioned Indenture.

as Authenticating Agent

By:

Authorized Officer"

SECTION 2.03 Amount Unlimited; Issuable in Series. The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series and each such series shall rank equally and pari passu with all other unsecured and unsubordinated debt of the Issuer. There shall be established in or pursuant to one or more Board Resolutions (and to the extent established pursuant to rather than set forth in a Board Resolution, in an Officer's Certificate detailing such establishment) or established in one or more indentures supplemental hereto, prior to the initial issuance of Securities of any series,

(a) the designation of the Securities of the series, which shall distinguish the Securities of the series from the Securities of all other series;

(b) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08,2.09,2.11,8.05 or 12.03);

(c) if other than Dollars, the coin or currency in which the Securities of that series are denominated (including, but not limited to, any Non-U.S. Currency);

(d) the date or dates on which the principal of the Securities of the series is payable;

(e) the rate or rates at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and (in the case of Registered Securities) on which a record shall be taken for the determination of Holders to whom interest is payable and/or the method by which such rate or rates or date or dates shall be determined;

(f) the place or places where the principal of and any interest on Securities of the series shall be payable (if other than as provided in Section 3.02);

(g) the right, if any, of the Issuer to redeem Securities, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions, including the Redemption Notice Period, upon which Securities of the series may be so redeemed, pursuant to any sinking fund or otherwise;

(h) the obligation, if any, of the Issuer to redeem, purchase or repay Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a Holder thereof and the price or prices at which and the period or periods within which and any terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(i) if other than denominations of $1,000 and any integral multiple thereof in the case of Registered Securities, or $1,000 and $5,000 in the case of Bearer Securities, the denominations in which Securities of the series shall be issuable;

(j) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;

(k) if other than the coin or currency in which the Securities of that series are denominated, the coin or currency in which payment of the principal of or interest on the Securities of such series shall be payable;

(l) if the principal of or interest on the Securities of such series are to be payable, at the election of the Issuer or a Holder thereof, in a coin or currency other than that in which the Securities are denominated, the period or periods within which, and the terms and conditions upon which, such election may be made;

(m) if the amount of payments of principal of and interest on the Securities of the series may be determined with reference to an index based on a coin or currency other than that in which the Securities of the series are denominated, or with reference to any currencies, securities or baskets of securities, commodities or indices, the manner in which such amounts shall be determined;

(n) if the Holders of the Securities of the series may convert or exchange the Securities of the series into or for securities of the Issuer or the Guarantor or of other entities or other property (or the cash value thereof), the specific terms of and period during which such conversion or exchange may be made;

(o) whether the Securities of the series will be issuable as Registered Securities (and if so, whether such Securities will be issuable as Registered Global Securities) or Bearer Securities (with or without Coupons), or any combination of the foregoing, any restrictions applicable to the offer, sale, transfer, exchange or delivery of Bearer Securities or Registered Securities or the payment of interest thereon and, if other than as provided in Section 2.08, the terms upon which Bearer Securities of any series may be exchanged for Registered Securities of such series and vice versa;

(p) whether and under what circumstances the Issuer will pay additional amounts on the Securities of the series held by a Person who is not a U.S. Person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Issuer will have the option to redeem such Securities rather than pay such additional amounts;

(q) if the Securities of such series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and terms of such certificates, documents or conditions;

(r) any trustees, depositaries, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Securities of such series;

(s) any other events of default or covenants with respect to the Securities of such series; and

(t) any other terms of the series.

All Securities of any one series and Coupons, if any, appertaining thereto, shall be substantially identical, except in the case of Registered Securities as to denomination and except as may otherwise be provided by or pursuant to the Board Resolution or Officer's Certificate referred to above or as set forth in any such indenture supplemental hereto. All Securities of any one series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to such Board Resolution, such Officer's Certificate or in any such indenture supplemental hereto.

SECTION 2.04 Authentication and Delivery of Securities. (a) The Issuer may deliver Securities of any series having attached thereto appropriate Coupons, if any, executed by the Issuer to the Trustee for authentication together with the applicable documents referred to below in this Section, and the Trustee shall thereupon authenticate and deliver such Securities to or upon the order of the Issuer (contained in the Issuer Order referred to below in this Section) or pursuant to such procedures acceptable to the Trustee and to such recipients as may be specified from time to time by an Issuer Order. The maturity date, original issue date, interest rate and any other terms of the Securities of such series and Coupons, if any, appertaining thereto (including Redemption Notice Periods) shall be determined by or pursuant to such Issuer Order and procedures. If provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral instructions from the Issuer or its duly authorized agent, which instructions shall be promptly confirmed in writing. In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the

Trustee shall be entitled to receive (in the case of subparagraphs 2.04(a)(ii), 2.04(a)(iii) and 2.04(a)(iv) below only at or before the time of the first request of the Issuer to the Trustee to authenticate Securities of such series) and (subject to Section 6.01) shall be fully protected in relying upon, unless and until such documents have been superceded or revoked:

(i) an Issuer Order requesting such authentication and setting forth delivery instructions if the Securities and Coupons, if any, are not to be delivered to the Issuer, provided that, with respect to Securities of a series subject to a Periodic Offering, (a) such Issuer Order may be delivered by the Issuer to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (b) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount established for such series, pursuant to an Issuer Order or pursuant to procedures acceptable to the Trustee as may be specified from time to time by an Issuer Order, (c) the maturity date or dates, original issue date or dates, interest rate or rates and any other terms of Securities of such series (including Redemption Notice Periods) shall be determined by an Issuer Order or pursuant to such procedures and (d) if provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which oral instructions shall be promptly confirmed in writing;

(ii) any Board Resolution, Officer's Certificate and/or executed supplemental indenture referred to in Sections 2.01 and 2.03 by or pursuant to which the forms and terms of the Securities and Coupons, if any, were established;

(iii) an Officer's Certificate setting forth the form or forms and terms of the Securities and Coupons, if any, stating that the form or forms and terms of the Securities and Coupons, if any, have been established pursuant to Sections 2.01 and 2.03 and comply with this Indenture, and covering such other matters as the Trustee may reasonably request; and

(iv) at the option of the Issuer, either an Opinion of Counsel, or a letter addressed to the Trustee permitting it to rely on an Opinion of Counsel, substantially to the effect that:

(A) the forms of the Securities and Coupons, if any, have been duly authorized and established in conformity with the provisions of this Indenture;

(B) in the case of an underwritten offering, the terms of the Securities have been duly authorized and established in conformity with the provisions of this Indenture, and, in the case of an offering that is not underwritten, certain terms of the Securities have been established pursuant to a Board Resolution, an Officer's Certificate or a supplemental indenture in accordance with this Indenture, and when such other terms as are to be established pursuant to procedures set forth in an Issuer Order shall have been established,

all such terms will have been duly authorized by the Issuer and will have been established in conformity with the provisions of this Indenture;

(C) when the Securities and Coupons, if any, have been executed by the Issuer and authenticated by the Trustee in accordance with the provisions of this Indenture and delivered to and duly paid for by the purchasers thereof, they will have been duly issued under this Indenture and will be valid and binding obligations of the Issuer, enforceable in accordance with their respective terms, and will be entitled to the benefits of this Indenture, including the Guarantee; and

(D) the execution and delivery by the Issuer of, and the performance by the Issuer of its obligations under, the Securities and Coupons, if any, will not contravene any provision of applicable law or the certificate of formation or limited liability company agreement of the Issuer or any agreement or other instrument binding upon the Issuer or any of its consolidated subsidiaries that is material to the Issuer and its subsidiaries, taken as a whole, or, to the best of such counsel's knowledge, any judgment, order or decree of any U.S. governmental body, agency or court having jurisdiction over the Issuer or any of its consolidated subsidiaries, and no consent, approval or authorization of any U.S. governmental body or agency is required for the performance by the Issuer of its obligations under the Securities and Coupons, if any, except such as are specified and have been obtained and 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 Securities and Coupons, if any.

In rendering such opinions, such counsel may qualify any opinions as to enforceability by stating that such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium and other similar laws affecting the rights and remedies of creditors and is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Such counsel may rely, as to all matters governed by the laws of jurisdictions other than the State of New York and the federal law of the United States, upon opinions of other counsel (copies of which shall be delivered to the Trustee), who shall be counsel reasonably satisfactory to the Trustee, in which case the opinion shall state that such counsel believes he and the Trustee are entitled so to rely. Such counsel may also state that, insofar as such opinion involves factual matters, he has relied, to the extent he deems proper, upon certificates of officers of the Issuer or the Guarantor and its subsidiaries and certificates of public officials.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section if the Trustee, being advised by counsel, determines that such action may not lawfully be taken by the Issuer or if the Trustee in good faith by its board of directors or board of

trustees, executive committee, or a trust committee of directors or trustees or Responsible Officers shall determine that such action would expose the Trustee to personal liability to existing Holders or would affect the Trustee's own rights, duties or immunities under the Securities, this Indenture or otherwise.

If the Issuer shall establish pursuant to Section 2.03 that the Securities of a series are to be issued in the form of one or more Registered Global Securities, then the Issuer shall execute and the Trustee shall, in accordance with this Section and the Issuer Order with respect to such series, authenticate and deliver one or more Registered Global Securities that (i) shall represent and shall be denominated in an amount equal to the aggregate principal amount of all of the Securities of such series issued and not yet cancelled, (ii) shall be registered in the name of the Depositary for such Registered Global Security or Securities or the nominee of such Depositary, (iii) shall be delivered by the Trustee to such Depositary or pursuant to such Depositary's instructions and (iv) shall bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive registered form, this Security may not be transferred except as a whole by the Depositary to the nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary."

Each Depositary designated pursuant to Section 2.03 must, at the time of its designation and at all times while it serves as Depositary, be a clearing agency registered under the Securities Exchange Act of 1934 and any other applicable statute or regulation.

SECTION 2.05 Execution of Securities. The Securities and, if applicable, each Coupon appertaining thereto shall be signed on behalf of the Issuer by any officer of the Issuer duly authorized by the Board to execute Securities or, if applicable, Coupons, which Securities or Coupons may, but need not, be attested. Such signatures may be the manual or facsimile signatures of the present or any future such officers. Minor errors or defects in any such reproduction of any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

In case any officer of the Issuer who shall have signed any of the Securities or Coupons, if any, pursuant to his or her authorization to do so, shall cease to be such officer, or such authorization shall be withdrawn, before the Security or Coupon so signed (or the Security to which the Coupon so signed appertains) shall be authenticated and delivered by the Trustee or disposed of by the Issuer, such Security or Coupon nevertheless may be authenticated and delivered or disposed of as though the person who signed such Security or Coupon had not ceased to be such officer or the authorization to sign such Security or Coupon had not been withdrawn; and any Security or Coupon may be signed on behalf of the Issuer by any two persons as, at the actual date of the execution of such Security or Coupon, shall be authorized to do so, although at the date of the execution and delivery of this Indenture any such person was not so authorized.

SECTION 2.06 Certificate of Authentication. Only such Securities as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the manual signature of one of its authorized officers, shall be entitled to the benefits

of this Indenture or be valid or obligatory for any purpose. No Coupon shall be entitled to the benefits of this Indenture or shall be valid and obligatory for any purpose until the certificate of authentication on the Security to which such Coupon appertains shall have been duly executed by the Trustee. The execution of such certificate by the Trustee upon any Security executed by the Issuer shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

SECTION 2.07 Denomination and Date of Securities; Payments of Interest. The Securities of each series shall be issuable as Registered Securities or Bearer Securities in denominations established as contemplated by Section 2.03 or, with respect to the Registered Securities of any series, if not so established, in denominations of $1,000 and any integral multiple thereof. If denominations of Bearer Securities of any series are not so established, such Securities shall be issuable in denominations of $1,000 and $5,000. The Securities of each series shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plan as the officers of the Issuer executing the same may determine with the approval of the Trustee, as evidenced by the execution and authentication thereof.

Each Registered Security shall be dated the date of its authentication. Each Bearer Security shall be dated as provided in the resolution or resolutions of the Board of the Issuer referred to in Section 2.03. The Securities of each series shall bear interest, if any, from the date, and such interest shall be payable on the dates, established as contemplated by Section 2.03.

The Person in whose name any Registered Security of any series is registered at the close of business on any record date applicable to a particular series with respect to any interest payment date for such series shall be entitled to receive the interest, if any, payable on such interest payment date notwithstanding any transfer or exchange of such Registered Security subsequent to the record date and prior to such interest payment date, except if and to the extent the Issuer and the Guarantor shall default in the payment of the interest due on such interest payment date for such series, in which case such defaulted interest shall be paid to the Persons in whose names Outstanding Registered Securities for such series are registered at the close of business on a subsequent record date (which shall be not less than five Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuer or the Guarantor to the Holders of Registered Securities not less than 15 days preceding such subsequent record date. The term “record date” as used with respect to any interest payment date (except a date for payment of defaulted interest) for the Securities of any series shall mean the date specified as such in the terms of the Registered Securities of such series established as contemplated by Section 2.03, or, if no such date is so established, if such interest payment date is the first day of a calendar month, the fifteenth day of the next preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the first day of such calendar month, whether or not such record date is a Business Day.

SECTION 2.08 Registration, Transfer and Exchange. The Issuer will keep at each office or agency to be maintained for the purpose as provided in Section 3.02 for each series of Securities a register or registers in which, subject to such reasonable regulations as it may prescribe, it will provide for the registration of Registered Securities of such series and the registration of transfer of Registered Securities of such series. Such register shall be in written

form in the English language or in any other form capable of being converted into such form within a reasonable time. At all reasonable times such register or registers shall be open for inspection by the Trustee.

Upon due presentation for registration of transfer of any Registered Security of any series at any such office or agency to be maintained for the purpose as provided in Section 3.02, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Registered Security or Registered Securities of the same series, maturity date, interest rate and original issue date in authorized denominations for a like aggregate principal amount.

Bearer Securities (except for any temporary global Bearer Securities) and Coupons (except for Coupons attached to any temporary global Bearer Securities) shall be transferable by delivery.

At the option of the Holder thereof, Registered Securities of any series (other than a Registered Global Security, except as set forth below) may be exchanged for a Registered Security or Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Registered Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02 and upon payment, if the Issuer shall so require, of the charges hereinafter provided. If the Securities of any series are issued in both registered and unregistered form, except as otherwise specified pursuant to Section 2.03, at the option of the Holder thereof, Bearer Securities of any series may be exchanged for Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Bearer Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02, with, in the case of Bearer Securities that have Coupons attached, all unmatured Coupons and all matured Coupons in default thereto appertaining, and upon payment, if the Issuer shall so require, of the charges hereinafter provided. At the option of the Holder thereof, if Bearer Securities of any series, maturity date, interest rate and original issue date are issued in more than one authorized denomination, except as otherwise specified pursuant to Section 2.03, such Bearer Securities may be exchanged for Bearer Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Bearer Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.02 or as specified pursuant to Section 2.03, with, in the case of Bearer Securities that have Coupons attached, all unmatured Coupons and all matured Coupons in default thereto appertaining, and upon payment, if the Issuer shall so require, of the charges hereinafter provided. Unless otherwise specified pursuant to Section 2.03, Registered Securities of any series may not be exchanged for Bearer Securities of such series. Whenever any Securities are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. All Securities and Coupons surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled and disposed of by the Trustee, and the Trustee will deliver a certificate of disposition thereof to the Issuer.

All Registered Securities presented for registration of transfer, exchange, redemption or payment shall (if so required by the Issuer or the Trustee) be duly endorsed by, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Issuer and the Trustee duly executed by the Holder or his attorney duly authorized in writing.

The Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any exchange or registration of transfer of Securities. No service charge shall be made for any such transaction.

The Issuer shall not be required to exchange or register a transfer of (a) any Securities of any series for a period of 15 days next preceding the first mailing of notice of redemption of Securities of such series to be redeemed or (b) any Securities selected, called or being called for redemption, in whole or in part, except, in the case of any Security to be redeemed in part, the portion thereof not so to be redeemed or (c) any Securities if the Holder thereof has exercised any right to require the Issuer to repurchase such Securities, in whole or in part, except, in the case of any Security to be repurchased in part, the portion thereof not so to be repurchased.

Notwithstanding any other provision of this Section 2.08, unless and until it is exchanged in whole or in part for Securities in definitive registered form, a Registered Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary.

If at any time the Depositary for any Registered Securities of a series represented by one or more Registered Global Securities notifies the Issuer that it is unwilling or unable to continue as Depositary for such Registered Securities or if at any time the Depositary for such Registered Securities shall no longer be eligible under Section 2.04, the Issuer shall appoint a successor Depositary eligible under Section 2.04 with respect to such Registered Securities. If a successor Depositary eligible under Section 2.04 for such Registered Securities is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such ineligibility, the Issuer's election pursuant to Section 2.03 that such Registered Securities be represented by one or more Registered Global Securities shall no longer be effective and the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities in exchange for such Registered Global Security or Securities.

The Issuer may at any time and in its sole discretion determine that the Registered Securities of any series issued in the form of one or more Registered Global Securities shall no longer be represented by a Registered Global Security or Securities. In such event the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities, in exchange for such Registered Global Security or Securities.

If specified by the Issuer pursuant to Section 2.03 with respect to Securities represented by a Registered Global Security, the Depositary for such Registered Global Security may surrender such Registered Global Security in exchange in whole or in part for Securities of the same series in definitive registered form on such terms as are acceptable to the Issuer and such Depositary. Thereupon, the Issuer shall execute, and the Trustee shall authenticate and deliver, without service charge,

(i) to the Person specified by such Depositary a new Registered Security or Securities of the same series, of any authorized denominations as requested by such Person, in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Registered Global Security; and

(ii) to such Depositary a new Registered Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Registered Global Security and the aggregate principal amount of Registered Securities authenticated and delivered pursuant to this Article 2.

Upon the exchange of a Registered Global Security for Securities in definitive registered form without coupons, in authorized denominations, such Registered Global Security shall be cancelled by the Trustee or an agent of the Issuer or the Trustee. Securities in definitive registered form without coupons issued in exchange for a Registered Global Security pursuant to this Section 2.08 shall be registered in such nominee names and in such authorized denominations as the Depositary for such Registered Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee or an agent of the Issuer or the Trustee. The Trustee or such agent shall deliver such Securities to or as directed by the Persons in whose names such Securities are so registered.

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Issuer and the Guarantor, respectively, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

Notwithstanding anything herein or in the terms of any series of Securities to the contrary, none of the Issuer, the Trustee or any agent of the Issuer or the Trustee (any of which, other than the Issuer, shall rely on an Officer's Certificate and an Opinion of Counsel) shall be required to exchange any Bearer Security for a Registered Security if such exchange would result in adverse Federal income tax consequences to the Issuer (such as, for example, the inability of the Issuer to deduct from its income, as computed for Federal income tax purposes, the interest payable on the Bearer Securities) under then applicable United States Federal income tax laws.

SECTION 2.09 Mutilated, Defaced, Destroyed, Lost and Stolen Securities. In case any temporary or definitive Security or any Coupon appertaining to any Security shall become mutilated, defaced or be destroyed, lost or stolen, the Issuer in its discretion may execute, and upon the written request of any officer of the Issuer, the Trustee shall authenticate and deliver a

new Security of the same series, maturity date, interest rate and original issue date, bearing a number or other distinguishing symbol not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen with Coupons corresponding to the Coupons appertaining to the Securities so mutilated, defaced, destroyed, lost or stolen, or in exchange or substitution for the Security to which such mutilated, defaced, destroyed, lost or stolen Coupon appertained, with Coupons appertaining thereto corresponding to the Coupons so mutilated, defaced, destroyed, lost or stolen. In every case the applicant for a substitute Security or Coupon shall furnish to the Issuer, the Guarantor and the Trustee and any agent of the Issuer, the Guarantor or the Trustee such security or indemnity as may be required by them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security or Coupon and of the ownership thereof and in the case of mutilation or defacement shall surrender the Security and related Coupons to the Trustee or such agent.

Upon the issuance of any substitute Security or Coupon, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee or its agent) connected therewith. In case any Security or Coupon which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Issuer may instead of issuing a substitute Security, pay or authorize the payment of the same or the relevant Coupon (without surrender thereof except in the case of a mutilated or defaced Security or Coupon), if the applicant for such payment shall furnish to the Issuer, the Guarantor and the Trustee and any agent of the Issuer, the Guarantor or the Trustee such security or indemnity as any of them may require to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Issuer, the Guarantor and the Trustee and any agent of the Issuer, the Guarantor or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security or Coupon and of the ownership thereof.

Every substitute Security or Coupon of any series issued pursuant to the provisions of this Section by virtue of the fact that any such Security or Coupon is destroyed, lost or stolen shall constitute an additional contractual obligation of the Issuer and the Guarantor, whether or not the destroyed, lost or stolen Security or Coupon shall be at any time enforceable by anyone and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture equally and proportionately with any and all other Securities or Coupons of such series duly authenticated and delivered hereunder. All Securities and Coupons shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced or destroyed, lost or stolen Securities and Coupons and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.10 Cancellation of Securities; Disposition Thereof. All Securities and Coupons surrendered for payment, redemption, registration of transfer or exchange, or for credit against any payment in respect of a sinking or analogous find, if surrendered any Person other than the Trustee or any agent of the Trustee, shall be delivered to the Trustee or its agent for

cancellation or, if surrendered to the Trustee, shall be cancelled by it; and no Securities or Coupons shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee or its agent shall dispose of cancelled Securities and Coupons held by it and deliver a certificate of disposition to the Issuer. If the Issuer, the Guarantor or an agent of either of them shall acquire any of the Securities or Coupons, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities or Coupons unless and until the same are delivered to the Trustee or its agent for cancellation.

SECTION 2.11 Temporary Securities. Pending the preparation of definitive Securities for any series, the Issuer may execute and the Trustee shall authenticate and deliver temporary Securities for such series (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Trustee). Temporary Securities of any series shall be issuable as Registered Securities without Coupons, or as Bearer Securities with or without Coupons attached thereto, of any authorized denomination, and substantially in the form of the definitive Securities of such series but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Issuer with the concurrence of the Trustee as evidenced by the execution and authentication thereof. Temporary Securities may contain such references to any provisions of this Indenture as may be appropriate. Every temporary Security shall be executed by the Issuer and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities. Without unreasonable delay the Issuer shall execute and shall furnish definitive Securities of such series, and thereupon temporary Registered Securities of such series may be surrendered in exchange therefor without charge at each office or agency to be maintained by the Issuer for that purpose pursuant to Section 3.02 and, in the case of Bearer Securities, at any agency maintained by the Issuer for such purpose as specified pursuant to Section 2.03, and the Trustee shall authenticate and deliver in exchange for such temporary Securities of such series an equal aggregate principal amount of definitive Securities of the same series having authorized denominations and, in the case of Bearer Securities, having attached thereto any appropriate Coupons. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as definitive Securities of such series, unless otherwise established pursuant to Section 2.03. The provisions of this Section are subject to any restrictions or limitations on the issue and delivery of temporary Bearer Securities of any series that may be established pursuant to Section 2.03 (including any provision that Bearer Securities of such series initially be issued in the form of a single global Bearer Security to be delivered to a depositary or agency located outside the United States and the procedures pursuant to which definitive or global Bearer Securities of such series would be issued in exchange for such temporary global Bearer Security).

## ARTICLE 3

## COVENANTS OF THE ISSUER

SECTION 3.01 Payment of Principal and Interest. The Issuer covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay or cause to be paid the principal of, and interest on, each of the Securities of such series (together with any additional amounts payable pursuant to the terms of such Securities) at the place or places, at the respective times and in the manner provided in such Securities and in the Coupons, if any, appertaining

thereto and in this Indenture. The interest on Securities with Coupons attached (together with any additional amounts payable pursuant to the terms of such Securities) shall be payable only upon presentation and surrender of the several Coupons for such interest installments as are evidenced thereby as they severally mature. If any temporary Bearer Security provides that interest thereon may be paid while such Security is in temporary form, the interest on any such temporary Bearer Security (together with any additional amounts payable pursuant to the terms of such Security) shall be paid, as to the installments of interest evidenced by Coupons attached thereto, if any, only upon presentation and surrender thereof, and, as to the other installments of interest, if any, only upon presentation of such Securities for notation thereon of the payment of such interest, in each case subject to any restrictions that may be established pursuant to Section 2.03. The interest on Registered Securities (together with any additional amounts payable pursuant to the terms of such Securities) shall be payable only to or upon the written order of the Holders thereof and, at the option of the Issuer, may be paid by wire transfer or by mailing checks for such interest payable to or upon the written order of such Holders at their last addresses as they appear on the registry books of the Issuer.

SECTION 3.02 Offices for Payments, etc. So long as any Registered Securities are authorized for issuance pursuant to this Indenture or are outstanding hereunder, the Issuer and the Guarantor will maintain in the Borough of Manhattan, The City of New York or the City of Chicago, an office or agency where the Registered Securities of each series may be presented for payment, where the Securities of each series may be presented for exchange as is provided in this Indenture and, if applicable, pursuant to Section 2.03 and where the Registered Securities of each series may be presented for registration of transfer as in this Indenture provided.

The Issuer will maintain one or more offices or agencies in a city or cities located outside the United States (including any city in which such an agency is required to be maintained under the rules of any stock exchange on which the Securities of such series are listed) where the Bearer Securities, if any, of each series and Coupons, if any, appertaining thereto may be presented for payment. No payment on any Bearer Security or Coupon will be made upon presentation of such Bearer Security or Coupon at an agency of the Issuer or the Guarantor within the United States nor will any payment be made by transfer to an account in, or by mail to an address in, the United States unless pursuant to applicable United States laws and regulations then in effect such payment can be made without adverse tax consequences to the Issuer. Notwithstanding the foregoing, payments in Dollars of Bearer Securities of any series and Coupons appertaining thereto which are payable in Dollars may be made at an agency of the Issuer or the Guarantor maintained in the Borough of Manhattan, The City of New York or the City of Chicago if such payment in Dollars at each agency maintained by the Issuer outside the United States for payment on such Bearer Securities is illegal or effectively precluded by exchange controls or other similar restrictions.

The Issuer and the Guarantor will maintain in the Borough of Manhattan, The City of New York or the City of Chicago, an office or agency where notices and demands to or upon the Issuer or the Guarantor in respect of the Securities of any series, the Coupons appertaining thereto or this Indenture may be served.

The Issuer and the Guarantor will give to the Trustee written notice of the location of each such office or agency and of any change of location thereof. In case the Issuer or the

Guarantor shall fail to maintain any agency required by this Section to be located in the Borough of Manhattan, The City of New York or the City of Chicago, or shall fail to give such notice of the location or of any change in the location of any of the above agencies, presentations and demands may be made and notices may be served at the Corporate Trust Office of the Trustee.

The Issuer and the Guarantor may from time to time designate one or more additional offices or agencies where the Securities of a series and any Coupons appertaining thereto may be presented for payment, where the Securities of that series may be presented for exchange as provided in this Indenture and pursuant to Section 2.03 and where the Registered Securities of that series may be presented for registration of transfer as in this Indenture provided, and the Issuer and the Guarantor may from time to time rescind any such designation, as the Issuer and the Guarantor may deem desirable or expedient; provided, however, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain the agencies provided for in this Section. The Issuer and the Guarantor will give to the Trustee prompt written notice of any such designation or rescission thereof.

SECTION 3.03 Appointment to Fill a Vacancy in Office of Trustee. The Issuer or the Guarantor, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 6.10, a Trustee, so that there shall at all times be a Trustee with respect to each series of Securities hereunder.

SECTION 3.04 Paying Agents. Whenever the Issuer shall appoint a paying agent other than the Trustee with respect to the Securities of any series, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section,

(a) that it will hold all sums received by it as such agent for the payment of the principal of or interest on the Securities of such series (whether such sums have been paid to it by the Issuer, the Guarantor or any other obligor on the Securities of such series) in trust for the benefit of the Holders of the Securities of such series, or Coupons appertaining thereto, if any, or of the Trustee,

(b) that it will give the Trustee notice of any failure by the Issuer (or by the Guarantor or any other obligor on the Securities of such series) to make any payment of the principal of or interest on the Securities of such series when the same shall be due and payable, and

(c) that it will pay any such sums so held in trust by it to the Trustee upon the Trustee's written request at any time during the continuance of the failure referred to in clause 3.04(b) above.

The Issuer or the Guarantor will, on or prior to each due date of the principal of or interest on the Securities of such series, deposit with the paying agent a sum sufficient to pay such principal or interest so becoming due, and (unless such paying agent is the Trustee) the Issuer or the Guarantor will promptly notify the Trustee of any failure to take such action. Any payment received by the Trustee or a paying agent after 1:00 p.m. New York time shall be deemed to be received on the next Business Day.

If the Issuer shall act as its own paying agent, or if the Guarantor shall act as paying agent, with respect to the Securities of any series, it will, on or before each due date of the principal of or interest on the Securities of such series, set aside, segregate and hold in trust for the benefit of the Holders of the Securities of such series or the Coupons appertaining thereto a sum sufficient to pay such principal or interest so becoming due. The Issuer or the Guarantor will promptly notify the Trustee of any failure to take such action.

Anything in this Section to the contrary notwithstanding, but subject to Section 10.01, the Issuer or the Guarantor may at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such series by the Issuer, the Guarantor or any paying agent hereunder, as required by this Section, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section is subject to the provisions of Sections 10.03 and 10.04.

SECTION 3.05 Written Statement to Trustee. Each of the Issuer and the Guarantor will furnish to the Trustee on or before March 31 in each year (beginning with March 31, 2003) a brief certificate (which need not comply with Section 11.05) from the principal executive, financial or accounting officer of the Issuer or the Guarantor, as the case may be, stating that in the course of the performance by the signer of his duties as an officer of the Issuer or the Guarantor, as the case may be, he would normally have knowledge of any default or non-compliance by the Issuer or the Guarantor, as the case may be, in the performance of any covenants or conditions contained in this Indenture, stating whether or not he has knowledge of any such default or non-compliance and, if so, specifying each such default or non-compliance of which the signer has knowledge and the nature thereof.

SECTION 3.06 Luxembourg Publications. In the event of the publication of any notice pursuant to Section 5.11, 6.10(a), 6.11, 8.02, 10.04, 12.02 or 12.05, the party making such publication in the Borough of Manhattan, The City of New York and London shall also, to the extent that notice is required to be given to Holders of Securities of any series by applicable Luxembourg law or stock exchange regulation, as evidenced by an Officer's Certificate delivered to such party, make a similar publication in Luxembourg.

## ARTICLE 4

## SECURITYHOLDERS LISTS AND REPORTS BY THE ISSUER, GUARANTOR AND THE TRUSTEE

SECTION 4.01 Issuer and Guarantor to Furnish Trustee Information as to Names and Addresses of Securityholders. Each of the Issuer and Guarantor covenants and agrees that it will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses of the Holders of the Registered Securities of such series pursuant to Section 312 of the Trust Indenture Act of 1939:

(a) not more than 15 days after each record date for the payment of interest on such Registered Securities, as herein above specified, as of such record date and on dates to be determined pursuant to Section 2.03 for non-interest bearing Registered Securities in each year, and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Issuer of any such request as of a date not more than 15 days prior to the time such information is furnished, provided that if and so long as the Trustee shall be the Security registrar for such series and all of the Securities of any series are Registered Securities, such list shall not be required to be furnished.

SECTION 4.02 Preservation and Disclosure of Securityholders Lists.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of each series of Securities contained in the most recent list furnished to it as provided in Section 4.01. The Trustee may destroy any list furnished to it as provided in Section 4.01 upon receipt of a new list so furnished.

(b) The rights of Holders to communicate with other Holders with respect to the Indenture or the Securities are as provided by the Trust Indenture Act of 1939.

(c) None of the Issuer, the Guarantor or the Trustee will be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act of 1939.

SECTION 4.03 Reports by the Issuer and the Guarantor. Each of the Issuer and the Guarantor covenants to file with the Trustee, within 15 days after the Issuer or the Guarantor, as the case may be, is required to file the same with the Commission, copies of the annual reports and of the information, documents, and other reports that the Issuer may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 or pursuant to Section 314 of the Trust Indenture Act of 1939.

SECTION 4.04 Reports by the Trustee. Any Trustee's report required under Section 313(a) of the Trust Indenture Act of 1939 shall be transmitted on or before May 15 in each year beginning May 15, 2003, as provided in Section 313(c) of the Trust Indenture Act of 1939, so long as any Securities are Outstanding hereunder, and shall be dated as of a date convenient to the Trustee no more than 60 days prior thereto.

## ARTICLE 5

## REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

SECTION 5.01 Event of Default Defined; Acceleration of Maturity; Waiver of Default "Event of Default" with respect to Securities of any series wherever used herein, means each one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default for more than 30 days in the payment of interest or additional amounts in respect of the Securities; or

(b) default is made for more than five days in the payment of the principal of or premium on the Securities; or

(c) the failure to perform or observe any other obligations under the Securities which failure continues for the period of 60 days next following service on the Issuer and the Guarantor of notice requiring the same to be remedied; or

(d) the entry by a court having competent jurisdiction of:

(i) a decree or order for relief in respect of the Company or the Guarantor in an involuntary proceeding under any applicable bankruptcy, insolvency, reorganization law (including Chapter X of the Act of the Supervision of the Credit System (Wet toezicht kredietwezen 1992) of the Netherlands) (other than a reorganization under a foreign law that does not relate to insolvency) or other similar law and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(ii) a decree or order adjudging the Company or the Guarantor to be insolvent, or approving a petition seeking reorganization (other than a reorganization under a foreign law that does not relate to insolvency), arrangement, adjustment or composition of the Company or the Guarantor and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(iii) a final and non-appealable order appointing a custodian, receiver, liquidator, assignee, trustee or other similar official of the Company or the Guarantor of any substantial part of the property of the Company or the Guarantor or ordering the winding up or liquidation of the affairs of the Company or the Guarantor; or

(e) the commencement by the Company or the Guarantor of a voluntary proceeding under any applicable bankruptcy, insolvency, reorganization (other than a reorganization under a foreign law that does not relate to insolvency) or other similar law or of a voluntary proceeding seeking to be adjudicated insolvent or the consent by the Company or the Guarantor to the entry of a decree or order for relief in an involuntary proceeding under any applicable bankruptcy, insolvency, reorganization or other similar law or to the commencement of any insolvency proceedings against it, or the filing by the Company or the Guarantor of a petition or answer or consent seeking reorganization, arrangement, adjustment or composition of the Company or relief under any applicable law, or the consent by the Company or the Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or similar official of the Company or the Guarantor or any substantial part of the property of the Company or the Guarantor or the making by the Company or the Guarantor of an assignment for the benefit of creditors, or the taking of corporate action by the Company or the Guarantor in furtherance of any such action; or

(f) any other Event of Default provided in the supplemental indenture or Issuer Order under which such series of Securities is issued.

If an Event of Default described in clauses (a), (b), (c) or (f) above (if the Event of Default under clauses (c) or (f) is with respect to less than all series of Securities then Outstanding) occurs and is continuing, then, and in each and every such case, except for any series the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of all series affected thereby then Outstanding hereunder (treated as one class), by notice in writing to the Issuer and the Guarantor (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of any such affected series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such affected series and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. If an Event of Default described in clauses (c), (f) (if the Event of Default under clauses (c) or (f) is with respect to all series of Securities at the time Outstanding), (d) or (e) occurs and is continuing, then and in each and every such case, unless the principal of all the Securities shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of all the Securities then Outstanding hereunder (treated as one class), by notice in writing to the Issuer and the Guarantor (and to the Trustee if given by Securityholders), may declare the entire principal (or, if any Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of all the Securities then Outstanding and interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable.

The foregoing provisions, however, are subject to the condition that if, at any time after the principal (or, if the Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of the Securities of any series (or of all the Securities, as the case may be) shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Issuer or the Guarantor shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of such series (or of all the Securities, as the case may be) and the principal of any and all Securities of each such series (or of all the Securities, as the case may be) which shall have become due otherwise than by acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of each such series (or at the respective rates of interest or Yields to Maturity of all the Securities, as the case may be) to the date of such payment or deposit) and such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of negligence or bad faith, and if any and all Events of Default under the Indenture, other than the non-payment of the principal of Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein, then and in every such case the Holders of a majority in aggregate principal amount of all the Securities of each such series (or of all the Securities, as the case may be) then Outstanding (in each case treated as one class), by written notice to the Issuer, the Guarantor and the Trustee, may waive all defaults with respect to each such series (or with respect to all the Securities, as the case may be) and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

SECTION 5.02 Collection of Indebtedness by Trustee; Trustee May Prove Debt. Each of the Issuer and the Guarantor covenants that (a) in case default shall be made in the payment of any installment of interest on any of the Securities of any series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any series when the same shall have become due and payable, and such default shall have continued for a period of 30 days, whether upon maturity of the Securities of such series or upon any redemption or by declaration or otherwise — then upon demand of the Trustee, the Issuer or the Guarantor, as the case may be, will pay to the Trustee for the benefit of the Holders of the Securities of such series the whole amount that then shall have become due and payable on all Securities of such series, and such Coupons, for principal or interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee and each predecessor Trustee, their respective agents, attorneys and counsel, and any expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of its negligence or bad faith.

Until such demand is made by the Trustee, the Issuer may pay the principal of and interest on the Securities of any series to the registered holders, whether or not the Securities of such series be overdue.

In case the Issuer or the Guarantor shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Issuer or the Guarantor or other obligor upon the Securities and collect in the manner provided by law out of the property of the Issuer or the Guarantor or other obligor upon the Securities, wherever situated, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Issuer or the Guarantor or any other obligor upon the Securities under Title 11 of the United States Code or any other applicable Federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or the Guarantor or such other obligor or the property of any of them, or in case of any other comparable judicial proceedings relative to the Issuer or the Guarantor or other obligor upon the Securities, or to the creditors or property of the Issuer or the Guarantor or such other obligor, the Trustee, irrespective of whether the principal of -the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(i) to file and prove a claim or claims for the whole amount of principal and interest (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) owing and unpaid in respect of the Securities of any series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or bad faith) and of the Securityholders allowed in any judicial proceedings relative to the Issuer, the Guarantor or other obligor upon the Securities, or to the creditors or property of the Issuer, the Guarantor or such other obligor,

(ii) unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Securities of any series in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or Person performing similar functions in comparable proceedings, and

(iii) to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Securityholders and of the Trustee on their behalf; and any trustee, receiver, or liquidator, custodian or other similar official is hereby authorized by each of the Securityholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Securityholders, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar Person.

All rights of action and of asserting claims under this Indenture, or under any of the Securities of any series or Coupons appertaining to such Securities, may be enforced by the Trustee without the possession of any of the Securities of such series or Coupons appertaining to such Securities or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Trustee, each predecessor Trustee and their respective agents and attorneys, shall be for the ratable benefit of the Holders of the Securities or Coupons appertaining to such Securities in respect of which such action was taken.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Securities or Coupons appertaining to such Securities in respect to which such action was taken, and it shall not be necessary to make any Holders of such Securities or Coupons appertaining to such Securities parties to any such proceedings.

SECTION 5.03 Application of Proceeds. Any monies collected by the Trustee pursuant to this Article in respect of any series shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such monies on account of principal or interest, upon presentation of the several Securities and Coupons appertaining to such Securities in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Securities of such series in reduced principal amounts in exchange for the presented Securities of like series if only partially paid, or upon surrender thereof if fully paid:

FIRST: To the payment of costs and expenses applicable to such series in respect of which monies have been collected, including reasonable compensation to the Trustee and each predecessor Trustee and their respective agents and attorneys and of all expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith;

SECOND: In case the principal of the Securities of such series in respect of which monies have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such series in default in the order of the maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in such Securities, such payments to be made ratably to the Persons entitled thereto, without discrimination or preference;

THIRD: In case the principal of the Securities of such series in respect of which monies have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such series for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series; and in case such monies shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such series, then to the payment of such principal and interest or Yield to Maturity, without preference or priority of principal over interest or Yield to Maturity, or of interest or Yield to Maturity over principal, or of any installment of interest over any other installment of interest, or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and accrued and unpaid interest or Yield to Maturity; and

FOURTH: To the payment of the remainder, if any, to the Issuer, the Guarantor or any other Person lawfully entitled thereto.

SECTION 5.04 Suits for Enforcement. In case an Event of Default has occurred, has not been waived and is continuing, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

SECTION 5.05 Restoration of Rights on Abandonment of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Issuer, the Guarantor, the Trustee and the Securityholders shall continue as though no such proceedings had been taken.

SECTION 5.06 Limitations on Suits by Securityholders. No Holder of any Security of any series or of any Coupon appertaining thereto shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder, unless such Holder previously shall have given to the Trustee written notice of default and of the continuance thereof, as hereinbefore provided, and unless also the Holders of not less than 25% in aggregate principal amount of the Securities of each affected series then Outstanding (treated as a single class) shall have made written request upon the Trustee to institute such action or proceedings in its own name as trustee hereunder and shall have offered

to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.09; it being understood and intended, and being expressly covenanted by the taker and Holder of every Security or Coupon with every other taker and Holder and the Trustee, that no one or more Holders of Securities of any series or Coupons appertaining to such Securities shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other such Holder of Securities or Coupons appertaining to such Securities, or to obtain or seek to obtain priority over or preference to any other such Holder or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders of Securities of the applicable series and Coupons appertaining to such Securities. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 5.07 Unconditional Right of Securityholders to Institute Certain Suits. Notwithstanding any other provision in this Indenture and any provision of any Security, the right of any Holder of any Security or Coupon to receive payment of the principal of and interest on such Security or Coupon on or after the respective due dates expressed in such Security or Coupon, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 5.08 Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default Except as provided in Section 5.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities or Coupons is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder of Securities or Coupons to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and, subject to Section 5.06, every power and remedy given by this Indenture or by law to the Trustee or to the Holders of Securities or Coupons may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders of Securities or Coupons.

SECTION 5.09 Control by Holders of Securities. The Holders of a majority in aggregate principal amount of the Securities of each series affected (with all such series voting as a single class) at the time Outstanding shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the Securities of such series by this Indenture; provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture and provided further that (subject to the provisions of Section 6.01)

the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith by its Board, the executive committee, or a trust committee of directors or Responsible Officers of the Trustee shall determine that the action or proceedings so directed would involve the Trustee in personal liability or if the Trustee in good faith shall so determine that the actions or forebearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of the Securities of all series so affected not joining in the giving of said direction, it being understood that (subject to Section 6.01) the Trustee shall have no duty to ascertain whether or not such actions or forebearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Securityholders.

SECTION 5.10 Waiver of Past Defaults. Prior to the acceleration of the maturity of any Securities as provided in Section 5.01, the Holders of a majority in aggregate principal amount of the Securities of all series at the time Outstanding with respect to which an Event of Default shall have occurred and be continuing (voting as a single class) may on behalf of the Holders of all such Securities waive any past default or Event of Default described in Section 5.01 and its consequences, except a default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of the Holder of each Security affected. In the case of any such waiver, the Issuer, the Guarantor, the Trustee and the Holders of all such Securities shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Upon any such waiver, such default shall cease to exist and be deemed to have been cured and not to have occurred, and any Event of Default arising therefrom shall be deemed to have been cured, and not to have occurred for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

SECTION 5.11 Trustee to Give Notice of Default; But May Withhold in Certain Circumstances The Trustee shall, within ninety days after the occurrence of a default with respect to the Securities of any series, give notice of all defaults with respect to that series known to the Trustee (i) if any Bearer Securities of a series affected are then Outstanding, to the Holders thereof, (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York, and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), and (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books, unless in each case such defaults shall have been cured before the mailing or publication of such notice (the term "defaults" for the purpose of this

Section being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); provided that, except in the case of default in the payment of the principal of or interest on any of the Securities of such series, or in the payment of any sinking fund installment on such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors or trustees and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders of such series.

SECTION 5.12 Right of Court to Require Filing of Undertaking to Pay Costs. All parties to this Indenture agree, and each Holder of any Security or Coupon by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder or group of Securityholders of any series holding in the aggregate more than 10% in aggregate principal amount of the Securities of such series, or, in the case of any suit relating to or arising under clause 5.01(c) or 5.01(f) (if the suit relates to Securities of more than one but less than all series), 10% in aggregate principal amount of Securities then Outstanding and affected thereby, or in the case of any suit relating to or arising under clause 5.01(c) or 5.01(f) (if the suit under clause 5.01(c) or 5.01(f) relates to all the Securities then Outstanding), 5.01(d) or 5.01(e), 10% in aggregate principal amount of all Securities then Outstanding, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in such Security or any date fixed for redemption.

## ARTICLE 6

## CONCERNING THE TRUSTEE

SECTION 6.01 Duties and Responsibilities of the Trustee; During Default; Prior to Default. With respect to the Holders of any series of Securities issued hereunder, the Trustee, prior to the occurrence of an Event of Default with respect to the Securities of a particular series and after the curing or waiving of all Events of Default which may have occurred with respect to such series, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default with respect to the Securities of a series has occurred (which has not been cured or waived) the Trustee shall exercise with respect to such series of Securities such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

(a) prior to the occurrence of an Event of Default with respect to the Securities of any series and after the curing or waiving of all such Events of Default with respect to such series which may have occurred:

(i) the duties and obligations of the Trustee with respect to the Securities of any series shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the 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 pursuant to Section 5.09 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the 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 there shall be reasonable ground for believing that the repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.

The provisions of this Section 6.01 are in furtherance of and subject to Section 315 of the Trust Indenture Act of 1939.

SECTION 6.02 Certain Rights of the Trustee. In furtherance of and subject to the Trust Indenture Act of 1939, and subject to Section 6.01:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate, Guarantor's Officer's Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Issuer or the Guarantor mentioned herein shall be sufficiently evidenced by an Officer's Certificate or a Guarantor's Officer's Certificate, as the case may be (unless other evidence in respect thereof be herein specifically

prescribed); and any resolution of the Board or of the Guarantor's Board of Directors may be evidenced to the Trustee by a copy thereof certified by the secretary or an assistant secretary of the Issuer or Guarantor, as the case may be;

(c) the Trustee may consult with counsel (at the Issuer's expense) and any written advice or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby;

(e) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;

(f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the 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, consent, order, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested in writing so to do by the Holders of not less than a majority in aggregate principal amount of the Securities of all series affected then Outstanding; provided that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Issuer or the Guarantor or, if paid by the Trustee or any predecessor Trustee, shall be repaid by the Issuer or the Guarantor upon demand; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ, and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder.

SECTION 6.03 Trustee Not Responsible for Recitals, Disposition of Securities or Application of Proceeds Thereof The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer or the Guarantor, as the case may be, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities or Coupons. The Trustee shall not be accountable for the use or application by the Issuer of any of the Securities or of the proceeds thereof.

SECTION 6.04 Trustee and Agents May Hold Securities or Coupons; Collections, etc. The Trustee or any agent of the Issuer, the Guarantor or the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities or Coupons with the same rights it would have if it were not the Trustee or such agent and may otherwise deal with the Issuer or the Guarantor and receive, collect, hold and retain collections from the Issuer or the Guarantor with the same rights it would have if it were not the Trustee or such agent.

SECTION 6.05 Monies Held by Trustee. Subject to the provisions of Section 10.04 hereof, all monies received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. Neither the Trustee nor any agent of the Issuer or the Trustee shall be under any liability for interest on any monies received by it hereunder.

SECTION 6.06 Compensation and Indemnification of Trustee and Its Prior Claim. Each of the Issuer and the Guarantor covenants and agrees to pay (without duplication) to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and each of the Issuer and the Guarantor covenants and agrees to pay or reimburse the Trustee and each predecessor Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all agents and other Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Issuer and the Guarantor each also covenants to indemnify the Trustee and each predecessor Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder and its duties hereunder, including the costs and expenses of defending itself against or investigating any claim of liability in the premises. The obligations of the Issuer and the Guarantor under this Section to compensate and indemnify the Trustee and each predecessor Trustee and to pay or reimburse the Trustee and each predecessor Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities or Coupons, and the Securities are hereby subordinated to such senior claim.

SECTION 6.07 Right of Trustee to Rely on Officer's Certificate, etc. Subject to Sections 6.01 and 6.02, whenever in the administration of the trusts of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

SECTION 6.08 Intentionally Left Blank.

SECTION 6.09 Persons Eligible for Appointment as Trustee. The Trustee for each series of Securities hereunder shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State or the District of Columbia having a combined capital and surplus of at least $5,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by Federal, State or District of Columbia authority. Such corporation shall have its principal place of business in the Borough of Manhattan, The City of New York or the City of Chicago if there be such a corporation in such location willing to act upon reasonable and customary terms and conditions. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, 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. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.10.

The provisions of this Section 6.09 are in furtherance of and subject to Section 310(a) of the Trust Indenture Act of 1939.

SECTION 6.10 Resignation and Removal; Appointment of Successor Trustee.

(a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all series of Securities by giving written notice of resignation to the Issuer and the Guarantor and (i) if any Bearer Securities of a series affected are then Outstanding, by giving notice of such resignation to the Holders thereof (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York, and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), and (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice of such resignation to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. Upon receiving such notice of resignation, the Issuer or the Guarantor shall promptly appoint a successor trustee or trustees with respect to the applicable series by written instrument in duplicate, executed pursuant to a Board Resolution, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to any series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Securityholder who has been a bona fide Holder of a Security or Securities of the applicable series for at least six months may, subject to the provisions of Section 5.12, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 310(b) of the Trust Indenture Act of 1939 with respect to any series of Securities after written request therefor by the Issuer, the Guarantor or by any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.09 and Section 310(a) of the Trust Indenture Act of 1939 and shall fail to resign after written request therefor by the Issuer, the Guarantor or by any Securityholder; or

(iii) the Trustee shall become incapable of acting with respect to any series of Securities, or shall be adjudged a bankrupt or insolvent, or a receiver or liquidator of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Issuer or the Guarantor may remove the Trustee with respect to the applicable series of Securities and appoint a successor trustee for such series by written instrument, in duplicate, executed pursuant to a Board Resolution, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 315(e) of the Trust Indenture Act of 1939, any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such series. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities of each series at the time outstanding may at any time remove the Trustee with respect to Securities of such series and appoint a successor trustee with respect to the Securities of such series by delivering to the Trustee so removed, to the successor trustee so appointed and to the Issuer the evidence provided for in Section 7.01 of the action in that regard taken by the Securityholders.

(d) Any resignation or removal of the Trustee with respect to any series and any appointment of a successor trustee with respect to such series pursuant to any of the provisions of this Section 6.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.11.

SECTION 6.1 1 Acceptance of Appointment by Successor Trustee. Any successor trustee appointed as provided in Section 6.10 shall execute and deliver to the Issuer, the Guarantor and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all or any applicable series shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all rights, powers, duties and obligations with respect to such series of its predecessor hereunder, with like effect as if originally named as trustee for such series hereunder; but, nevertheless, on the written request of the Issuer, the Guarantor or of the

successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall, subject to Section 10.04, pay over to the successor trustee all monies at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. Upon request of any such successor trustee, the Issuer or the Guarantor shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a prior claim upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 6.06.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) series, the Issuer, the Guarantor, the predecessor Trustee and each successor trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Securities of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any series of Securities shall accept appointment as provided in this Section 6.1 1 unless at the time of such acceptance such successor trustee shall be qualified under Section 310(b) of the Trust Indenture Act of 1939 and eligible under the provisions of Section 6.09.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.11, the Issuer or the Guarantor shall give notice thereof (i) if any Bearer Securities of a series affected are then Outstanding, to the Holders thereof, (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), and (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. If the acceptance of appointment is substantially contemporaneous with the resignation, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.10. If the Issuer or the Guarantor fails to give such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Issuer or the Guarantor.

SECTION 6.12 Merger, Conversion, Consolidation or Succession to Business of Trustee. Any corporation into which the Trustee may be merged or converted or with which it

may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under Section 310(b) of the Trust Indenture Act of 1939 and eligible under the provisions of Section 6.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Securities of any series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee and deliver such Securities so authenticated; and, in case at that time any of the Securities of any series shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificate shall have the full force which it is anywhere in the Securities of such series or in this Indenture provided that the certificate of the Trustee shall have; provided, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities of any series in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 6.13 Appointment of Authenticating Agent. As long as any Securities of a series remain Outstanding, the Trustee may, by an instrument in writing, appoint with the approval of the Issuer and the Guarantor an authenticating agent (the "Authenticating Agent") which shall be authorized to act on behalf of the Trustee to authenticate Securities, including Securities issued upon exchange, registration of transfer, partial redemption or pursuant to Section 2.09. Securities of each such series authenticated by such Authenticating Agent shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee. Whenever reference is made in this Indenture to the authentication and delivery of Securities of any series by the Trustee or to the Trustee's Certificate of Authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent for such series and a Certificate of Authentication executed on behalf of the Trustee by such Authenticating Agent. Such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least $5,000,000 (determined as provided in Section 6.09 with respect to the Trustee) and subject to supervision or examination by Federal or State authority.

Any corporation into which any Authenticating Agent may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency business of any Authenticating Agent, shall continue to be the Authenticating Agent with respect to all series of Securities for which it served as Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent. Any Authenticating Agent may at any time, and if it shall cease to be eligible shall, resign by giving written notice of resignation to the Trustee, the Issuer and the Guarantor.

Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.13 with respect to one or more series of Securities, the Trustee shall upon receipt of an Issuer Order or a Guarantor Order appoint a successor Authenticating Agent and the Issuer or the Guarantor shall provide notice of such appointment to all Holders of Securities of such series in the manner and to the extent provided in Section 11.04. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent. The Issuer and the Guarantor (without duplication) each agrees to pay to the Authenticating Agent for such series from time to time reasonable compensation. The Authenticating Agent for the Securities of any series shall have no responsibility or liability for any action taken by it as such at the direction of the Trustee.

Sections 6.02,6.03,6.04,6.06,6.09 and 7.03 shall be applicable to any Authenticating Agent.

## ARTICLE 7

## CONCERNING THE SECURITYHOLDERS

SECTION 7.01 Evidence of Action Taken by Securityholders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Securityholders of any or all series may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Securityholders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Sections 6.01 and 6.02) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article.

SECTION 7.02 Proof of Execution of Instruments and of Holding of Securities. Subject to Sections 6.01 and 6.02, the execution of any instrument by a Securityholder or his agent or proxy may be proved in the following manner:

(a) The fact and date of the execution by any Holder of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction authorized to take acknowledgments of deeds or administer oaths that the person executing such instruments acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute sufficient proof of the authority of the person executing the same. The fact of the holding by any Holder of an Bearer Security of any series, and the identifying number of such Security and the date of his holding the same, may be proved by the production of such Security or by a certificate executed by any trust company, bank, banker or recognized securities dealer wherever situated satisfactory to the Trustee, if such certificate shall be deemed by the Trustee to be satisfactory. Each such certificate shall be dated and shall state that on the date thereof a Security

of such series bearing a specified identifying number was deposited with or exhibited to such trust company, bank, banker or recognized securities dealer by the Person named in such certificate. Any such certificate may be issued in respect of one or more Bearer Securities of one or more series specified therein. The holding by the Person named in any such certificate of any Bearer Securities of any series specified therein shall be presumed to continue for a period of one year from the date of such certificate unless at the time of any determination of such holding (1) another certificate bearing a later date issued in respect of the same Securities shall be produced, or (2) the Security of such series specified in such certificate shall be produced by some other Person, or (3) the Security of such series specified in such certificate shall have ceased to be Outstanding. Subject to Sections 6.01 and 6.02, the fact and date of the execution of any such instrument and the amount and numbers of Securities of any series held by the Person so executing such instrument and the amount and numbers of any Security or Securities for such series may also be proven in accordance with such reasonable rules and regulations as may be prescribed by the Trustee for such series or in any other manner which the Trustee for such series may deem sufficient.

(b) In the case of Registered Securities, the ownership of such Securities shall be proved by the Security register or by a certificate of the Security registrar.

The Issuer may set a record date for purposes of determining the identity of Holders of Registered Securities of any series entitled to vote or consent to any action referred to in Section 7.01, which record date may be set at any time or from time to time by notice to the Trustee, for any date or dates (in the case of any adjournment or reconsideration) not more than 60 days nor less than five days prior to the proposed date of such vote or consent, and thereafter, notwithstanding any other provisions hereof, with respect to Registered Securities of any series, only Holders of Registered Securities of such series of record on such record date shall be entitled to so vote or give such consent or revoke such vote or consent.

SECTION 7.03 Holders to Be Treated as Owners. The Issuer, the Guarantor, the Trustee and any agent of the Issuer, the Guarantor or the Trustee may deem and treat the Person in whose name any Security shall be registered upon the Security register for such series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of this Indenture, interest on such Security and for all other purposes; and none of the Issuer, the Guarantor, the Trustee or any agent of the Issuer, the Guarantor or the Trustee shall be affected by any notice to the contrary. The Issuer, the Guarantor, the Trustee and any agent of the Issuer, the Guarantor or the Trustee may treat the Holder of any Bearer Security and the Holder of any Coupon as the absolute owner of such Bearer Security or Coupon (whether or not such Bearer Security or Coupon shall be overdue) for the purpose of receiving payment thereof or on account thereof and for all other purposes and none of the Issuer, the Guarantor, the Trustee, nor any agent of the Issuer, the Guarantor or the Trustee shall be affected by any notice to the contrary. All such payments so made to any such Person, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for monies payable upon any such Bearer Security or Coupon.

SECTION 7.04 Securities Owned by Issuer Deemed Not Outstanding. In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all series have concurred in any direction, consent or waiver under this Indenture, Securities which are owned by the Issuer, the Guarantor or any other obligor on the Securities with respect to which such determination is being made or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, the Guarantor or any other obligor on the Securities with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver only Securities which the Trustee knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer, the Guarantor or any other obligor upon the Securities or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, the Guarantor or any other obligor on the Securities. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Issuer shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Issuer to be owned or held by or for the account of any of the above-described Persons; and, subject to Sections 6.01 and 6.02, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

SECTION 7.05 Right of Revocation of Action Taken. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.01, of the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action, any Holder of a Security the serial number of which is shown by the evidence to be included among the serial numbers of the Securities the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Guarantor, the Trustee and the Holders of all the Securities affected by such action.

## ARTICLE 8

## SUPPLEMENTAL INDENTURES

SECTION 8.01 Supplemental Indentures Without Consent of Securityholders. The Issuer, when authorized by a Board Resolution (which resolutions may provide general terms or

parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) and the Guarantor, when authorized by a resolution of the Guarantor's Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Securities of one or more series any property or assets;

(b) to evidence the succession of another corporation to the Issuer or the Guarantor, as the case may be, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Issuer or the Guarantor, as the case may be, pursuant to Article 9;

(c) to add to the covenants of the Issuer or the Guarantor, as the case may be, such further covenants, restrictions, conditions or provisions as the Issuer or the Guarantor, as the case may be, and the Trustee shall consider to be for the protection of the Holders of Securities or Coupons, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default;

(d) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make any other provisions as the Issuer or the Guarantor may deem necessary or desirable, provided that no such action shall adversely affect the interests of the Holders of the Securities or Coupons;

(e) to establish the forms or terms of Securities of any series or of the Coupons appertaining to such Securities as permitted by Sections 2.01 and 2.03;

(f) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Section 6.11; and

(g) to evidence the assumption by the Guarantor of all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series and the release of the Issuer from its liabilities hereunder and under such Securities as obligor on the Securities of such series, all as provided in Section 13.07 hereof.

The Trustee is hereby authorized to join with the Issuer and the Guarantor in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 8.02.

SECTION 8.02 Supplemental Indentures with Consent of Securityholders. With the consent (evidenced as provided in Article 7) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding of all series affected by such supplemental indenture (voting as one class), the Issuer, when authorized by Board Resolution, and of the Guarantor, when authorized by a Board Resolution of the Guarantor (which resolutions may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order or a Guarantor Order, as the case may be), and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series or of the Coupons appertaining to such Securities; provided, that no such supplemental indenture shall (a)(i) extend the final maturity of any Security, (ii) reduce the principal amount thereof, (iii) reduce the rate or extend the time of payment of interest thereon, (iv) reduce any amount payable on redemption thereof, (v) make the principal thereof (including any amount in respect of original issue discount), or interest thereon payable in any coin or currency other than that provided in the Securities and Coupons or in accordance with the terms thereof, (vi) modify or amend any provisions for converting any currency into any other currency as provided in the Securities or Coupons or in accordance with the terms thereof, (vii) reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon an acceleration of the maturity thereof pursuant to Section 5.01 or the amount thereof provable in bankruptcy pursuant to Section 5.02, (viii) modify or amend any provisions relating to the conversion or exchange of the Securities or Coupons for securities of the Issuer or the Guarantor or of other entities or other property (or the cash value thereof), including the determination of the amount of securities or other property (or cash) into which the Securities shall be converted or exchanged, other than as provided in the antidilution provisions or other similar adjustment provisions of the Securities or Coupons or otherwise in accordance with the terms thereof, (ix) alter the provisions of Section 11.11 or 11.13 or impair or affect the right of any Securityholder to institute suit for the payment thereof or, if the Securities provide therefor, any right of repayment at the option of the Securityholder, in each case without the consent of the Holder of each Security so affected, or (b) reduce the aforesaid percentage of Securities of any series, the consent of the Holders of which is required for any such supplemental indenture, without the consent of the Holders of each Security so affected.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular

series of Securities, or which modifies the rights of Holders of Securities of such series, or of Coupons appertaining to such Securities, with respect to such covenant or provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series or of the Coupons appertaining to such Securities.

Upon the request of the Issuer, accompanied by a copy of a Board Resolution (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) certified by the secretary or an assistant secretary of the Issuer authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders of the Securities as aforesaid and other documents, if any required by Section 7.01, the Trustee shall join with the Issuer and the Guarantor in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Issuer, the Guarantor and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Trustee shall give notice thereof (i) if any Bearer Securities of a series affected are then Outstanding, to the Holders thereof, (A) by mail to such Holders who have filed their names and addresses with the Trustee within the two years preceding the notice at such addresses as were so furnished to the Trustee and (B) either through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or by publication at least once in an Authorized Newspaper in the Borough of Manhattan, The City of New York, and at least once in an Authorized Newspaper in London (and, if required by Section 3.06, at least once in an Authorized Newspaper in Luxembourg), (ii) if any Registered Securities of a series affected are then Outstanding, by mailing notice thereof by first class mail to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books, and in each case such notice shall set forth in general terms the substance of such supplemental indenture. Any failure of the Trustee to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

SECTION 8.03 Effect of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Issuer, the Guarantor and the Holders of Securities of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 8.04 Documents to Be Given to Trustee. The Trustee, subject to the provisions of Sections 6.01 and 6.02, may receive an Officer's Certificate, a Guarantor's Officer's Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article 8 complies with the applicable provisions of this Indenture.

SECTION 8.05 Notation on Securities in Respect of Supplemental Indentures. Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee for such series as to any matter provided for by such supplemental indenture or as to any action taken by Securityholders. If the Issuer or the Trustee shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Board, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for the Securities of such series then Outstanding.

## ARTICLE 9

## CONSOLIDATION, MERGER, SALE OR CONVEYANCE

SECTION 9.01 Covenant of the Issuer Not to Merge, Consolidate, Sell or Convey Property Except Under Certain Conditions. The Issuer covenants that it will not merge or consolidate with any other Person or sell, lease or convey all or substantially all of its assets to any other Person, unless (i) either (A) the Issuer shall be the continuing legal entity, or (B) the successor legal entity or the Person which acquires by sale, lease or conveyance substantially all the assets of the Issuer (if other than the Issuer) shall expressly assume the due and punctual payment of the principal of and interest on all the Securities and Coupons, if any, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Issuer, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such legal entity, and (ii) the Issuer, such Person or such successor legal entity, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.

SECTION 9.02 Successor Entities Substituted for the Issuer. In case of any such consolidation, merger, sale, lease or conveyance, and following such an assumption by the successor entity, such successor entity shall succeed to and be substituted for the Issuer, with the same effect as if it had been named herein. Such successor entity may cause to be signed, and may issue either in its own name or in the name of the Issuer prior to such succession any or all of the Securities issuable hereunder which together with any Coupons appertaining thereto theretofore shall not have been signed by the Issuer and delivered to the Trustee; and, upon the order of such successor entity, instead of the Issuer, and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Securities together with any Coupons appertaining thereto which previously shall have been signed and delivered by the officers of the Issuer to the Trustee for authentication, and any Securities which such successor entity thereafter shall cause to be signed and delivered to the Trustee for that purpose. All of the Securities so issued together with any Coupons appertaining

thereto shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Securities had been issued at the date of the execution hereof.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phrasing and form (but not in substance) may be made in the Securities and Coupons thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) the Issuer or any successor entity which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

SECTION 9.03 Covenant of the Guarantor Not to Merge, Consolidate, Sell or Convey Property Except Under Certain Conditions The Guarantor covenants that it will not merge or consolidate with any other Person or sell, lease or convey all or substantially all of its assets to any other Person, unless (i) either (A) the Guarantor shall be the continuing legal entity, or (B) the successor legal entity or the Person which acquires by sale, lease or conveyance substantially all the assets of the Guarantor (if other than the Guarantor) shall expressly assume the due and punctual payment of the principal of and interest on all the Securities and Coupons, if any, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Guarantor, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such legal entity, and (ii) the Guarantor, such Person or such successor legal entity, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.

SECTION 9.04 Successor Entity Substituted for the Guarantor. In case of any such consolidation, merger, sale, lease or conveyance, and following such an assumption by the successor entity, such successor entity shall succeed to and be substituted for the Guarantor, with the same effect as if it had been named herein.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phrasing and form (but not in substance) may be made in the Securities and Coupons thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) the Guarantor or any successor entity which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

SECTION 9.05 Opinion of Counsel Delivered to Trustee. The Trustee, subject to the provisions of Sections 6.01 and 6.02, may receive an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, lease or conveyance, and any such assumption, and any such liquidation or dissolution, complies with the applicable provisions of this Indenture.

ARTICLE 10

SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONIES

SECTION 10.01 Satisfaction and Discharge of Indenture.

(a) If at any time (i) the Issuer or the Guarantor shall have paid or caused to be paid the principal of and interest on all the Securities of any series Outstanding hereunder and all unmatured Coupons appertaining thereto (other than Securities of such series and Coupons appertaining thereto which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.09) as and when the same shall have become due and payable, or (ii) the Issuer shall have delivered to the Trustee for cancellation all Securities of any series theretofore authenticated and all unmatured Coupons appertaining thereto (other than any Securities of such series and Coupons appertaining thereto which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.09) or (iii) in the case of any series of Securities where the exact amount (including the currency of payment) of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (B) below, (A) all the Securities of such series and all unmatured Coupons appertaining thereto not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer or the Guarantor shall have irrevocably deposited or caused to be deposited with the Trustee as trust funds the entire amount in cash (other than monies repaid by the Trustee or any paying agent to the Issuer in accordance with Section 10.04) or, in the case of any series of Securities the payments on which may only be made in Dollars, direct obligations of the United States of America, backed by its full faith and credit ("U.S. Government Obligations"), maturing as to principal and interest at such times and in such amounts as will insure the availability of cash, or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and Coupons appertaining thereto on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series; and if, in any such case, the Issuer or the Guarantor shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Securities of such Series and of Coupons appertaining thereto and the Issuer's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities or Coupons, (iii) rights of holders of Securities and Coupons appertaining thereto to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) the rights of the Holders of Securities of such series and Coupons appertaining thereto as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, and (vi) the obligations of the Issuer under Section 3.02), and the Trustee, on demand of the Issuer or the Guarantor accompanied by an Officer's Certificate or a Guarantor's Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Issuer and the Guarantor, shall execute

proper instruments acknowledging such satisfaction of and discharging this Indenture; provided, that the rights of Holders of the Securities and Coupons to receive amounts in respect of principal of and interest on the Securities and Coupons held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange upon which the Securities are listed. The Issuer and the Guarantor agree to reimburse the Trustee for any costs or expenses thereafter reasonably incurred and to compensate the Trustee for any services thereafter reasonably rendered by the Trustee in connection with this Indenture or the Securities of such series.

(b) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution, Officer's Certificate or indenture supplemental hereto provided pursuant to Section 2.03. In addition to discharge of the Indenture pursuant to the next preceding paragraph, in the case of any series of Securities the exact amounts (including the currency of payment) of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (i) below, the Issuer shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series and the Coupons appertaining thereto on the 91st day after the date of the deposit referred to in clause (i) below, and the provisions of this Indenture with respect to the Securities of such series and Coupons appertaining thereto shall no longer be in effect (except as to (1) rights of registration of transfer and exchange of Securities of such series and of Coupons appertaining thereto and the Issuer's right of optional redemption, if any, (2) substitution of mutilated, defaced, destroyed, lost or stolen Securities or Coupons, (3) rights of Holders of Securities and Coupons appertaining thereto to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (4) the rights, obligations, duties and immunities of the Trustee hereunder, (5) the rights of the Holders of Securities of such series and Coupons appertaining thereto as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them and (6) the obligations of the Issuer under Section 3.02) and the Trustee, at the expense of the Issuer and the Guarantor, shall at the Issuer's or the Guarantor's request, execute proper instruments acknowledging the same, if

(i) with reference to this provision the Issuer or the Guarantor has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series and Coupons appertaining thereto (A) cash in an amount, or (B) in the case of any series of Securities the payments on which may only be made in Dollars, U.S. Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and Coupons appertaining thereto on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;

(ii) such deposit will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Issuer is a party or by which it is bound;

(iii) the Issuer or the Guarantor has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable Federal income tax law, in either case to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series and Coupons appertaining thereto will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to Federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred; and

(iv) the Issuer or the Guarantor has delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with.

(c) Each of the Issuer and the Guarantor shall be released from its obligations under Section 9.01 with respect to the Securities of any Series, and any Coupons appertaining thereto, Outstanding, and under the Guarantee in respect thereof, on and after the date the conditions set forth below are satisfied (hereinafter, "covenant defeasance"). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of any Series and any Coupon appertaining thereto, and under the Guarantee in respect thereof, the Issuer and the Guarantor may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in such Sections, whether directly or indirectly by reason of any reference elsewhere herein to such Sections or by reason of any reference in such Sections to any other provision herein or in any other document and such omission to comply shall not constitute an Event of Default under Section 5.01, but the remainder of this Indenture and such Securities and Coupons and the Guarantee shall be unaffected thereby. The following shall be the conditions to application of this subsection (c) of this Section 10.01:

(i) The Issuer or the Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Securities of such series and Coupons appertaining thereto, (A) cash in an amount, or (B) in the case of any series of Securities the payments on which may only be made in Dollars, U.S. Government Obligations maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series and Coupons appertaining thereto and (2) any mandatory sinking fund payments on the day on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series.

(ii) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to the Securities shall have occurred and be continuing on the date of such deposit or, insofar as subsections 5.01(d) and 5.01(e) are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(iii) Such covenant defeasance shall not cause the Trustee to have a conflicting interest for purposes of the Trust Indenture Act of 1939 with respect to any securities of the Issuer.

(iv) Such covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other agreement or instrument to which the Issuer or the Guarantor is a party or by which either of them is bound.

(v) Such covenant defeasance shall not cause any Securities then listed on any registered national securities exchange under the Securities Exchange Act of 1934, as amended, to be delisted.

(vi) The Issuer or the Guarantor shall have delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate, as the case may be, and Opinion of Counsel to the effect that the Holders of the Securities of such series and Coupons appertaining thereto will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(vii) The Issuer or the Guarantor shall have delivered to the Trustee an Officer's Certificate or Guarantor's Officer's Certificate, as the case may be, and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the covenant defeasance contemplated by this provision have been complied with.

SECTION 10.02 Application by Trustee of Funds Deposited for Payment of Securities Subject to Section 10.04, all monies deposited with the Trustee (or other trustee) pursuant to Section 10.01 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Issuer acting as its own paying agent or the Guarantor acting as paying agent), to the Holders of the particular Securities of such series and of Coupons appertaining thereto for the payment or redemption of which such monies have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest; but such money need not be segregated from other funds except to the extent required by law.

SECTION 10.03 Repayment of Monies Held by Paying Agent In connection with the satisfaction and discharge of this Indenture with respect to Securities of any series, all monies then held by any paying agent under the provisions of this Indenture with respect to such series of Securities shall, upon demand of the Issuer, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such monies.

SECTION 10.04 Return of Monies Held by Trustee and Paying Agent Unclaimed for Two Years. Any monies deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Security of any series or Coupons attached thereto and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Issuer and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Issuer by the Trustee for such series or such paying agent, and the Holder of the Securities of such series and of any Coupons appertaining thereto shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Issuer and the Guarantor for any payment which such Holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such monies shall thereupon cease; provided, however, that the Trustee or such paying agent, before being required to make any such repayment with respect to monies deposited with it for any payment (a) in respect of Registered Securities of any series, shall at the expense of the Issuer, mail by first-class mail to Holders of such Securities at their addresses as they shall appear on the Security register, and (b) in respect of Bearer Securities of any series, shall at the expense of the Issuer either give through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned if such Bearer Securities are held only in global form or cause to be published once, in an Authorized Newspaper in the Borough of Manhattan, The City of New York and once in an Authorized Newspaper in London (and if required by Section 3.06, once in an Authorized Newspaper in Luxembourg), notice, that such monies remain and that, after a date specified therein, which shall not be less than thirty days from the date of such mailing or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

SECTION 10.05 Indemnity for U.S. Government Obligations. The Issuer and the Guarantor shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 10.01 or the principal or interest received in respect of such obligations.

## ARTICLE 11

## MISCELLANEOUS PROVISIONS

SECTION 11.01 Incorporators, Stockholders, Members, Officers and Directors of Issuer Exempt from Individual Liability. No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such or against any past, present or future stockholder (except in a stockholder's corporate capacity as Guarantor), member, officer or director, as such, of the Issuer or the Guarantor or of any successor, either directly or through the Issuer or the Guarantor, as the case may be, or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities and the Coupons appertaining thereto by the Holders thereof and as part of the consideration for the issue of the Securities and the Coupons appertaining thereto.

SECTION 11.02 Provisions of Indenture for the Sole Benefit of Parties and Holders of Securities and Coupons Nothing in this Indenture, in the Securities or in the Coupons appertaining thereto, expressed or implied, shall give or be construed to give to any person, firm or entity, other than the parties hereto and their successors and the Holders of the Securities or Coupons, if any, any legal or equitable right, remedy or claim under this Indenture or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Holders of the Securities or Coupons, if any.

SECTION 11.03 Successors and Assigns of Issuer Bound by Indenture. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Issuer shall bind its successors and assigns, whether so expressed or not. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Guarantor shall bind its successors and assigns, whether so expressed or not.

SECTION 11.04 Notices and Demands on Issuer, Trustee and Holders of Securities and Coupons Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Securities or Coupons to or on the Issuer or the Guarantor may be given or served by being deposited postage prepaid, first-class mail or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) (except as otherwise specifically provided herein) addressed (until another address is filed with the Trustee) as follows:

| | |
|---|---|
| If to the Issuer: | LaSalle Funding LLC<br>135 South LaSalle Street<br>Chicago, Illinois 60674<br>Attention: John P. Murphy |
| If to the Guarantor: | ABN AMRO Bank N.V.<br>Gustav Mahlerlaan 10<br>1082 PP Amsterdam<br>The Netherlands<br>Attention: Central Legal Department. |

Any notice, direction, request or demand by the Issuer, the Guarantor or any Holder of Securities or Coupons to or upon the Trustee shall be deemed to have been sufficiently given or served by being deposited postage prepaid, first-class mail or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) (except as otherwise specifically provided herein) addressed (until another address of the Trustee is filed by the Trustee with the Issuer and the Guarantor) to:

BNY Midwest Trust Company
2 North LaSalle Street, Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Department.

Where this Indenture provides for notice to Holders of Registered Securities, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or by overnight delivery, courier or facsimile (with a confirmation copy delivered via one of the preceding methods of delivery) to each Holder entitled thereto, at his last address as it appears in the Security register. In any case where notice to such Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Issuer or the Guarantor when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be reasonably satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice.

SECTION 11.05 Officer's Certificates and Opinions of Counsel; Statements to Be Contained Therein Upon any application or demand by the Issuer or the Guarantor to the Trustee to take any action under any of the provisions of this Indenture, the Issuer or the Guarantor, as the case may be, shall furnish to the Trustee an Officer's Certificate or a Guarantor's Officer's Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the person making such certificate or opinion has read such covenant or condition, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him 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 or not, in the opinion of such person, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Issuer or the Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, information with respect to which is in the possession of the Issuer or the Guarantor, as the case may be, upon the certificate, statement or opinion of or representations by an officer or officers

of the Issuer or the Guarantor, as the case may be, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Issuer, of the Guarantor or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Issuer, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with and directed to the Trustee shall contain a statement that such firm is independent.

SECTION 11.06 Payments Due on Saturdays, Sundays or Holidays. If the date of maturity of interest on or principal of the Securities of any series or any Coupons appertaining thereto or the date fixed for redemption or repayment of any such Security or Coupon shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 11.07 Conflict of Any Provision of Indenture with Trust Indenture Act of 1939. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by, or with another provision (an "incorporated provision") included in this Indenture by operation of, Sections 310 to 318, inclusive, of the Trust Indenture Act of 1939, such imposed duties or incorporated provision shall control.

SECTION 11.08 New York Law to Govern. This Indenture and each Security and Coupon shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

SECTION 11.09 Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 11.10 Effect of Headings. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 11.11 Securities in a Non-U.S. Currency. Unless otherwise specified in an Officer's Certificate delivered pursuant to Section 2.03 of this Indenture with respect to a particular series of Securities, whenever for purposes of this Indenture any action may be taken by the Holders of a specified percentage in aggregate principal amount of Securities of all series or all series affected by a particular action at the time Outstanding and, at such time, there are Outstanding Securities of any series which are denominated in a coin or currency other than

Dollars, then the principal amount of Securities of such series which shall be deemed to be Outstanding for the purpose of taking such action shall be that amount of Dollars that could be obtained for such amount at the Market Exchange Rate. For purposes of this Section 11.11, Market Exchange Rate shall mean the noon Dollar buying rate in New York City for cable transfers of that currency as published by the Federal Reserve Bank of New York. If such Market Exchange Rate is not available for any reason with respect to such currency, the Trustee shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in The City of New York or in the country of issue of the currency in question, or such other quotations as the Trustee shall deem appropriate. The provisions of this paragraph shall apply in determining the equivalent principal amount in respect of Securities of a series denominated in a currency other than Dollars in connection with any action taken by Holders of Securities pursuant to the terms of this Indenture including without limitation any determination contemplated in Section 5.01(d) or 5.01(e).

All decisions and determinations of the Trustee regarding the Market Exchange Rate or any alternative determination provided for in the preceding paragraph shall be in its sole discretion and shall, in the absence of manifest error, be conclusive to the extent permitted by law for all purposes and irrevocably binding upon the Issuer and all Holders.

SECTION 11.12 Submission to Jurisdiction. Each of the Issuer and the Guarantor agrees that any legal suit, action or proceeding arising out of or based upon this Indenture may be instituted in any State or Federal court in the Borough of Manhattan, City and State of New York, and, to the fullest extent permitted by law, waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such court in any suit, action or proceeding. Each of the Issuer and the Guarantor has appointed CT Corporation System, 111 Eighth Avenue, New York, New York, 10011, as its authorized agent (the "Authorized Agent") upon which process may be instituted in any state or Federal court in the Borough of Manhattan, City and State of New York, and each of the Issuer and the Guarantor expressly accepts the jurisdiction of any such court in respect of such action. Such appointment shall be irrevocable unless and until a successor authorized agent, located or with an office in the Borough of Manhattan, City and State of New York, shall have been appointed by the Issuer or the Guarantor, as the case may be, and such appointment shall have been accepted by such successor authorized agent. Each of the Issuer and the Guarantor represents and warrants that the Authorized Agent has agreed to act as said agent for service of process, and each of the Issuer and the Guarantor agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Issuer or the Guarantor, as the case may be, shall be deemed, in every respect, effective service of process upon the Issuer or the Guarantor, as the case may be.

SECTION 11.13 Judgment Currency. Each of the Issuer and the Guarantor agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court it is necessary to convert the sum due in respect of the principal of or interest on the Securities of any series (the "Required Currency") into a currency in which a judgment will be rendered (the "Judgment Currency"), the rate of exchange used shall be the rate

at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the day on which final unappealable judgment is entered, unless such day is not a New York Banking Day, then, to the extent permitted by applicable law, the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Banking Day preceding the day on which final unappealable judgment is entered and (b) its obligations under this Indenture to make payments in the Required Currency (i) shall not be discharged or satisfied .by any tender, or any recovery pursuant to any judgment (whether or not entered in accordance with subsection (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt, by the payee, of the full amount of the Required Currency expressed to be payable in respect of such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture. For purposes of the foregoing, "New York Banking Day" means any day except a Saturday, Sunday or a legal holiday in The City of New York or a day on which banking institutions in The City of New York are authorized or required by law or executive order to close.

## ARTICLE 12

## REDEMPTION OF SECURITIES AND SINKING FUNDS

SECTION 12.01 Applicability of Article. The provisions of this Article shall be applicable to the Securities of any series which are redeemable before their maturity or to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 2.03 for Securities of such series.

SECTION 12.02 Notice of Redemption; Partial Redemptions. Notice of redemption to the Holders of Registered Securities of any series to be redeemed as a whole or in part at the option of the Issuer shall be given by mailing notice of such redemption by first class mail, postage prepaid, to such Holders of Securities of such series at their last addresses as they shall appear upon the registry books at least 30 days and not more than 60 days prior to the date fixed for redemption, or within such other redemption notice period as has been designated for any Securities of such series pursuant to Section 2.03 or 2.04 (the "Redemption Notice Period"). Notice of redemption to the Holders of Bearer Securities to be redeemed as a whole or in part, who have filed their names and addresses with the Trustee within two years preceding such notice of redemption, shall be given by mailing notice of such redemption, by first class mail, postage prepaid, at least 30 and not more than 60 days prior to the date fixed for redemption or within any applicable Redemption Notice Period to such Holders at such addresses as were so furnished to the Trustee (and, in the case of any such notice given by the Issuer, the Trustee shall make such information available to the Issuer for such purpose). Notice of redemption to all other Holders of Bearer Securities shall be published in an Authorized Newspaper in the Borough of Manhattan, The City of New York and in an Authorized Newspaper in London (and, if required by Section 3.06, in an Authorized Newspaper in Luxembourg), in each case, once in each of three successive calendar weeks, the first publication to be not less than 30 nor more than

60 days prior to the date fixed for redemption or within any applicable Redemption Notice Period; provided that notice to Holders of Bearer Securities held only in global form and issued after April 1, 2002 may be made, at the option of the Issuer, through the customary notice provisions of the clearing system or systems through which beneficial interests in such Bearer Securities are owned. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice. Failure to give notice by mail, or any defect in the notice to the Holder of any Security of a series designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security of such series.

The notice of redemption to each such Holder shall specify the principal amount of each Security of such series held by such Holder to be redeemed, the date fixed for redemption, the redemption price (or if not then ascertainable, the manner of calculation thereof), the place or places of payment, that payment will be made upon presentation and surrender of such Securities and, in the case of Securities with Coupons attached thereto, of all Coupons appertaining thereto maturing after the date fixed for redemption, that such redemption is pursuant to the mandatory or optional sinking fund, or both, if such be the case, that interest accrued to the date fixed for redemption will be paid as specified in such notice and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. In case any Security of a series is to be redeemed in part only the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption of Securities of any series to be redeemed at the option of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer.

On or before the redemption date specified in the notice of redemption given as provided in this Section, the Issuer or the Guarantor will deposit with the Trustee or with one or more paying agents (or, if the Issuer is acting as its own paying agent or the Guarantor is acting as paying agent, set aside, segregate and hold in trust as provided in Section 3.04) an amount of money or other property sufficient to redeem on the redemption date all the Securities of such series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption. The Issuer will deliver to the Trustee at least 70 days prior to the date fixed for redemption or at least 10 days prior to the first day of any applicable Redemption Notice Period an Officer's Certificate stating the aggregate principal amount of Securities to be redeemed. In case of a redemption at the election of the Issuer prior to the expiration of any restriction on such redemption, the Issuer shall deliver to the Trustee, prior to the giving of any notice of redemption to Holders pursuant to this Section, an Officer's Certificate stating that such restriction has been complied with.

If less than all the Securities of a series are to be redeemed, the Trustee shall select, in such manner as it shall deem appropriate and fair, Securities of such Series to be redeemed in whole or in part. Securities may be redeemed in part in multiples equal to the minimum authorized denomination for Securities of such series or any multiple thereof. The Trustee shall promptly notify the Issuer and the Guarantor in writing of the Securities of such series selected

for redemption and, in the case of any Securities of such series selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities of any series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

SECTION 12.03 Payment of Securities Called for Redemption. If notice of redemption has been given as above provided, the Securities or portions of Securities specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Issuer and the Guarantor shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue, and the unmatured Coupons, if any, appertaining thereto shall be void, and, except as provided in Sections 6.05 and 10.04, such Securities shall cease from and after the date fixed for redemption to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the redemption price thereof and unpaid interest to the date fixed for redemption. On presentation and surrender of such Securities at a place of payment specified in said notice, together with all Coupons, if any, appertaining thereto maturing after the date fixed for redemption, said Securities or the specified portions thereof shall be paid and redeemed by the Issuer at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; provided that payment of interest becoming due on or prior to the date fixed for redemption shall be payable in the case of Securities with Coupons attached thereto, to the Holders of the Coupons for such interest upon surrender thereof, and in the case of Registered Securities, to the Holders of such Registered Securities registered as such on the relevant record date subject to the terms and provisions of Sections 2.03 and 2.07 hereof.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest or Yield to Maturity (in the case of an Original Issue Discount Security) borne by such Security.

If any Security with Coupons attached thereto is surrendered for redemption and is not accompanied by all appurtenant Coupons maturing after the date fixed for redemption, the surrender of such missing Coupon or Coupons may be waived by the Issuer, the Guarantor and the Trustee, if there be furnished to each one of them such security or indemnity as they may require to save each of them harmless.

Upon presentation of any Security redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Issuer, a new Security or Securities of such series, of authorized denominations, in principal amount equal to the unredeemed portion of the Security so presented.

SECTION 12.04 Exclusion of Certain Securities from Eligibility for Selection for Redemption. Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 40 days prior to the last date on which notice of redemption may be given as

being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such written statement as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer.

SECTION 12.05 Mandatory and Optional Sinking Funds. The minimum amount of any sinking fund payment provided for by the terms of the Securities of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of the Securities of any series is herein referred to as an "optional .sinking fund payment". The date on which a sinking fund payment is to be made is herein referred to as the "sinking fund payment date".

In lieu of making all or any part of any mandatory sinking fund payment with respect to any series of Securities in cash, the Issuer may at its option (a) deliver to the Trustee Securities of such series theretofore purchased or otherwise acquired (except upon redemption pursuant to the mandatory sinking fund) by the Issuer or receive credit for Securities of such series (not previously so credited) theretofore purchased or otherwise acquired (except as aforesaid) by the Issuer and delivered to the Trustee for cancellation pursuant to Section 2.10, (b) receive credit for optional sinking fund payments (not previously so credited) made pursuant to this Section, or (c) receive credit for Securities of such series (not previously so credited) redeemed by the Issuer through any optional redemption provision contained in the terms of such series. Securities so delivered or credited shall be received or credited by the Trustee at the sinking fund redemption price specified in such Securities.

On or before the 60th day next preceding each sinking fund payment date or the 30th day next preceding the last day of any applicable Redemption Notice Period relating to a sinking fund payment date for any series, the Issuer will deliver to the Trustee an Officer's Certificate (which need not contain the statements required by Section 11.05) (a) specifying the portion of the mandatory sinking fund payment to be satisfied by payment of cash and the portion to be satisfied by credit of Securities of such series and the basis for such credit, (b) stating that none of the Securities of such series has theretofore been so credited, (c) stating that no defaults in the payment of interest or Events of Default with respect to such series have occurred (which have not been waived or cured) and are continuing and (d) stating whether or not the Issuer intends to exercise its right to make an optional sinking fund payment with respect to such series and, if so, specifying the amount of such optional sinking fund payment which the Issuer intends to pay on or before the next succeeding sinking fund payment date. Any Securities of such series to be credited and required to be delivered to the Trustee in order for the Issuer to be entitled to credit therefor as aforesaid which have not theretofore been delivered to the Trustee shall be delivered for cancellation pursuant to Section 2.10 to the Trustee with such Officer's Certificate (or reasonably promptly thereafter if acceptable to the Trustee). Such Officer's Certificate shall be irrevocable, and upon its receipt by the Trustee the Issuer shall become unconditionally obligated to make all the cash payments or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. Failure of the Issuer, on or before any such 60th day or 30th day, if applicable, to deliver such Officer's Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute, on and as of such date, the irrevocable election of the Issuer (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Issuer will make no optional sinking fund payment with respect to such series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed $50,000 (or the equivalent thereof in any Non-U.S. Currency) or a lesser sum in Dollars (or the equivalent thereof in any Non-U.S. Currency) if the Issuer shall so request with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be $50,000 (or the equivalent thereof in any Non-U.S. Currency) or less and the Issuer makes no such request then it shall be carried over until a sum in excess of $50,000 (or the equivalent thereof in any Non-U.S. Currency) is available. The Trustee shall select, in the manner provided in Section 12.02, for redemption on such sinking fund payment date a sufficient principal amount of Securities of such series to absorb said cash, as nearly as may be, and shall (if requested in writing the Issuer) inform the Issuer of the serial numbers of the Securities of such series (or portions thereof) so selected. Securities shall be excluded from eligibility for redemption under this Section if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 60 days prior to the sinking fund payment date or at least 30 days prior to the last day of any applicable Redemption Notice Period relating to a sinking fund payment date as being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such Officer's Certificate as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer. The Trustee, in the name and at the expense of the Issuer (or the Issuer, if it shall so request the Trustee in writing) shall cause notice of redemption of the Securities of such series to be given in substantially the manner provided in Section 12.02 (and with the effect provided in Section 12.03) for the redemption of Securities of such series in part at the option of the Issuer. The amount of any sinking fund payments not so applied or allocated to the redemption of Securities of such series shall be added to the next cash sinking fund payment for such series and, together with such payment, shall be applied in accordance with the provisions of this Section. Any and all sinking fund monies held on the stated maturity date of the Securities of any particular series (or earlier, if such maturity is accelerated), which are not held for the payment or redemption of particular Securities of such series shall be applied, together with other monies, if necessary, sufficient for the purpose, to the payment of the principal of, and interest on, the Securities of such series at maturity.

On or before each sinking fund payment date, the Issuer or the Guarantor shall pay to the Trustee in cash or shall otherwise provide for the payment of all interest accrued to the date fixed for redemption on Securities to be redeemed on the next following sinking fund payment date.

The Trustee shall not redeem or cause to be redeemed any Securities of a series with sinking fund monies or give any notice of redemption of Securities for such series by operation of the sinking fund during the continuance of a default in payment of interest on such Securities or of any Event of Default except that, where the giving of notice of redemption of any Securities shall theretofore have been made, the Trustee shall redeem or cause to be redeemed such Securities, provided that it shall have received from the Issuer or the Guarantor a sum sufficient

for such redemption. Except as aforesaid, any monies in the sinking fund for such series at the time when any such default or Event of Default shall occur, and any monies thereafter paid into the sinking fund, shall, during the continuance of such default or Event of Default, be deemed to have been collected under Article 5 and held for the payment of all such Securities. In case such Event of Default shall have been waived as provided in Section 5.10 or the default cured on or before the sixtieth day preceding the sinking fund payment date in any year, such monies shall thereafter be applied on the next succeeding sinking fund payment date in accordance with this Section to the redemption of such Securities.

## ARTICLE 13

## GUARANTEE AND INDEMNITY

SECTION 13.01 The Guarantee. The Guarantor hereby unconditionally guarantees to each Holder of a Security authenticated and delivered by the Trustee the due and punctual payment of the principal of, any premium and interest on, and any additional amounts with respect to such Security and the due and punctual payment of the sinking fund payments (if any) provided for pursuant to the terms of such Security, when and as the same shall become due and payable, whether at maturity, by acceleration, redemption, repayment or otherwise, in accordance with the terms of such Security and of this Indenture. In case of the failure of the Issuer punctually to pay any such principal, premium, interest, additional amounts or sinking fund payment, the Guarantor hereby agrees to cause any such payment to be made punctually when and as the same shall become due and payable, whether at maturity, upon acceleration, redemption, repayment or otherwise, and as if such payment were made by the Issuer.

SECTION 13.02 Net Payments. All payments of principal of and premium, if any, interest and any other amounts on, or in respect of, the Securities of any series or any Coupon appertaining thereto shall be made by the Guarantor 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 or on behalf of The Netherlands (the "taxing jurisdiction") or any political subdivision or taxing authority thereof or therein, unless such taxes, fees, duties, assessments or governmental charges are required to be withheld or deducted by (i) the laws (or any regulations or ruling promulgated thereunder) of a taxing jurisdiction 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 a taxing jurisdiction or any political subdivision thereof). If a withholding or deduction at source is required, the Guarantor shall, subject to certain limitations and exceptions set forth below, pay to the Holder of any such Security or any Coupon appertaining thereto such additional amounts as may be necessary so that every net payment of principal, premium, if any, interest or any other amount made to such Holder, after such withholding or deduction, shall not be less than the amount provided for in such Security, any Coupons appertaining thereto and this Indenture to be then due and payable; provided, however, that the Guarantor shall not be required to make payment of such additional amounts for or on account of:

(a) any tax, fee, duty, assessment or governmental charge of whatever nature which would not have been imposed but for the fact that such Holder: (A) was a resident, domiciliary or national of, or engaged in business or maintained a permanent establishment or was physically present in, the relevant taxing jurisdiction or any political subdivision thereof or otherwise had some connection with the relevant taxing jurisdiction other than by reason of the mere ownership of, or receipt of payment under, such Security; (B) presented such Security for payment in the relevant taxing jurisdiction or any political subdivision thereof, unless such Security could not have been presented for payment elsewhere; or (C) presented such Security more than thirty (30) days after the date on which the payment in respect of such Security first became due payable or provided for, whichever is later, except to the extent that the Holder would have been entitled to such additional amounts if it had presented such Security for payment on any day within such period of thirty (30) days;

(b) any estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;

(c) any tax, assessment or other governmental charge that is imposed or withheld by reason of the failure by the Holder or the beneficial owner of such Security to comply with any reasonable request by the Guarantor addressed to the Holder within 90 days of such request (A) to provide information concerning the nationality, residence or identity of the Holder or such beneficial owner or (B) to make any declaration or other similar claim or satisfy any information or reporting requirement, which, in the case of (A) or (B), is required or imposed by statute, treaty, regulation or administrative practice of the relevant taxing jurisdiction or any political subdivision thereof as a precondition to exemption from all or part of such tax, assessment or other governmental charge; or

(d) any combination of items (a), (b) and (c);

nor shall additional amounts be paid with respect to any payment of the principal of, or premium, if any, interest or any other amounts on, any such Security to any Holder who is a fiduciary or partnership or other than the sole beneficial owner of such Security to the extent such payment would be required by the laws of the relevant taxing jurisdiction (or any political subdivision or relevant taxing authority thereof or therein) to be included in the income for tax purposes of a beneficiary or partner or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such additional amounts had it been the Holder of the Security.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium, interest or any other amounts on, or in respect of, any Security of any series or any Coupon or the net proceeds received on the sale or exchange of any Security of any series, such mention shall be deemed to include mention of the payment of additional amounts provided by the terms of such series established hereby or pursuant hereto to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of additional amounts (if applicable) in any provision hereof shall not be construed as excluding the payment of additional amounts in those provisions hereof where such express mention is not made.

Except as otherwise provided in or pursuant to this Indenture or the Securities of the applicable series, at least 10 days prior to the first Interest Payment Date with respect to a series of Securities (or if the Securities of such series shall not bear interest prior to Maturity, the first day on which a payment of principal is made), and at least 10 days prior to each date of payment of principal or interest if there has been any change with respect to the matters set forth in the below-mentioned Guarantor's Officer's Certificate, the Guarantor shall furnish to the Trustee and the principal paying agent, if other than the Trustee, a Guarantor's Officer's Certificate instructing the Trustee and such paying agent whether such payment of principal of and premium, if any, interest or any other amounts on the Securities of such series shall be made to Holders of Securities of such series or the Coupons appertaining thereto without withholding for or on account of any tax, fee, duty, assessment or other governmental charge described in this Section 13.02. If any such withholding shall be required, then such Guarantor's Officer's Certificate shall specify by taxing jurisdiction the amount, if any, required to be withheld on such payments to such Holders of Securities or Coupons, and the Guarantor agrees to pay to the Trustee or such paying agent the additional amounts required by this Section 13.02. The Guarantor covenants to indemnify the Trustee and any paying agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Guarantor's Officer's Certificate furnished pursuant to this Section 13.02.

SECTION 13.03 Guarantee Unconditional, etc. The Guarantor hereby agrees that its obligations hereunder shall be as principal and not merely as surety, and shall be absolute, irrevocable and unconditional, irrespective of, and shall be unaffected by, any invalidity, irregularity or unenforceability of any Security or this Indenture, any failure to enforce the provisions of any Security or this Indenture, or any waiver, modification, consent or indulgence granted with respect thereto by the Holder of such Security or the Trustee, the recovery of any judgment against the Issuer or any action to enforce the same, or any other circumstances which may otherwise constitute a legal or equitable discharge of a surety or guarantor. The Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of merger, insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest or notice with respect to any such Security or the indebtedness evidenced thereby and all demands whatsoever, and covenants that this Guarantee will not be discharged except by payment in full of the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, the Securities and the complete performance of all other obligations contained in the Securities. The Guarantor further agrees, to the fullest extent that it lawfully may do so, that, as between the Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, the maturity of the obligations guaranteed hereby may be accelerated as provided in Section 5.01 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or prohibition extant under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction preventing such acceleration in respect of the obligations guaranteed hereby.

SECTION 13.04 Reinstatement. This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment on any Security, in whole or in part, is rescinded or must otherwise be restored to the Issuer or the Guarantor upon the bankruptcy, liquidation or reorganization of the Issuer or otherwise.

SECTION 13.05 Subrogation. The Guarantor shall be subrogated to all rights of the Holder of any Security against the Issuer in respect of any amounts paid to such Holder by the Guarantor pursuant to the provisions of this Guarantee; provided, however, that the Guarantor shall not be entitled to enforce, or to receive any payments arising out of or based upon, such right of subrogation until the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, all Securities shall have been paid in full.

SECTION 13.06 Indemnity. As a separate and alternative stipulation, the Guarantor unconditionally and irrevocably agrees that any sum expressed to be payable by the Issuer under this Indenture, the Securities or the Coupons but which is for any reason (whether or not now known or becoming known to the Issuer, the Guarantor, the Trustee or any Holder of any Security or Coupon) not recoverable from the Guarantor on the basis of a guarantee will nevertheless be recoverable from it as if it were the sole principal debtor and will be paid by it to the Trustee on demand. This indemnity constitutes a separate and independent obligation from the other obligations in this Indenture, gives rise to a separate and independent cause of action and will apply irrespective of any indulgence granted by the Trustee or any Holder of any Security or Coupon.

SECTION 13.07 Assumption by Guarantor. The Guarantor may, without the consent of the Holders, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, after giving effect to such assumption, no Event of Default or event which with the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing. Upon such an assumption, the Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

(a) The Guarantor shall assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, upon a default by the Issuer in the due and punctual payment of the principal, sinking fund payment, if any, premium, if any, or interest on such Securities, the Guarantor is prevented by any court order or judicial proceeding from fulfilling its obligations under Section 13.01 with respect to such series of Securities. Such assumption shall result in the Securities of such series becoming the direct obligations of the Guarantor and shall be effected without the consent of the Holders of the Securities of any Series. Upon such an assumption, the Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer, and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of April 1,2002.

LASALLE FUNDING LLC

By: /s/ John P. Murphy
Name: John P. Murphy
Title: Vice President

By: /s/ Thomas J Bell Jr.
Name: Thomas J Bell Jr.
Title: Vice President

ABN AMRO BANK N.V.

By: _____
Name:
Title:

By: _____
Name:
Title:

BNY MIDWEST TRUST COMPANY

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of April 1, 2002.

LASALLE FUNDING LLC

By: _____
Name:
Title:

By: _____
Name:
Title:

ABN AMRO BANK N.V.

By: /s/ ALBERT CONLAN
Name: ALBERT CONLAN
Title:

By: /s/ FRANCIS O'HIGGINS
Name: FRANCIS O'HIGGINS
Title:

BNY MIDWEST TRUST COMPANY

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of April 1,2002.

LASALLE FUNDING LLC

By: _____
Name:
Title:

By: _____
Name:
Title:

ABN AMRO BANK N.V.

By: _____
Name:
Title:

By: _____
Name:
Title:

BNY MIDWEST TRUST COMPANY

By: /s/ MARY CALLAHAN
Name: MARY CALLAHAN
Title: Assistant Vice President

LASALLE FUNDING LLC

as Issuer,

ABN AMRO BANK N.V.

and

BANK OF AMERICA CORPORATION

as Guarantor

and

BNY MIDWEST TRUST COMPANY

as Trustee

# FIRST SUPPLEMENTAL INDENTURE

dated as of November 1, 2007

to

INDENTURE

dated as of April 1, 2002

THIS FIRST SUPPLEMENTAL INDENTURE dated as of November 1, 2007 among LASALLE FUNDING LLC, a limited liability company organized under the laws of Delaware (the "Issuer"), ABN AMRO BANK N.V., a public limited liability company incorporated under the laws of The Netherlands ( "ABN AMRO"), BANK OF AMERICA CORPORATION, a Delaware corporation ("Bank of America"), and BNY MIDWEST TRUST COMPANY, an Illinois trust company as trustee (the "Trustee"),

WITNESSETH:

WHEREAS, the Issuer, ABN AMRO and the Trustee are parties to that certain Indenture dated as of April 1, 2002 ( the "Indenture");

WHEREAS, Section 8.01 of the Indenture provides that, without the consent of the Holders of any Securities, the Issuer, when authorized by a resolution of its Board of Directors, ABN AMRO, when authorized by a resolution of its Managing Board, and the Trustee may enter into indentures supplemental to the Indenture for the purpose of, among other things, making any provisions as the Issuer may deem necessary or desirable, subject to the conditions set forth therein; *provided that* no such action shall adversely affect the interests of the Holders of the Securities;

WHEREAS, the Issuer and ABN AMRO desire to make Bank of America an additional guarantor of the Securities and Bank of America desires to become an additional guarantor hereunder;

WHEREAS, the Issuer desires to modify certain provisions of the Indenture to limit the aggregate principal amount of Securities that may be authenticated and delivered under the Indenture;

WHEREAS, the modifications contained herein shall not adversely affect the interests of the Holders of the Securities;

WHEREAS, the entry into this First Supplemental Indenture by the parties hereto is in all respects authorized by the provisions of the Indenture; and

WHEREAS, all things necessary to make this First Supplemental Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE:

The Issuer, ABN AMRO, Bank of America and the Trustee mutually covenant and agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01. *Defined Terms; References*. Unless otherwise specifically defined herein, each term used herein that is defined in the Indenture has the meaning assigned to such term in the Indenture. Each reference to "hereof", "hereunder", "herein" and "hereby" and each other similar reference and each reference to "this Indenture" and each other similar reference contained in the Indenture shall, after this First Supplemental Indenture becomes effective, refer to the Indenture as amended hereby.

ARTICLE 2
AMENDMENTS TO THE INDENTURE

SECTION 2.01. *Definitions.* Section 1.01 of the Indenture is hereby amended by:

(a) replacing the definition of "Guarantor" with the following new definition:

"**Guarantor**" means each of ABN AMRO Bank N.V. and Bank of America Corporation until any successor Person shall have become such pursuant to the applicable provisions of this Indenture, as so supplemented, and thereafter "Guarantor" shall mean each such successor Person."

(b) replacing the definition of "Guarantor's Board of Directors" with the following new definition:

"**Guarantor's Board of Directors**" means, for each Guarantor, the Managing Board or Board of Directors, as applicable, of such Guarantor or any committee of that board duly authorized to act generally or in any particular respect for such Guarantor hereunder."

SECTION 2.02. *Amount Unlimited; Issuable in Series.* Section 2.03 of the Indenture is hereby amended by:

(a) inserting the following text immediately following the word "unlimited" in the first sentence of the first paragraph thereof:

*";provided, however*, that, notwithstanding anything to the contrary in this Indenture, on and after October 1, 2007, no Securities shall be issued, and the Trustee shall not authenticate any Securities (other than Securities issued (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof) and the aggregate

principal amount of Securities which may be authenticated and delivered at any time shall be limited to the aggregate principal amount of Securities that are Outstanding as of October 1, 2007, as reduced (and in no event increased) by the aggregate principal amount of Securities following October 1, 2007 that are no longer Outstanding. No Security issued on or after October 1, 2007 (other than Securities issued (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof), whether or not authenticated by the Trustee, shall be entitled to the benefits of this Indenture and shall be valid or obligatory for any person."

(b) adding the phrase "Prior to October 1, 2007," immediately preceding the words "the Securities may be issued" in the first sentence of the second paragraph thereof and immediately preceding the words "there shall be established" in the second sentence of the second paragraph thereof.

(c) adding the following paragraph at the end thereof:

"On and after October 1, 2007, the aggregate principal amount of Securities will in no event be increased, and the Trustee shall not authenticate any Securities of the same series, other than (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof."

SECTION 2.03. *Authentication and Delivery of Securities.* Section 2.04 of the Indenture is hereby amended by:

(a) adding the phrase "Prior to October 1, 2007," immediately preceding the words "the Issuer may deliver Securities" in the first sentence of clause (a) thereof; and

(b) adding the following sentence immediately preceding the second sentence of clause (a) thereof:

"On and after October 1, 2007, the Issuer and the Trustee may act as specified in the immediately preceding sentence for Securities issued only (i) upon transfer, registration or exchange in accordance with Section 2.08 hereof, (ii) in lieu of mutilated, defaced, destroyed, lost or stolen Securities in accordance with Section 2.09 or (iii) in principal amounts equal to the unredeemed portion of the Securities presented in accordance with Section 12.03 hereof."

SECTION 2.04. *Certificate of Authentication.* Section 2.06 of the Indenture is hereby amended by adding the phrase "subject to Section 2.03" immediately following the words "valid or obligatory for any purpose" in the first sentence thereof.

SECTION 2.05. *Offices for Payments, etc.* Section 3.02 of the Indenture is hereby amended by (i) replacing the words "the Guarantor" with the words "each Guarantor" in the first and sixth lines of the fifth paragraph thereof and (ii) replacing the words "the Guarantor" with the words "such Guarantor" in the seventh and ninth lines thereof.

SECTION 2.06. *Event of Default Defined; Acceleration of Maturity; Waiver of Event of Default;* Section 5.01(e) of the Indenture is hereby amended by replacing the words "the Guarantor" with the words "either Guarantor" immediately following the words "as hereinafter provided, the Issuer or" in the second flush paragraph immediately following clause (e) thereof.

SECTION 2.07. *Collection of Indebtedness by Trustee; Trustee May Prove Debt.* Section 5.02 of the Indenture is hereby amended by inserting the words "or either Guarantor, as the case may be," immediately following the words "Until such demand is made by the Trustee, the Issuer" in the second paragraph thereof.

SECTION 2.08. *Certain Rights of the Trustee.* Section 6.02(a) of the Indenture is hereby amended by replacing the words "Guarantor's Officers' Certificate" with the words "any Guarantor's Officers' Certificate".

SECTION 2.09. *Supplemental Indentures Without Consent of Securityholders.* Section 8.01(e) of the Indenture is hereby amended by adding the phrase "prior to October 1, 2007," immediately preceding the words "to establish the forms or terms of Securities".

SECTION 2.10. *Satisfaction and Discharge of Indenture.* Section 10.01 of the Indenture is hereby amended by (I) replacing the words "the Guarantor" with the words "either Guarantor" immediately following the words (x) "If at any time (i) the Issuer or", (y) "under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer or" and (z) "and if, in any such case, the Issuer or," in each case in clause (a) thereof; and (II) replacing the words "the Guarantor" with the words "either Guarantor" immediately following the words (a) "with reference to this provision the Issuer has or" in clause (b)(i) thereof and (b) "The Issuer or" in clause (c)(i) thereof.

SECTION 2.11. *Notices and Demands on Issuer.* Section 11.04 of the Indenture is hereby amended by replacing the address information for the Guarantor in the first paragraph thereof with the following:

If to the Guarantor: ABN AMRO Holding N.V.
Gustav Mahlerlaan 10
1082 PP Amsterdam
The Netherlands
Attention: Central Legal Department

and

Bank of America Corporation
Bank of America Corporate Center
100 North Tryon Street
NC1-007-07-06
Corporate Treasury Division
Charlotte, North Carolina 28255
Telephone: (980) 387-3776
Facsimile: (980) 386-0270
Attention: B. Kenneth Burton, Jr.

Together with a copy to:

Bank of America Corporation
Legal Department
NC1-002-29-01
101 South Tryon Street
Charlotte, North Carolina 28255
Telephone: (704) 386-4238
Facsimile: (704) 386-1670
Attention: Teresa M. Brenner, Esq.

SECTION 2.12. *Notice of Redemption; Partial Redemptions.* Section 12.02 of the Indenture is hereby amended by replacing the words "the Guarantor" with the words "either Guarantor" immediately following the words "notice of redemption given as provided in this Section, the Issuer or" in the fourth paragraph thereof.

SECTION 2.13. *Guarantee and Indemnity*. Article 13 of the Indenture is hereby replaced in its entirety with the following:

"ARTICLE 13
GUARANTEE AND INDEMNITY

Section 13.01. *The Guarantee.* Each Guarantor hereby unconditionally guarantees, jointly and severally, to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee the due and punctual payment of the principal of, any premium and interest on, and any additional amounts with respect to such Security and the due and punctual payment of the sinking fund payments (if any) provided for pursuant to the terms of such Security, when and as the same shall become due and payable, whether at maturity, by acceleration,

redemption, repayment or otherwise, in accordance with the terms of such Security and of this Indenture and all other obligations of the Issuer under such Security and this Indenture. In case of the failure of the Issuer punctually to pay any such principal, premium, interest, additional amounts or sinking fund payment, each Guarantor hereby agrees to cause any such payment to be made punctually when and as the same shall become due and payable, whether at maturity, upon acceleration, redemption, repayment or otherwise, and as if such payment were made by the Issuer.

Section 13.02. *Net Payments*. All payments of principal of and premium, if any, interest and any other amounts on, or in respect of, the Securities of any series or any Coupon appertaining thereto shall be made by the Guarantor 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 or on behalf of The Netherlands (the "taxing jurisdiction") or any political subdivision or taxing authority thereof or therein, unless such taxes, fees, duties, assessments or governmental charges are required to be withheld or deducted by (i) the laws (or any regulations or ruling promulgated thereunder) of a taxing jurisdiction 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 a taxing jurisdiction or any political subdivision thereof). If a withholding or deduction at source is required, the Guarantor shall, subject to certain limitations and exceptions set forth below, pay to the Holder of any such Security or any Coupon appertaining thereto such additional amounts as may be necessary so that every net payment of principal, premium, if any, interest or any other amount made to such Holder, after such withholding or deduction, shall not be less than the amount provided for in such Security, any Coupons appertaining thereto and this Indenture to be then due and payable; provided, however, that the Guarantor shall not be required to make payment of such additional amounts for or on account of:

(a) any tax, fee, duty, assessment or governmental charge of whatever nature which would not have been imposed but for the fact that such Holder: (A) was a resident, domiciliary or national of, or engaged in business or maintained a permanent establishment or was physically present in, the relevant taxing jurisdiction or any political subdivision thereof or otherwise had some connection with the relevant taxing jurisdiction other than by reason of the mere ownership of, or receipt of payment under, such Security; (B) presented such Security for payment in the relevant taxing jurisdiction or any political subdivision thereof, unless such Security could not have been presented for payment elsewhere; or (C) presented such Security more than thirty (30) days after the date on which the payment in respect of such Security first became due and payable or provided for, whichever is later, except to the extent that the Holder would have been entitled to such additional amounts if it had presented such Security for payment on any day within such period of thirty (30) days;

(b) any estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;

(c) any tax, assessment or other governmental charge that is imposed or withheld by reason of the failure by the Holder or the beneficial owner of such Security to comply with any reasonable request by the Guarantor addressed to the Holder within 90 days of such request (A) to provide information concerning the nationality, residence or identity of the Holder or such beneficial owner or (B) to make any declaration or other similar claim or satisfy any information or reporting requirement, which, in the case of (A) or (B), is required or imposed by statute, treaty, regulation or administrative practice of the relevant taxing jurisdiction or any political subdivision thereof as a precondition to exemption from all or part of such tax, assessment or other governmental charge; or

(d) any combination of items (a), (b) and (c);

nor shall additional amounts be paid with respect to any payment of the principal of, or premium, if any, interest or any other amounts on, any such Security to any Holder who is a fiduciary or partnership or other than the sole beneficial owner of such Security to the extent such payment would be required by the laws of the relevant taxing jurisdiction (or any political subdivision or relevant taxing authority thereof or therein) to be included in the income for tax purposes of a beneficiary or partner or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such additional amounts had it been the Holder of the Security.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium, interest or any other amounts on, or in respect of, any Security of any series or any Coupon or the net proceeds received on the sale or exchange of any Security of any series, such mention shall be deemed to include mention of the payment of additional amounts provided by the terms of such series established hereby or pursuant hereto to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of additional amounts (if applicable) in any provision hereof shall not be construed as excluding the payment of additional amounts in those provisions hereof where such express mention is not made.

Except as otherwise provided in or pursuant to this Indenture or the Securities of the applicable series, at least 10 days prior to the first Interest Payment Date with respect to a series of Securities (or if the Securities of such series shall not bear interest prior to Maturity, the first day on which a payment of principal is made), and at least 10 days prior to each date of payment of principal

or interest if there has been any change with respect to the matters set forth in the below-mentioned Guarantor's Officer's Certificate, either Guarantor shall furnish to the Trustee and the principal paying agent, if other than the Trustee, a Guarantor's Officer's Certificate instructing the Trustee and such paying agent whether such payment of principal of and premium, if any, interest or any other amounts on the Securities of such series shall be made to Holders of Securities of such series or the Coupons appertaining thereto without withholding for or on account of any tax, fee, duty, assessment or other governmental charge described in this Section 13.02. If any such withholding shall be required, then such Guarantor's Officer's Certificate shall specify by taxing jurisdiction the amount, if any, required to be withheld on such payments to such Holders of Securities or Coupons, and the Guarantor agrees to pay, jointly and severally, to the Trustee or such paying agent the additional amounts required by this Section 13.02. The Guarantor covenants to indemnify, jointly and severally, the Trustee and any paying agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Guarantor's Officer's Certificate furnished pursuant to this Section 13.02.

Section 13.03. *Guarantee Unconditional, etc.* Each Guarantor hereby agrees that its obligations hereunder shall be as principal and not merely as surety, and shall be absolute, irrevocable and unconditional, irrespective of, and shall be unaffected by, any invalidity, irregularity or unenforceability of any Security or this Indenture, any failure to enforce the provisions of any Security or this Indenture, or any waiver, modification, consent or indulgence granted with respect thereto by the Holder of such Security or the Trustee, the recovery of any judgment against the Issuer or any action to enforce the same, or any other circumstances which may otherwise constitute a legal or equitable discharge of a surety or guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of merger, insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest or notice with respect to any such Security or the indebtedness evidenced thereby and all demands whatsoever, and covenants that this Guarantee will not be discharged except by payment in full of the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, the Securities and the complete performance of all other obligations contained in the Securities. Each Guarantor further agrees, to the fullest extent that it lawfully may do so, that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, the maturity of the obligations guaranteed hereby may be accelerated as provided in Section 5.01 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or prohibition extant under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction preventing such acceleration in respect of the obligations guaranteed hereby.

Section 13.04. *Reinstatement.* This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment on any Security, in whole or in part, is rescinded or must otherwise be restored to the Issuer or any Guarantor upon the bankruptcy, liquidation or reorganization of the Issuer or otherwise.

Section 13.05. *Subrogation.* A Guarantor shall be subrogated to all rights of the Holder of any Security against the Issuer in respect of any amounts paid to such Holder by such Guarantor pursuant to the provisions of this Guarantee; provided, however, that such Guarantor shall not be entitled to enforce, or to receive any payments arising out of or based upon, such right of subrogation until the principal of, any premium and interest on, and any additional amounts and sinking fund payments required with respect to, all Securities shall have been paid in full.

Section 13.06. *Indemnity*. As a separate and alternative stipulation, each Guarantor unconditionally and irrevocably agrees that any sum expressed to be payable by the Issuer under this Indenture, or the Securities or the Coupons but which is for any reason (whether or not now known or becoming known to the Issuer, the Guarantor, the Trustee or any Holder of any Security or Coupon) not recoverable from such Guarantor on the basis of a guarantee will nevertheless be recoverable from it as if it were the sole principal debtor and will be paid by it to the Trustee on demand. This indemnity constitutes a separate and independent obligation from the other obligations in this Indenture, gives rise to a separate and independent cause of action and will apply irrespective of any indulgence granted by the Trustee or any Holder of any Security or Coupon.

Section 13.07. *Assumption by Guarantor.* (a) The Guarantor may, without the consent of the Holders, jointly and severally, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, after giving effect to such assumption, no Event of Default or event which with the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing. Upon such an assumption, each Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series.

(b) The Guarantor shall, jointly and severally, assume all of the rights and obligations of the Issuer hereunder with respect to a series of Securities and under the Securities of such series if, upon a default by the Issuer in the due and punctual payment of the principal, sinking fund payment, if any, premium, if any, or interest on such Securities, the Guarantor is prevented by any court order or judicial proceeding from fulfilling their obligations under Section 13.01 with respect to such series of Securities. Such assumption shall result in the Securities of such series becoming the direct obligations of the Guarantor, acting jointly and

severally, and shall be effected without the consent of the Holders of the Securities of any Series. Upon such an assumption, the Guarantor shall execute a supplemental indenture evidencing its assumption of all such rights and obligations of the Issuer, and the Issuer shall be released from its liabilities hereunder and under such Securities as obligor on the Securities of such Series."

ARTICLE 3
Miscellaneous Provisions

Section 3.01. *Effect of Supplemental Indenture.* Upon execution and delivery of this First Supplemental Indenture by each of the Issuer, ABN AMRO, Bank of America and the Trustee, the Indenture shall be supplemented in accordance herewith, and this First Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Securities hereafter authenticated and delivered under the Indenture shall be bound thereby.

Section 3.02. *Confirmation of Indenture.* The Indenture, as supplemented and amended by this First Supplemental Indenture, is in all respects ratified and confirmed, and the Indenture, the First Supplemental Indenture and all indentures supplemental thereto shall be read, taken and construed as one and the same instrument.

Section 3.03. *Concerning the Trustee.* The Trustee assumes no duties, responsibilities or liabilities by reason of this First Supplemental Indenture other than as set forth in the Indenture. The Trustee makes no representations as to the validity or sufficiency of this First Supplemental Indenture. The recitals and statements herein are deemed to be those of the Issuer, ABN AMRO and Bank of America and not of the Trustee.

Section 3.04. *Governing Law*. This First Supplemental Indenture shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law.

Section 3.05. *Separability*. In case any provision contained in this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.06. *Counterparts*. This First Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

LASALLE FUNDING LLC

By: /s/ MICHAEL A. PICCATTO
Name: Michael A. Piccatto
Title: VP and Asst. Secretary

By: /s/ ROBERT J. MOORE
Name: Robert J. Moore
Title: President

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

ABN AMRO BANK N.V.

By: /s/ MARTIN EISENBERG
Name: Martin Eisenberg
Title: Senior Vice President

By: /s/ ROBERT SCHULTZE
Name: Robert Schultze
Title: Chief Operating Officer

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

BNY MIDWEST TRUST COMPANY

By: /s/ M. CALLAHAN
Name: M. Callahan
Title: Vice President

**BANK OF AMERICA**
**401(k) RESTORATION PLAN**

Instrument of Amendment

THIS INSTRUMENT OF AMENDMENT (the "Instrument") is executed this 15th day of December, 2006 by BANK OF AMERICA CORPORATION, a Delaware corporation (the "Corporation").

Statement of Purpose

The Corporation and certain of its subsidiaries (collectively, the "Participating Employers") maintain the Bank of America 401(k) Restoration Plan (the "Plan"). The Participating Employers desire to amend the Plan as set forth herein to (i) reflect the adoption of the Mutual Fund Incentive Plan by the Corporation, (ii) reflect certain design changes to the Restoration Plan and (iii) otherwise meet current needs. In Section 4.1 of the Plan, the Corporation, on behalf of all of the Participating Employers, has reserved the right to amend the Plan.

NOW, THEREFORE, the Plan is hereby amended as follows effective as of January 1, 2006, unless otherwise provided herein:

1. The following definition is added to Section 1.1 of the Plan:

"*MFIP* means the Columbia Management Group Mutual Fund Incentive Plan adopted by the Corporation, as in effect from time to time."

2. Section 3.4(c) of the Plan is amended in its entirety to read as follows:

"(c) *Matching Contributions for EIP and MFIP Awards*. Under the EIP, a percentage of an eligible Associate's annual incentive award earned for a performance period beginning on or after January 1, 2002 is made in the form of an award of restricted stock shares or restricted stock units granted under the Bank of America Corporation 2003 Key Associate Stock Plan (or any successor stock plan). Similarly, under the MFIP, a percentage of an eligible Associate's annual incentive award earned for a performance period beginning on or after January 1, 2006 is made in the form of an award of restricted mutual fund units granted under the MFIP. The remaining portion of the Associate's annual incentive award is payable in cash. Only the portion of the Associate's annual incentive award payable in cash is eligible for deferral under the 401(k) Plan or the Restoration Plan. However, for an Associate covered by the EIP or the MFIP who is eligible to receive matching contributions under the 401(k) Plan at the time when the cash portion of such annual incentive award is payable and who either:

(i) is an Eligible Associate who has made a deferral election under the Restoration Plan applicable to the cash portion of such annual incentive award; or

(ii) is not an Eligible Associate but who has made a deferral election under the 401(k) Plan applicable to the cash portion of such annual incentive award,

the Associate's Participating Employer shall credit to the Participant's Matching Contribution Restoration Account an amount equal to five percent (5%) of the "Principal Amount" (as defined in the EIP and the MFIP) with respect to such annual incentive award; *provided, however*, that in no event shall the combined matching contributions under Section 3.4(b) above, this Section 3.4(c) and the 401(k) Plan for the Plan Year exceed Twelve Thousand Five Hundred Dollars ($12,500). For purposes of this Section, the EIP Principal Amount for an Associate who is in Band 0 shall be the amount communicated to the Personnel Group by the Corporation's Executive Compensation group as the EIP Principal Amount. Notwithstanding any provision herein to the contrary, for a legacy Fleet Associate who is an Eligible Associate for Plan Year 2005 and who receives an EIP award with respect to performance during 2004, no matching contribution shall be provided under this Section 3.4(c) with respect to such EIP award."

3. Effective with respect to any payments made on or after January 1, 2007, Section 3.8(e) of the Plan is amended by replacing the last sentence of the first paragraph thereof with the following":

"The Class Year Deferrals shall continue to be credited with adjustments under Section 3.5 as follows:

(i) if the Participant terminated employment having satisfied the Rule of 60, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 3.5 through the last business day immediately preceding the payment date; and

(ii) for any other Participant, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 3.5 through the end of the Plan Year in which the Participant terminates employment (or, if applicable, through the end of a subsequent calendar year as determined by the Personnel Group if the Personnel Group is not notified of a Participant's termination of employment with the Participating Employer's until after the end of the Plan Year in which such termination of employment occurs), and thereafter through the last business day immediately preceding the payment date the Class Year Deferrals shall be deemed invested in Stable Capital Fund (or Stable Asset Fund for a legacy Fleet Associate)."

4. Except as expressly or by necessary implication amended hereby, the Plan shall continue in full force and effect.

IN WITNESS WHEREOF, the Corporation, on behalf of all of the Participating Employers, has caused this Instrument to be executed by its duly authorized officer as of the day and year first above written.

BANK OF AMERICA CORPORATION

By: /s/ J. STEELE ALPHIN

**J. Steele Alphin, Global Human Resources Executive**

# BANK OF AMERICA CORPORATION
# 2003 KEY ASSOCIATE STOCK PLAN,
# AS AMENDED AND RESTATED

INSTRUMENT OF AMENDMENT

THIS INSTRUMENT OF AMENDMENT (the "Instrument") is executed as of the 13th day of March, 2006 by BANK OF AMERICA CORPORATION, a Delaware corporation (the "Company").

Statement of Purpose

The Company sponsors the Bank of America Corporation 2003 Key Associate Stock Plan, as amended and restated effective April 1, 2004 (the "Plan"). The Company desires to amend the Plan as set forth herein to (i) make available additional shares of the Company's common stock for awards under the Plan, (ii) extend the term of the Plan from December 31, 2008 to December 31, 2011 and (iii) otherwise meet current needs. In accordance with Section 14.1 of the Plan, the amendments set forth herein have been approved by the Board of Directors of the Company and are also subject to the approval of the Company's stockholders at the Spring 2006 Annual Meeting of Stockholders.

NOW, THEREFORE, the Company hereby amends the Plan as follows, effective as of the date of stockholder approval:

1. Clause (iii) of the last sentence of Section 1.1 of the Plan is amended to read as follows:

". . . (iii) the close of business on December 31, 2011."

2. The following sentence is added to the end of the definition of "Change in Control" in Article 2 of the Plan:

"Notwithstanding the foregoing, for any Awards that constitute nonqualified deferred compensation within the meaning of Section 409A(d) of the Code and provide for an accelerated payment in connection with a Change in Control, Change in Control shall have the same meaning as set forth in any regulations, revenue procedure, revenue rulings or other pronouncements issued by the Secretary of the United States Treasury pursuant to Section 409A of the Code, applicable to such arrangements."

3. The following sentence is added to the end of the definition of "Disability" in Article 2 of the Plan:

"Notwithstanding the foregoing, for any Awards that constitute nonqualified deferred compensation within the meaning of Section 409A(d) of the Code and provide for an accelerated payment in connection with any Disability, Disability shall have the same meaning as set forth in any regulations, revenue procedure, revenue rulings or other pronouncements issued by the Secretary of the United States Treasury pursuant to Section 409A of the Code, applicable to such arrangements."

4. The following Section 3.4 is added to the end of Article 3 of the Plan, and Section 8.9 of the Plan is deleted:

**"3.4 Limitation on Vesting for Awards .** Notwithstanding any provision of the Plan to the contrary, any Award that vests solely on the basis of the passage of time (e.g., not on the basis of any performance standards) shall not vest more quickly than ratably over the three (3) year period beginning on the first anniversary of the Award, except that the Award may vest sooner under any of the following circumstances as more specifically set forth in the applicable Award Agreement: (i) the Participant's death, (ii) the Participant's Disability, (iii) the Participant's "retirement" as defined in the Award Agreement consistent with the Company's retirement policies and programs, (iv) a Participant's termination of employment with the Company and its Subsidiaries due to workforce reduction, job elimination or divestiture as determined by the Committee, (v) a Change in Control consistent with the provisions of Article 13 hereof or (vi) in connection with establishing the terms and conditions of employment of a Key Associate necessary for the recruitment of the Key Associate or as the result of a business combination or acquisition by the Company or any of its Subsidiaries. The provisions of this Section 3.4 shall not apply to any Award of Restricted Stock or Restricted Stock Units that is made to a Key Associate as a portion of the Key Associate's annual incentive compensation under the Company's Equity Incentive Plan, Executive Incentive Compensation Plan, or any similar plan or program as determined by the Committee applicable to any Key Associate, including any such program applicable to an Insider or Named Executive Officer."

5. Article 4 of the Plan is amended to read as follows:

**"Article 4. Shares Subject to the Plan**

**4.1 Number of Shares Available for Grants.** Subject to the provisions of this Article 4 (after giving effect to the two-for-one stock split effective August 27, 2004), the aggregate number of Shares available for grants of Awards under the Plan shall not exceed the sum of (A) two hundred million (200,000,000) Shares plus (B) the number of Shares available for awards under the Prior Plan as of December 31, 2002 plus (C) any Shares that were subject to an award under the Prior Plan which award is canceled, terminates, expires or lapses for any reason from and after the Effective Date plus (D) effective as of April 1, 2004, one hundred two million (102,000,000) Shares plus (E) effective upon approval of the Company's stockholders at the Spring 2006 Annual Meeting of Stockholders, one hundred eighty million (180,000,000) Shares.

**4.2 Lapsed Awards.** If any Award is canceled, terminates, expires, or lapses for any reason, any Shares subject to such Award shall not count against the aggregate number of Shares available for grants under the Plan set forth in Section 4.1 above.

**4.3 Shares Used to Pay Option Price and Withholding Taxes.** If, in accordance with the terms of the Plan, a Participant pays the Option Price for an Option or satisfies any tax withholding requirement with respect to any taxable event arising as a result of this Plan by either tendering previously owned Shares or having the Company withhold Shares, then such Shares surrendered to pay the Option Price or used to satisfy such tax withholding requirements shall not count against the aggregate number of Shares available for grant under the Plan set forth in Section 4.1 above. Notwithstanding the foregoing, the provisions of this Section 4.3 shall not apply from and after January 1, 2006.

**4.4 Other Items Not Included.** The following items shall not count against the aggregate number of Shares available for grants under the Plan set forth in Section 4.1 above: (i) the payment in cash of dividends or dividend equivalents under any outstanding Award; (ii) any Award that is settled in cash rather than by issuance of Shares; or (iii) Awards granted through the assumption of, or in substitution for, outstanding awards previously granted to individuals who become Key Associates as a result of a merger, consolidation, acquisition or other corporate transaction involving the Company or any Subsidiary.

**4.5 Award Limits.** Notwithstanding any provision herein to the contrary, the following provisions shall apply (subject to adjustment in accordance with Section 4.6 below):

(i) in no event shall a Participant receive an Award or Awards during any one (1) calendar year covering in the aggregate more than four million (4,000,000) Shares (whether such Award or Awards may be settled in Shares, cash or any combination of Shares and cash);

(ii) in no event shall there be granted during the term of the Plan Incentive Stock Options covering more than an aggregate of forty million (40,000,000) Shares;

(iii) in no event shall there be granted from and after January 1, 2006 Shares of Restricted Stock or Restricted Stock Units covering more than an aggregate of:

(A) one hundred thirty-one million (131,000,000) Shares, plus

(B) the number of Shares covering any Award made under this subparagraph (iii) from and after January 1, 2006 that again become available for issuance under Section 4.2 above because the Award is canceled, terminates, expires, or lapses for any reason;

*provided,however*, that (x) in the event the full number of Shares under this subparagraph (iii) have been used, the Company may grant additional Shares of Restricted Stock or Restricted Stock Units from the remaining available Shares for grants under Section 4.1 with each such Share of Restricted Stock or Restricted Stock Unit counting as six (6) Shares against such remaining available Shares under Section 4.1 and (y) the limitations of this subparagraph (iii) shall not apply to any Award of Restricted Stock or Restricted Stock Units which is earned solely on the basis of the achievement of performance goals.

**4.6 Adjustments in Authorized Shares.** In the event of any change in corporate capitalization, such as a stock split, or a corporate transaction, such as any merger, consolidation, separation, including a spin-off, or other distribution of stock or property of the Company, any reorganization (whether or not such reorganization comes within the definition of such term in Code Section 368) or any partial or complete liquidation of the Company, such adjustment

shall be made in the number and class of Shares which may be issued under the Plan and in the number and class of and/or price of Shares subject to outstanding Awards granted under the Plan, as may be determined to be appropriate and equitable by the Committee, in its sole discretion, to prevent dilution or enlargement of rights; *provided*, *however*, that (i) the number of Shares subject to any Award shall always be a whole number and (ii) such adjustment shall be made in a manner consistent with the requirements of Code Section 409A in order for any Options or SARs to remain exempt from the requirements of Code Section 409A.

**4.7 Source of Shares.** Shares issued under the Plan may be original issue shares, treasury stock or shares purchased in the open market or otherwise, all as determined by the Chief Financial Officer of the Company (or the Chief Financial Officer's designee) from time to time, unless otherwise determined by the Committee."

6. The following sentence is added to the end of Section 6.9(b) of the Plan:

"In no event may an NQSO be transferred for consideration."

7. The following sentence is added to the end of Section 6.11 of the Plan:

"In addition, in no event shall the Company, without approval of the Company's stockholders, repurchase from Participants any outstanding Options that have an Option Price per Share less than the then current Fair Market Value of a Share."

8. The following Section 6.12 is added to the end of Article 6 of the Plan:

"**6.12 No Dividend Equivalents.** In no event shall any Award of Options granted under the Plan include any dividend equivalents with respect to such Award."

9. The following sentence is added to the end of Section 7.8 of the Plan:

"In no event may an SAR be transferred for consideration."

10. The following Sections 7.10 and 7.11 are added to the end of Article 7 of the Plan:

"**7.10 No Repricing.** Except for adjustments made pursuant to Section 4.6, the grant price for any outstanding SAR granted under the Plan may not be decreased after the date of grant nor may any outstanding SAR granted under the Plan be surrendered to the Company as consideration for the grant of a new SAR with a lower exercise price without approval of the Company's stockholders. In addition, in no event shall the Company, without approval of the Company's stockholders, repurchase from Participants any outstanding SARs that have a grant price per Share less than the then current Fair Market Value of a Share.

**7.11 No Dividend Equivalents.** In no event shall any Award of SARs granted under the Plan include any dividend equivalents with respect to such Award."

11. Sections 14.3 and 14.4 of the Plan are amended to read as follows:

**"14.3 Acceleration of Award Vesting; Waiver of Restrictions .** Notwithstanding any provision of this Plan or any Award Agreement provision to the contrary, the Committee, in its sole and exclusive discretion, shall have the power at any time to (i) accelerate the vesting of any Award granted under the Plan, including, without limitation, acceleration to such a date that would result in said Awards becoming immediately vested, or (ii) waive any restrictions of any Award granted under the Plan; *provided*, *however*, that in no event shall the Committee accelerate the vesting or waive the restrictions on (A) any Award to an individual who is an Insider or Named Executive Officer or (B) Awards with respect to an aggregate of more than nine million (9,000,000) Shares.

**14.4 No Repricing.** Nothing in the provisions of this Article 14 shall be construed to permit the repricing of any outstanding Option or SAR as otherwise prohibited by the provisions of Section 6.12 or Section 7.10."

12. The following Section 18.7 is added to the end of Article 18 of the Plan:

"**18.7 Compliance With Code Section 409A.** The Plan is intended to comply with Code Section 409A, to the extent applicable. Notwithstanding any provision of the Plan to the contrary, the Plan shall be interpreted, operated and

administered consistent with this intent. In that regard, and notwithstanding any provision of the Plan to the contrary, the Company reserves the right to amend the Plan or any Award granted under the Plan, by action of the Committee, without the consent of any affected Participant, to the extent deemed necessary or appropriate for purposes of maintaining compliance with Code Section 409A and the regulations promulgated thereunder."

13. Except as expressly or by necessary implication amended hereby, the Plan shall continue in full force and effect.

IN WITNESS WHEREOF, the Company has caused this Instrument to be executed by its duly authorized officer as of the day and year first above written.

BANK OF AMERICA CORPORATION

By: /s/ J. STEELE ALPHIN

**J. Steele Alphin, Corporate Personnel Executive**

# 2003 KEY ASSOCIATE STOCK PLAN
# RESTRICTED STOCK UNITS AWARD AGREEMENT

| GRANTED TO | GRANT DATE | NUMBER OF RESTRICTED STOCK UNITS |
|---|---|---|
| | | |

*Note*: The number of Restricted Stock Units is based on a "divisor price" of $[XX.XX], which is the five-day average closing price of Bank of America Corporation common stock for the five business days immediately preceding and including February 15, 2008.

This Restricted Stock Units Award Agreement and all Exhibits hereto (the "Agreement") is made between Bank of America Corporation, a Delaware corporation ("Bank of America"), and you, an associate of Bank of America or one of its Subsidiaries.

Bank of America sponsors the Bank of America Corporation 2003 Key Associate Stock Plan (the "Stock Plan"). A Prospectus describing the Stock Plan has been delivered to you. The Stock Plan itself is available upon request, and its terms and provisions are incorporated herein by reference. When used herein, the terms which are defined in the Stock Plan shall have the meanings given to them in the Stock Plan, as modified herein (if applicable).

The Restricted Stock Units covered by this Agreement are being awarded to you in connection with your participation in the Bank of America Corporation Executive Incentive Compensation Plan, subject to the following terms and provisions:

1. Subject to the terms and conditions of the Stock Plan and this Agreement, Bank of America awards to you the number of Restricted Stock Units shown above. Each Restricted Stock Unit shall have a value equal to the Fair Market Value of one (1) share of Bank of America common stock.

2. You acknowledge having read the Prospectus and agree to be bound by all the terms and conditions of the Stock Plan and this Agreement.

3. If a cash dividend is paid with respect to Bank of America common stock, a cash dividend equivalent equal to the total cash dividend you would have received had your Restricted Stock Units been actual shares of Bank of America common stock will be accumulated and paid in cash through payroll when the Restricted Stock Units become earned and payable. Dividend equivalents are credited with interest at the three-year constant maturity Treasury rate in effect on the date of grant until the payment date.

4. The Restricted Stock Units covered by this Award shall become earned by, and payable to, you in the amounts and on the dates shown on the enclosed Exhibit A.

5. You agree that you shall comply with (or provide adequate assurance as to future compliance with) all applicable securities laws and income tax laws as determined by Bank of America as a condition precedent to the delivery of any shares of Bank of America common stock pursuant to this Agreement. In addition, you agree that, upon request, you will furnish a letter agreement providing that (i) you will not distribute or resell any of said shares in violation of the Securities Act of 1933, as amended, (ii) you will indemnify and hold Bank of America harmless against all liability for any such violation and (iii) you will accept all liability for any such violation.

6. By executing and returning a Beneficiary Designation Form, you may designate a beneficiary to receive payment in connection with the Restricted Stock Units awarded hereunder in the event of your death while in service with Bank of America. If you do not designate a beneficiary or if your designated beneficiary does not survive you, then your beneficiary will be your estate. A Beneficiary Designation Form has been included in your Award package and may also be obtained by contacting Executive Compensation as described in the Prospectus.

7. You agree that the Restricted Stock Units covered by this Agreement are subject to the Incentive Compensation Recoupment Policy set forth in the Bank of America Corporate Governance Guidelines.

8. The existence of this Award shall not affect in any way the right or power of Bank of America or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations or other changes in Bank of America's capital structure or its business, or any merger or consolidation of Bank of America, or any issue of bonds, debentures, preferred or prior preference stocks ahead of or convertible into, or otherwise affecting the Bank of America common stock or the rights thereof, or the dissolution or liquidation of Bank of America, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

9. Bank of America may, in its sole discretion, decide to deliver any documents related to this grant or future Awards that may be granted under the Stock Plan by electronic means or request your consent to participate in the Stock Plan by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, agree to participate in the Stock Plan through an on-line or electronic system established and maintained by Bank of America or another third party designated by Bank of America.

10. Any notice which either party hereto may be required or permitted to give to the other shall be in writing and may be delivered personally, by intraoffice mail, by fax, by electronic mail or other electronic means, or via a postal service, postage prepaid, to such electronic mail or postal address and directed to such person as Bank of America may notify you from time to time; and to you at your electronic mail or postal address as shown on the records of Bank of America from time to time, or at such other electronic mail or postal address as you, by notice to Bank of America, may designate in writing from time to time.

11. Regardless of any action Bank of America or your employer takes with respect to any or all income tax, payroll tax or other tax-related withholding ("Tax-Related Items"), you acknowledge that the ultimate liability for all Tax-Related Items owed by you is and remains your responsibility and that Bank of America and/or your employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the grant of Restricted Stock Units, including the grant and vesting the Restricted Stock Units, the subsequent sale of Shares acquired upon the vesting of the Restricted Stock Units and the receipt of any dividends; and (ii) do not commit to structure the terms of the grant or any aspect of the Restricted Stock Units to reduce or eliminate your liability for Tax-Related Items.

    In the event Bank of America determines that it and/or your employer must withhold any Tax-Related Items as a result of your participation in the Stock Plan, you agree as a condition of the grant of the Restricted Stock Units to make arrangements satisfactory to Bank of America and/or your employer to enable it to satisfy all withholding requirements, including, but not limited to, withholding any applicable Tax-Related Items from the pay-out of the Restricted Stock Units. In addition, you authorize Bank of America and/or your employer to fulfill its withholding obligations by all legal means, including, but not limited to: withholding Tax-Related Items from your wages, salary or other cash compensation your employer pays to you; withholding Tax-Related Items from the cash proceeds, if any, received upon sale of any Shares received in payment for your Restricted Stock Units; and at the time of payment, withholding Shares sufficient to meet minimum withholding obligations for Tax-Related Items. Bank of America may refuse to issue and deliver Shares in payment of any earned Restricted Stock Units if you fail to comply with any withholding obligation.

12. The validity, construction and effect of this Agreement are governed by, and subject to, the laws of the State of Delaware and the laws of the United States, as provided in the Stock Plan. For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties evidenced by this grant or this Agreement, the parties hereby submit to and consent to the exclusive jurisdiction of North Carolina and agree that such litigation shall be conducted solely in the courts of Mecklenburg County, North Carolina or the federal courts for the United States for the Western District of North Carolina, where this grant is made and/or to be performed, and no other courts.

13. In the event any provision of this Agreement shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Agreement, and the Agreement shall be construed and enforced as if the illegal or invalid provision had not been included. This Agreement constitutes the final understanding between you and Bank of America regarding the Restricted Stock Units. Any prior agreements, commitments or negotiations concerning the Restricted Stock Units are superseded. Subject to the terms of the Stock Plan, this Agreement may only be amended by a written instrument signed by both parties.

IN WITNESS WHEREOF, Bank of America has caused this Agreement to be executed by its duly authorized officer, and you have hereunto set your hand, all effective as of the Grant Date listed above.

BANK OF AMERICA CORPORATION

By: 

Chairman, Chief Executive Officer and President

ASSOCIATE

# Bank of America Corporation
# 2003 Key Associate Stock Plan

PAYMENT OF RESTRICTED STOCK UNITS

(a) *Payment Schedule.* Subject to the provisions of paragraphs (b), (c) and (d) below, the Restricted Stock Units shall become earned and payable on the third anniversary of the Grant Date if you remain employed with Bank of America and its Subsidiaries through that date. Shares will be issued as soon as administratively practicable, generally within 15 days after the payment date.

(b) *Impact of Termination of Employment on Earning of Restricted Stock Units.* If your employment with Bank of America and its Subsidiaries terminates prior to the above payment date, then any unearned Restricted Stock Units shall become earned or be canceled depending on the reason for termination as follows:

(i) *Death, Disability, or Termination by Bank of America due to Workforce Reduction or Divestiture.* Any unearned Restricted Stock Units shall become immediately earned as of the date of your termination of employment if your termination is due to (A) death, (B) Disability, (C) Workforce Reduction or (D) Divestiture.

(ii) *Termination by Bank of America Without Cause.* If your employment is terminated by your employer without Cause (not including Workforce Reduction or Divestiture), then any unearned Restricted Stock Units shall become immediately earned as of such date.

(iii) *Termination by Bank of America With Cause.* If your employment is terminated by your employer with Cause, then any unearned Restricted Stock Units shall be immediately canceled as of your employment termination date.

(iv) *Termination by You*. If you voluntarily terminate your employment prior to attaining the Rule of 60, then any unearned Restricted Stock Units shall be immediately canceled as of your employment termination date.

(c) *Payment of Earned Restricted Stock Units Following Termination of Employment.* Except in the case of your termination of employment due to death, to the extent that your Restricted Stock Units become earned as described in paragraph (b), they shall become payable at such time as provided in the Payment Schedule described in paragraph (a) (without regard to whether you are employed by Bank of America and its Subsidiaries). To the extent that your Restricted Stock Units become earned as a result of a termination of employment due to your death, they shall become immediately payable as of the date of your termination. Shares will be issued as soon as administratively practicable, generally within 15 days after the payment date. Any accumulated cash dividend equivalents described in Section 3 of the Agreement will also be paid at this time.

(d) *Rule of 60.* If you voluntarily terminate your employment having attained the Rule of 60, then any unearned Restricted Stock Units shall continue to become earned and payable in accordance with the schedule set forth in paragraph (a) above, provided that (A) you do not engage in Competition during such period and (B) prior to each of the first, second and third anniversary of the Grant Date, you provide Bank of America with a written certification that you have not engaged in Competition. To be effective, such certification must be provided on such form, at such time and pursuant to such procedures as Bank of America shall establish from time to time. If Bank of America determines in its reasonable business judgment that you have failed to satisfy either of the foregoing requirements, then any unearned Restricted Stock Units shall be immediately canceled as of the date of such determination. In addition, from time to time following your termination of employment after having attained the Rule of 60, Bank of America may require you to further certify that you are not engaging in Competition, and if you fail to fully cooperate with any such requirement Bank of America may determine that you are engaging in Competition.

(e) *Form of Payment.* Payment of Restricted Stock Units shall be payable in the form of one share of common stock for each Restricted Stock Unit that is payable.

(f) *Definitions*. For purposes hereof, the following terms shall have the following meanings:

*Cause* shall be defined as that term is defined in your offer letter or other applicable employment agreement; or, if there is no such definition, “Cause” means a termination of your employment with Bank of America and its Subsidiaries if it

occurs in conjunction with a determination by your employer that you have (i) committed an act of fraud or dishonesty in the course of your employment; (ii) been convicted of (or plead no contest with respect to) a crime constituting a felony; (iii) failed to perform your job function(s), which Bank of America views as being material to your position and the overall business of Bank of America and its Subsidiaries under circumstances where such failure is detrimental to Bank of America or any Subsidiary; (iv) materially breached any written policy applicable to associates of Bank of America and its Subsidiaries including, but not limited to, the Bank of America Corporation Code of Ethics and General Policy on Insider Trading; or (v) made an unauthorized disclosure of any confidential or proprietary information of Bank of America or its Subsidiaries or have committed any other material violation of Bank of America's written policy regarding Confidential and Proprietary Information.

*Competition* means your being engaged, directly or indirectly, whether as a director, officer, employee, consultant, agent, or otherwise, with a business entity that is designated as a "Competitive Business" as of the date of your termination of employment. Bank of America shall communicate such list to you.

*Divestiture* means a termination of your employment with Bank of America and its Subsidiaries as the result of a divestiture or sale of a business unit as determined by your employer based on the personnel records of Bank of America and its Subsidiaries.

*Rule of 60* means, as of the date of your termination of employment with Bank of America and its Subsidiaries, you have (i) completed at least ten (10) years of "Vesting Service" under the tax-qualified Pension Plan sponsored by Bank of America in which you participate and (ii) attained a combined age and years of "Vesting Service" equal to at least sixty (60).

*Workforce Reduction* means your termination of employment with Bank of America and its Subsidiaries as a result of a labor force reduction, realignment or similar measure as determined by the your employer and (i) you receive severance pay under the Corporate Severance Program (or any successor program) upon termination of employment, or (ii) if not eligible to receive such severance pay, you are notified in writing by an authorized officer of Bank of America or any Subsidiary that the termination is as a result of such action. Your termination of employment shall not be considered due to Workforce Reduction unless you have first executed all documents required under the Corporate Severance Program or otherwise, including without limitation any required release of claims.

**Bank of America Corporation**
**MANAGEMENT PLANS**

BENEFICIARY DESIGNATION FORM

Please complete this form if you wish to designate a beneficiary for your Shares of Restricted Stock or Restricted Stock Units granted under the Bank of America Corporation 2003 Key Associate Stock Plan (the "Stock Plan") or if you wish to change your current beneficiary designation. Completed forms should be returned to Fidelity Investments, P.O. Box 770001, Cincinnati, Ohio 45277-0030.

**********

With respect to any of my awards of Restricted Stock or Restricted Stock Units under the Stock Plan that are outstanding and become payable at the time of my death, I hereby designate the following person or entity as my beneficiary to receive any payments in connection with those awards in the event of my death.

*Designation of Primary Beneficiary*. I designate the following as my Primary Beneficiary(ies):

| Name of Beneficiary | Birthdate | Address | Relationship |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

*Designation of Secondary Beneficiary*. I designate the following as my Secondary Beneficiary(ies):

| Name of Beneficiary | Birthdate | Address | Relationship |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

*Selection of Rule for Deceased Beneficiary.* Select either Rule 1 or Rule 2 below by marking with an "X". The rule selected shall be applied to Primary Beneficiaries and Secondary Beneficiaries separately so that no Secondary Beneficiary (or issue of a Secondary Beneficiary) shall be entitled to a share of the death benefits unless all Primary Beneficiaries fail to survive the Participant and, if Rule 2 is selected, all issue of all Primary Beneficiaries fail to survive the Participant.

____ *Rule 1*. The death benefits shall be paid in equal shares to those named Beneficiaries (either Primary or Secondary, as applicable) who survive me.

____ *Rule 2*. The death benefits shall be paid in equal shares to those named Beneficiaries (either Primary or Secondary, as applicable) who survive me and to the surviving issue collectively of each named Beneficiary (either Primary or Secondary, as applicable) who does not survive me but who leaves issue surviving me, with the equal share for such surviving issue of such deceased named Beneficiary to be divided among and paid to such issue on a per stirpes basis. ("Issue" means lineal descendants and includes adopted persons.)

I understand that I may change this designation at any time by executing a new form and delivering it to Fidelity Investments. This designation supercedes any prior beneficiary designation made by me with respect to awards of Restricted Stock or Restricted Stock Units granted under the Stock Plan.

Signature of Participant: _____ Date: _____

Name of Participant (please print): _____

Participant's Person Number: _____

# 2003 KEY ASSOCIATE STOCK PLAN
# STOCK OPTION AWARD AGREEMENT

| GRANTED TO | GRANT DATE | EXPIRATION DATE | NUMBER OF SHARES | OPTION PRICE PER SHARE |
|---|---|---|---|---|
| | | | | |

This Stock Option Award Agreement and all Exhibits hereto (the "Agreement") is made between Bank of America Corporation, a Delaware corporation ("Bank of America"), and you, an associate of Bank of America or one of its Subsidiaries.

Bank of America sponsors the Bank of America Corporation 2003 Key Associate Stock Plan (the "Stock Plan"). A Prospectus describing the Stock Plan has been delivered to you. The Stock Plan itself is available upon request, and its terms and provisions are incorporated herein by reference. When used herein, the terms which are defined in the Stock Plan shall have the meanings given to them in the Stock Plan, as modified herein (if applicable).

You and Bank of America mutually covenant and agree as follows:

1. Subject to the terms and conditions of the Stock Plan and this Agreement, Bank of America grants to you the option (the "Option") to purchase from Bank of America the above-stated number of Shares of Bank of America Common Stock at the Option Price per share stated above. This Option is not intended to be an Incentive Stock Option. You acknowledge having read the Prospectus and agree to be bound by all of the terms and conditions of the Stock Plan and this Agreement.

2. This Option vests and is exercisable by you as described on Exhibit A attached hereto and incorporated herein by reference. The manner of exercising the Option and the method for paying the applicable Option Price shall be as set forth in the Stock Plan. Any applicable withholding taxes must also be paid by you in accordance with the Stock Plan. Shares issued upon exercise of the Option shall be issued solely in your name. The right to purchase Shares pursuant to the Option shall be cumulative so that when the right to purchase additional Shares has vested pursuant to the schedule on Exhibit A, such Shares or any part thereof may be purchased thereafter until the expiration of the Option.

3. In the event of your termination of employment with Bank of America and its Subsidiaries and subject to the provisions of this paragraph 3 and Exhibit A, this Option shall expire on the earlier of the Expiration Date stated above or the following cancellation date depending on the reason for termination:

| Reason for Termination | Cancellation Date |
|---|---|
| Death or Disability | 12 months from termination date |
| Workforce Reduction or Divestiture | 12 months from termination date |
| Cause | termination date |
| Rule of 60 | Expiration Date (as stated above)* |
| All Other Terminations | 90 days from termination date |

* Note: Subject to compliance with the Rule of 60 vesting conditions set forth on Exhibit A.

The reasons for termination are as defined on Exhibit A. For purposes of this Agreement, your employment termination date will be determined by Bank of America based on the personnel records of Bank of America and its Subsidiaries and will be prior to your commencement of any period of severance pay, if applicable.

4. The Option may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution. If the Option is exercisable following your death, the Option shall be exercisable by such person empowered to do so under your will, or if you fail to make a testamentary disposition of the Option or shall have died intestate, by your executor or other legal representative.

5. "Net Profit Shares" (as defined below) acquired upon exercise of the Option must be held by you until the earlier of (i) the third anniversary of the exercise date or (ii) the date of your termination of employment with Bank of America and its Subsidiaries, other than termination of employment for "Cause," as defined in Exhibit A. This period is referred to as the "Three-Year Hold Requirement". Any attempt to sell, transfer, pledge, assign or otherwise alienate or hypothecate Net Profit Shares prior to completion of such period shall be null and void. For purposes hereof, "Net Profit Shares" means those Shares determined by the Global Human Resources Group representing the total number of Shares remaining after taking into account the following costs related to exercise: (i) the aggregate Option Price with respect to the exercise; (ii) the amount of all applicable taxes with respect to the exercise, assuming your maximum applicable federal, state and local tax rates for such purpose; and (iii) any transaction costs. The Global Human Resources Group will determine the number of Net Profit Shares for any particular exercise. Notwithstanding anything in this paragraph 5 to the contrary, the Three-Year Hold Requirement shall not apply if at any time the Global Human Resources Group determines, in its sole discretion, that the Three-Year Hold Requirement prevents you from exercising the Option or otherwise imposes an undue burden on you, your employer or Bank of America in connection with the exercise of the Option.

6. If your employment with Bank of America and its Subsidiaries is terminated for Cause, any Net Profit Shares held by you on the date of termination that have not yet become transferable in accordance with paragraph 5 above shall be immediately canceled. In that case, (i) your right to vote and to receive cash dividends on, and all other rights, title or interest in, to or with respect to, such canceled Net Profit Shares shall automatically, without further act, terminate and (ii) such canceled Net Profit Shares shall be returned to Bank of America. You hereby irrevocably appoint (which appointment is coupled with an interest) Bank of America as your agent and attorney-in-fact to take any necessary or appropriate action to cause such canceled Net Profit Shares to be returned to Bank of America, including without limitation executing and delivering stock powers and instruments of transfer, making endorsements and/or making, initiating or issuing instructions or entitlement orders, all in your name and on your behalf. You hereby ratify and approve all acts done by Bank of America as such attorney-in-fact. Without limiting the foregoing, you expressly acknowledge and agree that any transfer agent for such canceled Net Profit Shares is fully authorized and protected in relying on, and shall incur no liability in acting on, any documents, instruments, endorsements, instructions, orders or communications from Bank of America in connection with such canceled Net Profit Shares or the transfer thereof, and that any such transfer agent is a third party beneficiary of this Agreement.

7. You acknowledge that, as of the Grant Date of this Award, Fidelity Brokerage Services LLC, National Financial Services LLC and their affiliated companies (collectively, "Fidelity") have been engaged by Bank of America to provide recordkeeping, administrative and brokerage services to participants in the Stock Plan. In that regard, so long as Fidelity remains engaged by Bank of America to provide those services, the Net Profit Shares shall be held in a brokerage account administered by Fidelity during the period of non-transferability described in paragraph 5 above. **BY ENTERING INTO THIS AGREEMENT, YOU ARE ALSO HEREBY ENTERING INTO THE INSTRUCTION LETTER WITH FIDELITY IN THE FORM ATTACHED HERETO AS *EXHIBIT B***, pursuant to which you authorize Fidelity to follow any duly authorized instructions of Bank of America regarding the cancellation of Net Profit Shares in accordance with paragraph 6 above. Fidelity shall be a third party beneficiary of this Agreement for purposes of relying on the provisions of this paragraph 7.

8. You agree that, upon request, you will furnish a letter agreement providing (i) that you will not distribute or resell in violation of the Securities Act of 1933, as amended, any of the Shares acquired upon your exercise of the Option, (ii) that you indemnify and hold Bank of America harmless against all liability for any such violation and (iii) that you will accept all liability for any such violation.

9. You agree that the Options covered by this Agreement are subject to the Incentive Compensation Recoupment Policy set forth in the Bank of America Corporate Governance Guidelines.

10. The existence of this Option shall not affect in any way the right or power of Bank of America or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations or other changes in Bank of America's capital structure or its business, or any merger or consolidation of Bank of America, or any issue of bonds, debentures, preferred or prior preference stocks ahead of or convertible into, or otherwise affecting the Common Stock or the rights thereof, or the dissolution or liquidation of Bank of America, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

11. Bank of America may, in its sole discretion, decide to deliver any documents related to this Option grant or future Awards that may be granted under the Stock Plan by electronic means or request your consent to participate in the Stock

Plan by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, agree to participate in the Stock Plan through an on-line or electronic system established and maintained by Bank of America or another third party designated by Bank of America.

Any notice which either party hereto may be required or permitted to give to the other shall be in writing and may be delivered personally, by intraoffice mail, by fax, by electronic mail or other electronic means, or via a postal service, postage prepaid, to such electronic mail or postal address and directed to such person as Bank of America may notify you from time to time; and to you at your electronic mail or postal address as shown on the records of Bank of America from time to time, or at such other electronic mail or postal address as you, by notice to Bank of America, may designate in writing from time to time.

12. Regardless of any action Bank of America or your employer takes with respect to any or all income tax, payroll tax or other tax-related withholding ("Tax-Related Items"), you acknowledge that the ultimate liability for all Tax-Related Items owed by you is and remains your responsibility and that Bank of America and/or your employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Option grant, including the grant, vesting or exercise of the Option, the subsequent sale of Shares acquired pursuant to such exercise and the receipt of any dividends; and (ii) do not commit to structure the terms of the grant or any aspect of the Option to reduce or eliminate your liability for Tax-Related Items.

    Prior to exercise of the Option, you shall pay or make adequate arrangements satisfactory to Bank of America and/or your employer to satisfy all withholding obligations of Bank of America and/or your employer. In this regard, you authorize Bank of America and/or your employer to withhold all applicable Tax-Related Items legally payable by you from your wages or other cash compensation paid to you by Bank of America and/or your employer or from proceeds of the sale of the Shares. Alternatively, or in addition, to the extent permissible under applicable law, Bank of America may (i) sell or arrange for the sale of Shares that you acquire to meet the withholding obligation for Tax-Related Items, and/or (ii) withhold in Shares, provided that Bank of America only withholds the amount of Shares necessary to satisfy the minimum withholding amount. Finally, you shall pay to Bank of America or your employer any amount of Tax-Related Items that Bank of America or your employer may be required to withhold as a result of your participation in the Stock Plan or your purchase of Shares that cannot be satisfied by the means previously described. Bank of America may refuse to honor the exercise and refuse to deliver the Shares if you fail to comply with your obligations in connection with the Tax-Related Items as described in this paragraph 12.

13. The validity, construction and effect of this Agreement are governed by, and subject to, the laws of the State of Delaware and the laws of the United States, as provided in the Stock Plan. For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties evidenced by this grant or this Agreement, the parties hereby submit to and consent to the exclusive jurisdiction of North Carolina and agree that such litigation shall be conducted solely in the courts of Mecklenburg County, North Carolina or the federal courts for the United States for the Western District of North Carolina, where this grant is made and/or to be performed, and no other courts.

14. In the event any provision of this Agreement shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Agreement, and the Agreement shall be construed and enforced as if the illegal or invalid provision had not been included. This Agreement constitutes the final understanding between you and Bank of America regarding the Option. Any prior agreements, commitments or negotiations concerning the Option are superseded. Subject to the terms of the Stock Plan, this Agreement may only be amended by a written instrument signed by both parties.

IN WITNESS WHEREOF, Bank of America has caused this Agreement to be executed by its duly authorized officer, and you have hereunto set your hand, all effective as of the Grant Date listed above.

BANK OF AMERICA CORPORATION

By: 

Chairman, Chief Executive Officer and President

ASSOCIATE

**Exhibit A**

# Bank of America Corporation
# 2003 Key Associate Stock Plan

VESTING OF STOCK OPTION AWARD

(a) *VESTING SCHEDULE*. Subject to the provisions of paragraph (b) below, the Option shall vest and become exercisable on the third anniversary of the Grant Date if you remain employed with Bank of America and its Subsidiaries through that date.

(b) *EFFECT OF TERMINATION OF EMPLOYMENT ON VESTING*. The termination of your employment with Bank of America and its Subsidiaries before the vesting date in paragraph (a) above shall affect the vesting of the Option depending on the reason for termination as follows:

*Death, Disability, Workforce Reduction or Divestiture*: To the extent the Option was not already vested pursuant to paragraph (a) above, the Option shall become fully (100%) vested as of the date of your death, Disability, or termination of employment due to Workforce Reduction or Divestiture. If you satisfied the Rule of 60 as of the date of your termination of employment due to your death or Disability, then notwithstanding the provisions of paragraph 3 of the Agreement to the contrary, the Option will remain exercisable until the Expiration Date of the Option.

*Cause*: The Option shall immediately terminate and be canceled as of the date of termination of employment, even if it had previously vested to any extent pursuant paragraph (a) above prior to termination of employment.

*Rule of 60*: If your employment terminates for any reason other than death, Disability or Cause after you have attained the Rule of 60, then, after applying the vesting rules applicable to termination due to Workforce Reduction or Divestiture as set forth above in this paragraph (b) (if applicable), any unvested Options shall continue to become vested and exercisable in accordance with the schedule set forth in paragraph (a) above, provided that (A) you do not engage in Competition during such period and (B) prior to each of the first, second and third anniversary of the Grant Date, you provide Bank of America with a written certification that you have not engaged in Competition. To be effective, such certification must be provided on such form, at such time and pursuant to such procedures as Bank of America shall establish from time to time. If Bank of America determines in its reasonable business judgment that you have failed to satisfy either of the foregoing requirements, then:

(A) any unvested Options shall be immediately canceled as of the date of such determination; and

(B) any vested Options shall cease to be exercisable as of the later of (i) the date of such determination or (ii) the applicable Cancellation Date under paragraph 3 of the Agreement that would have applied if you had not attained the Rule of 60.

In addition, from time to time following your termination of employment after having attained the Rule of 60, Bank of America may require you to further certify that you are not engaging in Competition, and if you fail to fully cooperate with any such requirement Bank of America may determine that you are engaging in Competition.

*All Other Terminations*: Any portion of the Option that was not already vested pursuant to paragraph (a) above as of the date of termination of employment shall terminate and be canceled as of such date.

The Option, to the extent vested as provided by this paragraph (b), shall remain exercisable following termination of employment pursuant to the provisions of paragraph 3 of the Agreement.

(c) *DEFINED TERMS*. For purposes of this Exhibit A and the Agreement, the following terms shall have the following meanings:

*All Other Terminations* means any termination of your employment with Bank of America and its Subsidiaries prior to your having attained the Rule of 60, whether initiated by you or your employer, other than a termination due to your death or Disability and other than a termination which constitutes Workforce Reduction, Divestiture or Cause.

*Cause* shall be defined as that term is defined in your offer letter or other applicable employment agreement; or, if there is no such definition, "Cause" means a termination of your employment with Bank of America and its Subsidiaries if it occurs in conjunction with a determination by your employer that you have (i) committed an act of fraud or dishonesty in the course of your employment; (ii) been convicted of (or plead no contest with respect to) a crime constituting a

felony; (iii) failed to perform your job function(s), which Bank of America views as being material to your position and the overall business of Bank of America and its Subsidiaries under circumstances where such failure is detrimental to Bank of America or any Subsidiary; (iv) materially breached any written policy applicable to associates of Bank of America and its Subsidiaries including, but not limited to, the Bank of America Corporation Code of Ethics and General Policy on Insider Trading; or (v) made an unauthorized disclosure of any confidential or proprietary information of Bank of America or its Subsidiaries or have committed any other material violation of Bank of America's written policy regarding Confidential and Proprietary Information.

*Competition* means your being engaged, directly or indirectly, whether as a director, officer, employee, consultant, agent, or otherwise, with a business entity that is designated as a "Competitive Business" as of the date of your termination of employment. Bank of America shall communicate such list to you.

*Disability* is as defined in the Stock Plan.

*Divestiture* means a termination of your employment with Bank of America and its Subsidiaries as the result of a divestiture or sale of a business unit as determined by your employer based on the personnel records of Bank of America and its Subsidiaries.

*Rule of 60* means, as of the date of your termination of employment with Bank of America and its Subsidiaries, you have (i) completed at least ten (10) years of "Vesting Service" under the tax-qualified Pension Plan sponsored by Bank of America in which you participate and (ii) attained a combined age and years of "Vesting Service" equal to at least sixty (60).

*Workforce Reduction* means your termination of employment with Bank of America and its Subsidiaries as a result of a labor force reduction, realignment or similar measure as determined by your employer and (i) you receive severance pay under the Corporate Severance Program (or any successor program) upon termination of employment, or (ii) if not eligible to receive such severance pay, you are notified in writing by an authorized officer of Bank of America or any Subsidiary that the termination is as a result of such action. Your termination of employment shall not be considered due to Workforce Reduction unless you have first executed all documents required under the Corporate Severance Program or otherwise, including without limitation any required release of claims.

Fidelity Brokerage Services LLC
National Financial Services LLC
82 Devonshire Street, Mailzone L3B
Boston, MA 02109

Re: Brokerage Account at Fidelity Brokerage Services LLC
Registered in the name of [NAME] (the "Account")

Ladies and Gentlemen:

This letter sets forth my instructions to Fidelity Brokerage Services LLC and National Financial Services LLC (collectively, "Fidelity") regarding shares of the Common Stock of Bank of America Corporation (the "Issuer") acquired by me under the Bank of America Corporation 2003 Key Associate Stock Plan ("Stock Plan") and held in the Account (the "Shares"). For purposes of this letter, the Shares include any shares of Issuer acquired pursuant to the stock options granted to me under the Stock Plan in February 2008 or any prior years that are subject to the hold requirement.

1. I am a participant in the Stock Plan, an equity compensation plan of the Issuer whereby I have been granted options to acquire shares of the Common Stock of the Issuer.
2. I am familiar with the terms of the Stock Plan and applicable grant agreement ("Controlling Documents") with respect to the Shares. I will not give any instructions to Fidelity regarding the Shares that are not permitted under the Controlling Documents.
3. Upon exercise of my option rights, I may from time to time acquire Shares that will be deposited in my Account.
4. Under the Controlling Documents, the Shares are subject to return to the Issuer under certain circumstances set forth in the Controlling Documents until a date set forth in the Controlling Documents (the "Restrictions Lapse Date").
5. With respect to Shares I hereby instruct Fidelity to restrict my ability to sell, exchange, transfer, pledge or otherwise enter into transactions with respect to the Shares prior to the Restrictions Lapse Date.
6. Fidelity may follow any instructions or orders with respect to the Shares given by the Issuer or by a person designated by the Issuer to act on behalf of the Issuer with respect to the Shares (an "Authorized Person"), or a person Fidelity reasonably believes to be an Authorized Person, including without limitation any instructions regarding the Restrictions Lapse Date and the cancellation, surrender or other transfer of the Shares to the Issuer ("Issuer Instructions").
7. Fidelity shall be under no obligation to verify the validity of any Issuer Instructions under the Controlling Documents or Issuer's authority to give any Issuer Instructions.
8. This letter does not create any obligation of Fidelity except for those expressly set forth herein. Fidelity shall have no liability to me for any act or omission by Fidelity or any of its employees or representatives, taken or omitted in accordance with such Issuer Instructions. In particular, Fidelity need not investigate whether Issuer is entitled under the Controlling Documents to give Issuer Instructions.
9. I agree to indemnify, defend, and hold harmless Fidelity, its affiliates, and their respective successors, officers, directors, employees and assigns, from and against any and all actions, causes of action, claims, demands, costs, liabilities, expenses (including attorneys' fees and disbursements) and damages arising out of or in connection with any act or omission of Fidelity taken in good faith in reliance on the instructions set forth herein or any instruction from me or any Authorized Person.
10. Fidelity may provide information to the Issuer or any Authorized Person with respect to the Account and the Shares.
11. These instructions shall continue in effect with respect to Shares until the earlier to occur of (a) the Restrictions Lapse Date or (b) receipt by Fidelity of written notice by an Authorized Person instructing Fidelity to accelerate the Restrictions Lapse Date.
12. Fidelity may cease to follow the instructions and undertaking set forth in this letter by delivering thirty days prior written notice (a) to me and (b) to the Issuer or an Authorized Person.

Sincerely,

_____

**[NAME]**
Account Owner

**Bank of America Corporation and Subsidiaries**
**Ratio of Earnings to Fixed Charges**
**Ratio of Earnings to Fixed Charges and Preferred Dividends**

| (Dollars in millions) | **2007** | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| ***Excluding Interest on Deposits*** | | | | | |
| Income before income taxes | **$20,924** | $31,973 | $24,480 | $20,908 | $15,781 |
| Equity in undistributed earnings of unconsolidated subsidiaries | **(95)** | (315) | (151) | (135) | (125) |
| Fixed charges: | | | | | |
| Interest expense | **34,778** | 29,514 | 18,397 | 9,072 | 6,105 |
| 1/3 of net rent expense [(1)] | **669** | 609 | 585 | 512 | 398 |
| Total fixed charges | **35,447** | 30,123 | 18,982 | 9,584 | 6,503 |
| Preferred dividend requirements | **254** | 33 | 27 | 23 | 6 |
| Fixed charges and preferred dividends | **35,701** | 30,156 | 19,009 | 9,607 | 6,509 |
| **Earnings** | **$56,276** | $61,781 | $43,311 | $30,357 | $22,159 |
| **Ratio of earnings to fixed charges** | **1.59** | 2.05 | 2.28 | 3.17 | 3.41 |
| **Ratio of earnings to fixed charges and preferred dividends** | **1.58** | 2.05 | 2.28 | 3.16 | 3.40 |

| (Dollars in millions) | **2007** | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|
| ***Including Interest on Deposits*** | | | | | |
| Income before income taxes | **$20,924** | $31,973 | $24,480 | $20,908 | $15,781 |
| Equity in undistributed earnings of unconsolidated subsidiaries | **(95)** | (315) | (151) | (135) | (125) |
| Fixed charges: | | | | | |
| Interest expense | **52,871** | 43,994 | 27,889 | 14,993 | 10,667 |
| 1/3 of net rent expense [(1)] | **669** | 609 | 585 | 512 | 398 |
| Total fixed charges | **53,540** | 44,603 | 28,474 | 15,505 | 11,065 |
| Preferred dividend requirements | **254** | 33 | 27 | 23 | 6 |
| Fixed charges and preferred dividends | **53,794** | 44,636 | 28,501 | 15,528 | 11,071 |
| **Earnings** | **$74,369** | $76,261 | $52,803 | $36,278 | $26,721 |
| **Ratio of earnings to fixed charges** | **1.39** | 1.71 | 1.85 | 2.34 | 2.41 |
| **Ratio of earnings to fixed charges and preferred dividends** | **1.38** | 1.71 | 1.85 | 2.34 | 2.41 |

(1)Represents an appropriate interest factor.

**Exhibit 21**

**DIRECT AND INDIRECT SUBSIDIARIES OF BANK OF AMERICA CORPORATION**

| Name | Location |
|---|---|
| 100 Federal Street Limited Partnership | Boston, MA |
| 121 Washington Street Master Tenant, LLC | Providence, RI |
| 200 Allens Avenue, LLC | Providence, RI |
| A/M Properties, Inc. | Baltimore, MD |
| AANA Preferred Funding Trust I | Chicago, IL |
| AANA Preferred Funding Trust II | Chicago, IL |
| AANAH Holding LLC | Chicago, IL |
| AANAH Holding LLC II | Chicago, IL |
| AANAH Holding LLC III | Chicago, IL |
| Abilene Park, Inc. | Charlotte, NC |
| Abilene Partners | Charlotte, NC |
| Acao Multimidia S.A. | Sao Paulo, Brazil |
| Acceptance Alliance, LLC | Louisville, KY |
| Achilles Trading LLC | Charlotte, NC |
| AdFleet, Inc. | Glastonbury, CT |
| Administradora Blue 2234 S. de R.L. de C.V. | Mexico City, Mexico |
| AF&L, Inc. | Warrington, PA |
| Aguila Corp S.A.C. | Lima, Peru |
| Alamo Funding II, Inc. | Charlotte, NC |
| Alamo Funding LLC | Charlotte, NC |
| Alie Street Investments Limited | London, U.K. |
| Alie Street Investments 2 Limited | London, U.K. |
| Alie Street Investments 3 Limited | London, U.K. |
| Alie Street Investments 4 Limited | London, U.K. |
| Alie Street Investments 5 Limited | London, U.K. |
| Alie Street Investments 6 Limited | London, U.K. |
| Alie Street Investments 7 Limited | London, U.K. |
| Alie Street Investments 8 Limited | London, U.K. |
| Alie Street Investments 9 Limited | London, U.K. |
| Alie Street Investments 10 Limited | London, U.K. |
| Alie Street Investments 11 Limited | London, U.K. |
| Alie Street Investments 12 Limited | London, U.K. |
| Alie Street Investments 13 Limited | London, U.K. |
| Alie Street Investments 14 Limited | London, U.K. |
| Alie Street Investments 15 Limited | London, U.K. |
| Alie Street Investments 16 Limited | London, U.K. |
| Alie Street Investments 17 Limited | London, U.K. |
| Alie Street Investments 18 Limited | London, U.K. |
| Alie Street Investments 20 Limited | London, U.K. |
| Alie Street Investments 21 Limited | London, U.K. |
| Alie Street Investments 22 Limited | London, U.K. |
| Alie Street Investments 23 Limited | London, U.K. |
| Alie Street Investments 24 Limited | London, U.K. |
| Alie Street Investments 25 Limited | London, U.K. |
| Alie Street Investments 26 Limited | London, U.K. |
| Alie Street Investments 27 Limited | London, U.K. |
| Alliance Enterprise Corporation | Richardson, TX |
| Almacenadora Serfin, S.A. de C.V. | Mexico City, Mexico |
| Almacenadora Somex, S.A. de C.V. | Mexico City, Mexico |
| Almazora Holdings S.a.r.l. | Luxembourg, Luxembourg |

| Name | Location |
|---|---|
| Altier LLC | Charlotte, NC |
| Amarillo Lane, Inc. | Charlotte, NC |
| American Campus Power Plant MT, LLC | Raleigh, NC |
| American Financial Service Group, Inc. | Greensboro, NC |
| Anzac Peaks, Inc. | Charlotte, NC |
| Apollo Trading LLC | Charlotte, NC |
| Appold Property Management Limited | London, U.K. |
| Artic Funding LLC | Charlotte, NC |
| Ashburn A. Corp. | Baltimore, MD |
| Asia Investment Consulting Ltd. | George Town, Grand Cayman, Cayman Is. |
| Asian American Merchant Bank Ltd. | Singapore, Singapore |
| Asset Backed Funding Corporation | Charlotte, NC |
| Aswan Development Associates, LLC | Miami, FL |
| Aswan Village Associates, LLC | Miami, FL |
| Atlanta Affordable Housing Fund Limited Partnership | Charlotte, NC |
| Atlantic Equity Corporation | Chicago, IL |
| Atlantis Trading LLC | Charlotte, NC |
| Audubon—MM Urban Investments II, LLC | Dallas, TX |
| Audubon—MM Urban Investments, LLC | Dallas, TX |
| Audubon Urban Investments, LLC | Dallas, TX |
| Augusta Trading LLC | Charlotte, NC |
| Austin Acquisition Inc. | Charlotte, NC |
| B.A. International (Cayman) Ltd. | George Town, Grand Cayman, Cayman Is. |
| B of A Issuance B.V. | Amsterdam, The Netherlands |
| BA 1998 Partners Associates Fund, L.P. | Chicago, IL |
| BA 1998 Partners Fund I, L.P. | Chicago, IL |
| BA 1998 Partners Fund II, L.P. | Chicago, IL |
| BA 1998 Partners Fund LDC | Chicago, IL |
| BA 1998 Partners Master Fund I, L.P. | Chicago, IL |
| BA 1998 Partners Master Fund II, L.P. | Chicago, IL |
| BA Agency, Inc. | Albuquerque, NM |
| BA Australia Limited | Sydney, New South Wales, Australia |
| BA Auto Securitization Corporation | Charlotte, NC |
| BA Capital Advisors Limited | London, U.K. |
| BA Capital Company, L.P. | Charlotte, NC |
| BA Capital Investors Sidecar Fund, L.P. | Charlotte, NC |
| BA Co-Invest Fund 2001 (Cayman), L.P. | Chicago, IL |
| BA Co-Invest Fund 2002 (Cayman), L.P. | Chicago, IL |
| BA Coinvest GP, Inc. | Chicago, IL |
| BA Continuum Solutions Private Limited | Hyderabad, India |
| BA Credit Card Funding, LLC | Charlotte, NC |
| BA Direct Investment Fund M, L.P. | Chicago, IL |
| BA Electronic Data Processing (Guangzhou) Ltd. | Guangzhou, PRC |
| BA Employment Services Limited | George Town, Grand Cayman, Cayman Is. |
| BA Equity Holdings, L.P. | Charlotte, NC |
| BA Equity Investment Company, L.P. | Charlotte, NC |
| BA Equity Investors, Inc. | Chicago, IL |
| BA Finance Ireland Limited | Dublin, Ireland |
| BA Finance Lease, Inc. | San Francisco, CA |
| BA Financial Trading (Amsterdam) Limited | Amsterdam, The Netherlands |
| BA Global Funding Inc. | George Town, Grand Cayman, Cayman Is. |
| BA Insurance Services, Inc. | Baltimore, MD |
| BA International Underwriters Limited | London, U.K. |
| BA Investments | George Town, Grand Cayman, Cayman Is. |

| Name | Location |
|---|---|
| BA Leasing BSC, LLC | San Francisco, CA |
| BA Merchant Services, LLC | Louisville, KY |
| BA Netherlands Group Lending Europe Cooperatieve U.A. | Amsterdam, The Netherlands |
| BA Overseas Holdings | George Town, Grand Cayman, Cayman Is. |
| BA Partners Fund III, LLC | Chicago, IL |
| BA Properties, Inc. | Los Angeles, CA |
| BA SBIC Sub, Inc. | Chicago, IL |
| BA Securities Australia Limited | Sydney, New South Wales, Australia |
| BA Technology I, LLC | Charlotte, NC |
| BABC Global Finance Inc. | Toronto, Ontario, Canada |
| BAC AAH Capital Funding LLC I | Chicago, IL |
| BAC AAH Capital Funding LLC II | Chicago, IL |
| BAC AAH Capital Funding LLC III | Chicago, IL |
| BAC AAH Capital Funding LLC IV | Chicago, IL |
| BAC AAH Capital Funding LLC V | Chicago, IL |
| BAC AAH Capital Funding LLC VI | Chicago, IL |
| BAC AAH Capital Funding LLC VII | Chicago, IL |
| BAC AAH Capital Funding VIII | Chicago, IL |
| BAC AAH Capital Funding LLC IX | Chicago, IL |
| BAC AAH Capital Funding LLC X | Chicago, IL |
| BAC AAH Capital Funding LLC XI | Chicago, IL |
| BAC AAH Capital Funding LLC XII | Chicago, IL |
| BAC AAH Capital Funding LLC XIII | Chicago, IL |
| BAC AAH Capital Funding LLC XIV | Chicago, IL |
| BAC AAH Capital Funding LLC XV | Chicago, IL |
| BAC AAH Capital Funding LLC XVI | Chicago, IL |
| BAC AAH Capital Funding LLC XVII | Chicago, IL |
| BAC AAH Capital Funding LLC XVIII | Chicago, IL |
| BAC AAH Capital Funding LLC XIX | Chicago, IL |
| BAC AAH Preferred Exchange LLC | Chicago, IL |
| BAC AAH Preferred Exchange LLC II | Chicago, IL |
| BAC AAH Preferred Exchange LLC III | Chicago, IL |
| BAC AAH Preferred Holding LLC | Chicago, IL |
| BAC AAH Preferred Holding LLC II | Chicago, IL |
| BAC AAH Preferred Holding LLC III | Chicago, IL |
| BAC CCC Fund IV Mezzanine Investments, L.L.C. | Chicago, IL |
| BAC CCC Funding Corporation | Chicago, IL |
| BAC CCC Mezzanine Investments, L.L.C. | Chicago, IL |
| BAC CCC Private Equity Investments, Inc. | Chicago, IL |
| BAC Funding Consortium, Inc. | Miami, FL |
| BAC LB Capital Funding LLC I | Chicago, IL |
| BAC LB Capital Funding LLC II | Chicago, IL |
| BAC LB Capital Funding Trust I | Chicago, IL |
| BAC LB Capital Funding Trust II | Chicago, IL |
| BAC LB Holding LLC I | Chicago, IL |
| BAC LB Holding LLC II | Chicago, IL |
| BAC LB Preferred Exchange LLC I | Chicago, IL |
| BAC LB Preferred Exchange LLC II | Chicago, IL |
| BAC LB Preferred Holding LLC I | Chicago, IL |
| BAC LB Preferred Holding LLC II | Chicago, IL |
| BAC Mezzanine Management, Inc. | Chicago, IL |
| BAC Mezzanine Management I, L.P. | Chicago, IL |
| BAC Mezzanine Management III, L.P. | Chicago, IL |
| BAC Mortgage Brokerage Group, Inc. | Ann Arbor, MI |

| Name | Location |
|---|---|
| BAC North America Holding Company | Chicago, IL |
| BAC NUBAFA, Inc. | San Francisco, CA |
| BAC Real Estate Cooperatieve I U.A. | Amsterdam, The Netherlands |
| BAC Retail Group LLC | Troy, MI |
| BAC Services Company, Inc. | Chicago, IL |
| BACAP Alternative Advisors, Inc. | New York, NY |
| BACAP Alternative Montage Fund, LLC | New York, NY |
| BACAP Alternative Multi-Strategy Fund, LLC | New York, NY |
| BACAP Distressed Debt Fund, LLC | New York, NY |
| BACAP Diversified Real Estate Fund, L.P. | New York, NY |
| BACAP Institutional Multi-Strategy Hedge Fund, Ltd. | New York, NY |
| BACAP Multi-Strategy Hedge Fund, LLC | New York, NY |
| BACAP Multi-Strategy Hedge Fund, Ltd. | New York, NY |
| BACI Triad, LLC | Chicago, IL |
| Back Bay Capital Funding LLC | Boston, MA |
| BACP Europe Fund I, L.P. | Chicago, IL |
| BACP Europe Fund II, L.P. | Chicago, IL |
| BACP Europe Fund IV M, L.P. | Chicago, IL |
| BAEC Investments, L.L.C. | Chicago, IL |
| BAEP Asia Limited | Port Louis, Mauritius |
| BAEP Telecommunications Investments, L.L.C. | Chicago, IL |
| Bakerton Finance, Inc. | Charlotte, NC |
| BAL Corporate Aviation, LLC | New Castle, DE |
| BAL Energy Holding, LLC | San Francisco, CA |
| BAL Global Finance Canada Corporation | Toronto, Ontario, Canada |
| BAL Global Finance (Deutschland) GmbH | Dusseldorf, Germany |
| BAL Global Finance (UK) Limited | London, U.K. |
| BAL Global Finance, LLC | Chicago, IL |
| BAL Investment & Advisory, Inc. | San Francisco, CA |
| BAL Solar I, LLC | San Francisco, CA |
| BALCAP Funding, LLC | San Francisco, CA |
| BALI Funding Limited Partnership | Gloucestershire, U.K. |
| BALI Funding Luxembourg Limited | Luxembourg, Luxembourg |
| Ballantyne Funding LLC | Charlotte, NC |
| Bamerilease, Inc. | Phoenix, AZ |
| BAMM Funding I LLC | Charlotte, NC |
| BAMS Solutions, Inc. | Louisville, KY |
| BANA Alberta Funding Company, ULC | Calgary, Alberta, Canada |
| BANA (#1) LLC | Charlotte, NC |
| BANA BACM 2000-1 SB 1 LLC | Charlotte, NC |
| BANA BACM 2000-2 SB 1 LLC | Charlotte, NC |
| BANA BACM 2001-1 SB 1 LLC | Charlotte, NC |
| BANA BACM 2001-PB1 SB 1 LLC | Charlotte, NC |
| BANA BACM 2002-2 SB 1 LLC | Charlotte, NC |
| BANA BACM 2002-PB2 SB 1 LLC | Charlotte, NC |
| BANA BACM 2003-1 SB 1 LLC | Charlotte, NC |
| BANA BACM 2003-2 SB 1 LLC | Charlotte, NC |
| BANA BACM 2004-1 SB 1 LLC | Charlotte, NC |
| BANA BACM 2004-2 SB 1 LLC | Charlotte, NC |
| BANA BACM 2004-3 SB 1 LLC | Charlotte, NC |
| BANA BACM 2004-4 SB 1 LLC | Charlotte, NC |
| BANA BACM 2004-5 SB 1 LLC | Charlotte, NC |
| BANA BACM 2004-6 SB 1 LLC | Charlotte, NC |
| BANA BACM 2005-1 SB 1 LLC | Charlotte, NC |

| Name | Location |
|---|---|
| BANA BACM 2005-2 SB 1 LLC | Charlotte, NC |
| BANA BACM 2005-4 SB 1 LLC | Charltte, NC |
| BANA BOA-FUNB 2001-3 SB 1 LLC | Charlotte, NC |
| BANA CA Mortgage Company | Charlotte, NC |
| BANA Canada Funding Company Ltd. | Calgary, Alberta, Canada |
| BANA DEFEASANCE HOLDING COMPANY LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2000-1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2000-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2001-1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2001-PB1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2002-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2002-PB2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2003-1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2003-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2004-1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2004-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2004-3 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2004-4 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2004-5 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2004-6 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2005-1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2005-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BACM 2005-4 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER BOA-FUNB 2001-3 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER DORADO/ALVARADO SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECCMC 2002-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECCMC 2002-3 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2003-C1 TRIZEC SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2003-C1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2003-C2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2004-C1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2004-C3 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2005-C1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER GECMC 2005-C2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER MLMT 2004-MKB1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER MLMT 2005-MKB2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER NLFC 1998-2 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER NLFC 1999-1 SB 1 LLC | Charlotte, NC |
| BANA DEFEASANCE MANAGER NLFC 1999-2 SB 1 LLC | Charlotte, NC |
| BANA DORADO/ALVARADO SB 1 LLC | Charlotte, NC |
| BANA GA Mortgage Company | Charlotte, NC |
| BANA GECCMC 2002-2 SB 1 LLC | Charlotte, NC |
| BANA GECCMC 2002-3 SB 1 LLC | Charlotte, NC |
| BANA GECMC 2003-C1 SB 1 LLC | Charlotte, NC |
| BANA GECMC 2003-C2 SB 1 LLC | Charlotte, NC |
| BANA GECMC 2003-C1 TRIZEC SB 1 LLC | Charlotte, NC |
| BANA GECMC 2004-C1 SB 1 LLC | Charlotte, NC |
| BANA GECMC 2004-C3 SB 1 LLC | Charlotte, NC |
| BANA GECMC 2005-C1 SB 1 LLC | Charlotte, NC |
| BANA GECMC 2005-C2 SB 1 LCL | Charlotte, NC |
| BANA (Gilbraltar) Holdings Limited | Gilbraltar, Gilbraltar |
| BANA MLMT 2004-MKB1 SB 1 LLC | Charlotte, NC |
| BANA MLMT 2005-MKB2 SB 1 LLC | Charlotte, NC |
| BANA NLFC 1998-2 SB 1 LLC | Charlotte, NC |

| Name | Location |
|---|---|
| BANA NLFC 1999-1 SB 1 LLC | Charlotte, NC |
| BANA NLFC 1999-2 SB 1 LLC | Charlotte, NC |
| BANA OR Mortgage Company | Charlotte, NC |
| BANA Residuals, LLC | Charlotte, NC |
| BANA RI Mortgage Company | Charlotte, NC |
| BANA Swiss Funding S.a.r.l. Limited | Luxembourg, Luxembourg |
| Banc of America Advisory Services, LLC | Charlotte, NC |
| Banc of America Agency of Nevada, Inc. | Las Vegas, NV |
| Banc of America Agency of Texas, Inc. | Dallas, TX |
| Banc of America Agency, LLC | Towson, MD |
| Banc of America Arena Community Development LLC | Charlotte, NC |
| Banc of America Bridge LLC | Charlotte, NC |
| Banc of America California Community Venture Fund, LLC | Chicago, IL |
| Banc of America Capital Holdings, L.P. | Charlotte, NC |
| Banc of America Capital Holdings V, L.P. | Charlotte, NC |
| Banc of America Capital Investors SBIC, L.P. | Charlotte, NC |
| Banc of America Capital Investors, L.P. | Charlotte, NC |
| Banc of America Capital Investors V, L.P. | Charlotte, NC |
| Banc of America Capital Management (Ireland), Limited | Dublin, Ireland |
| Banc of America Card Servicing Corporation | Phoenix, AZ |
| Banc of America CDC Special Holding Company, Inc. | Charlotte, NC |
| Banc of America CDE I, LLC | Baltimore, MD |
| Banc of America CDE II, LLC | Baltimore, MD |
| Banc of America CDE, LLC | Baltimore, MD |
| Banc of America Co-Invest Fund 2001, L.P. | Chicago, IL |
| Banc of America Co-Invest Fund 2002, L.P. | Chicago, IL |
| Banc of America Commercial Finance Corporation | Wilton, CT |
| Banc of America Commercial Mortgage Inc. | Charlotte, NC |
| Banc of America Commercial, LLC | New York, NY |
| Banc of America Community Development Corporation | Charlotte, NC |
| Banc of America Community Holdings, Inc. | Charlotte, NC |
| Banc of America Community Housing Investment Fund II LLC | Chicago, IL |
| Banc of America Community Housing Investment Fund LLC | Chicago, IL |
| Banc of America Consumer Card Holdings Corporation | Charlotte, NC |
| Banc of America Consumer Card Services, LLC | Charlotte, NC |
| Banc of America Development, Inc. | Charlotte, NC |
| Banc of America Dutch Auction Preferred Corporation | Charlotte, NC |
| Banc of America E-Commerce Holdings, Inc. | Charlotte, NC |
| Banc of America Energy & Power Facilities Leasing I, Inc. | San Francisco, CA |
| Banc of America Finance Services, Inc. | New York, NY |
| Banc of America Financial Products, Inc. | Chicago, IL |
| Banc of America FSC Holdings, Inc. | San Francisco, CA |
| Banc of America Funding Corporation | Charlotte, NC |
| Banc of America Funding LLC | Charlotte, NC |
| Banc of America Historic Capital Assets LLC | Charlotte, NC |
| Banc of America Historic Investments Partnership | Concord, CA |
| Banc of America Historic New Ventures, LLC | Baltimore, MD |
| Banc of America Historic Ventures, LLC | Charlotte, NC |
| Banc of America HTC Investments LLC | Boston, MA |
| Banc of America Insurance Group, Inc. | Charlotte, NC |
| Banc of America Insurance Services, Inc. | Baltimore, MD |
| Banc of America Investment Advisors, Inc. | Boston, MA |
| Banc of America Investment Leasing Co., Ltd. | Tokyo, Japan |
| Banc of America Investment Services, Inc. | Boston, MA |

| Name | Location |
|---|---|
| Banc of America Large Loan, Inc. | Dover, DE |
| Banc of America Leasing & Capital, LLC | San Francisco, CA |
| Banc of America Leasing Commercial Markets, Inc. | Wilmington, DE |
| Banc of America Leasing Ireland Co., Limited | Dublin, Ireland |
| Banc of America Management Corporation | Charlotte, NC |
| Banc of America Management LLC I | Chicago, IL |
| Banc of America Management LLC III | Chicago, IL |
| Banc of America Middle Market Funding LLC | Charlotte, NC |
| Banc of America Mortgage Capital Corporation | Charlotte, NC |
| Banc of America Mortgage Securities, Inc. | Charlotte, NC |
| Banc of America Neighborhood Services Corporation | Charlotte, NC |
| Banc of America Practice Solutions, Inc. | Columbus, OH |
| Banc of America Preferred Funding Corporation | Charlotte, NC |
| Banc of America Private Placement Funding Group LLC | Charlotte, NC |
| Banc of America Public Capital Corp | Charlotte, NC |
| Banc of America Public and Institutional Financial Funding, LLC | San Francisco, CA |
| Banc of America Securities (India) Private Limited | Mumbai, India |
| Banc of America Securities Asia Limited | Hong Kong, PRC |
| Banc of America Securities Canada Co. | Halifax, Nova Scotia |
| Banc of America Securities Canada Holding Corp. | Charlotte, NC |
| Banc of America Securities Ireland | Dublin, Ireland |
| Banc of America Securities Limited | London, U.K. |
| Banc of America Securities LLC | New York, NY |
| Banc of America Securities, Casa de Bolsa, S.A. de C.V., Grupo Financiero Bank of America | Mexico City, Mexico |
| Banc of America Securities Holdings Corporation | Charlotte, NC |
| Banc of America Securities-Japan, Inc. | Tokyo, Japan |
| Banc of America Securitization Holding Corporation | Charlotte, NC |
| Banc of America Specialist, Inc. | New York, NY |
| Banc of America Strategic Investments Corporation | Charlotte, NC |
| Banc of America Strategic Investments LLC | Charlotte, NC |
| Banc of America Strategic Solutions, Inc. | Charlotte, NC |
| Banc of America Strategic Solutions, LLC | Charlotte, NC |
| Banc of America Strategic Ventures, Inc. | Charlotte, NC |
| Banc of America Structured Notes, Inc. | Charlotte, NC |
| Banca Serfin, S.A. | Mexico City, Mexico |
| BancAmerica Capital Holdings II, L.P. | Chicago, IL |
| BancAmerica Capital Investors II, L.P. | Chicago, IL |
| BancAmerica Capital Investors SBIC II, L.P. | Chicago, IL |
| BancAmerica Coinvest Fund 2000, L.P. | Chicago, IL |
| BancBoston Aircraft Leasing Inc. | Boston, MA |
| BancBoston Capital Co-Investment Partners (2000) LP | Boston, MA |
| BancBoston Capital Co-Investment Partners (2001) LP | Boston, MA |
| BancBoston Capital Holdings Limited | London, U.K. |
| BancBoston Capital ICP Partners 2 LP | Boston, MA |
| BancBoston Capital ICP Partners 3 LP | Boston, MA |
| BancBoston Capital ICP Partners 3-A L.P. | Boston, MA |
| BancBoston Capital ICP Partners LP | Boston, MA |
| BancBoston Capital Money Markets Limited | London, U.K. |
| BancBoston Capital Private Equity Partners LP | Boston, MA |
| BancBoston Capital, Inc. | Boston, MA |
| BancBoston Insurance Agency of Rhode Island, Inc. | Pascoag, RI |
| BancBoston Investments Inc. | Boston, MA |
| BancBoston Investments Microservice Holdings Inc. | George Town, Grand Cayman, Cayman Is. |

| Name | Location |
|---|---|
| BancBoston Leasing Services Inc. | Boston, MA |
| BancBoston Real Estate Capital Corporation | Boston, MA |
| BancBoston Securities International Limited | London, U.K. |
| BancBoston Transport Leasing Inc. | Boston, MA |
| BancBoston Ventures Inc. | Boston, MA |
| Banco Santander Mexicano, S.A. | Mexico City, Mexico |
| Bank of America (Hawaii) Insurance Agency, Inc. | Honolulu, HI |
| Bank of America (Jersey) Limited | St. Helier, Jersey, Channel Islands |
| Bank of America Brasil Holdings Ltda. | Sao Paulo, Brazil |
| Bank of America California, National Association | San Francisco, CA |
| Bank of America Canada | Toronto, Ontario, Canada |
| Bank of America Canada Specialty Group Ltd. | Mississauga, Ontario, Canada |
| Bank of America Capital Advisors LLC | Chicago, IL |
| Bank of America Capital Corporation | Chicago, IL |
| Bank of America Corporation | Charlotte, NC |
| Bank of America Georgia, National Association | Atlanta, GA |
| Bank of America Healthcare Limited | London, U.K. |
| Bank of America Malaysia Berhad | Kuala Lumpur, Malaysia |
| Bank of America Mexico, S.A., Institucion de Banca Multiple, Grupo Financiero Bank of America | Mexico City, Mexico |
| Bank of America Mortgage Securities, Inc. | Charlotte, NC |
| Bank of America Oregon, National Association | Portland, OR |
| Bank of America Overseas Corporation | Charlotte, NC |
| Bank of America Reinsurance Corporation | Burlington, VT |
| Bank of America Representacoes Ltda. | Sao Paulo, Brazil |
| Bank of America Rhode Island, National Association | Providence, RI |
| Bank of America Securitization Investment Trust LLC | Wilmington, DE |
| Bank of America Singapore Limited | Singapore, Singapore |
| Bank of America Trust and Banking Corporation (Bahamas) Limited | Nassau, Bahamas |
| Bank of America Trust and Banking Corporation (Cayman) Limited | George Town, Grand Cayman, Cayman Is. |
| Bank of America Trust Company of Delaware, National Association | Greenville, DE |
| Bank of America Ventures | Foster City, CA |
| Bank of America, National Association | Charlotte, NC |
| BankAmerica Acceptance Corp. | San Diego, CA |
| BankAmerica Capital I | Charlotte, NC |
| BankAmerica Capital II | Charlotte, NC |
| BankAmerica Capital III | Charlotte, NC |
| BankAmerica Capital IV | Charlotte, NC |
| BankAmerica Institutional Capital A | San Francisco, CA |
| BankAmerica Institutional Capital B | San Francisco, CA |
| BankAmerica International Financial Corporation | San Francisco, CA |
| BankAmerica International Investment Corporation | Chicago, IL |
| BankAmerica Investment Corporation | Chicago, IL |
| BankAmerica Nominees (1993) Pte Ltd. | Singapore, Singapore |
| BankAmerica Nominees (Hong Kong) Ltd. | Hong Kong, PRC |
| BankAmerica Nominees (Singapore) Pte. Ltd. | Singapore, Singapore |
| BankAmerica Nominees Limited (London) | London, U.K. |
| BankAmerica Realty Finance, Inc. | Los Angeles, CA |
| BankAmerica Realty Services, Inc. | San Francisco, CA |
| BankAmerica Special Assets Corporation | San Francisco, CA |
| BankBoston Capital Trust I | Boston, MA |
| BankBoston Capital Trust II | Boston, MA |
| BankBoston Capital Trust III | Boston, MA |
| BankBoston Capital Trust IV | Boston, MA |

| Name | Location |
|---|---|
| BankBoston Co-Investment Partners (1998) L.P. | Boston, MA |
| BankBoston Co-Investment Partners (1999) L.P. | Boston, MA |
| BankBoston International Leasing LLC | Providence, RI |
| BankBoston Trust Company (Cayman Islands) Limited | George Town, Grand Cayman, Cayman Is. |
| Bankers Insurance Company, Ltd. | Hamilton, Bermuda |
| Barnett Capital I | Jacksonville, FL |
| Barnett Capital II | Jacksonville, FL |
| Barnett Capital III | Jacksonville, FL |
| BAS Capital Funding Corporation | Chicago, IL |
| BAS Oak Management, LLC | San Francisco, CA |
| BAS Oak X, LLC | San Francisco, CA |
| BAS Securitization LLC | Charlotte, NC |
| BAS/SOFI Management, LLC | New York, NY |
| BAS/SOFI VI, LLC | New York, NY |
| BASCFC-Maxcom Holdings I, LLC | Chicago, IL |
| BAVP, LP | Foster City, CA |
| Bay 2 Bay Leasing LLC | San Francisco, CA |
| BayBanks Finance & Leasing Co., Inc. | Boston, MA |
| BayBanks Mortgage Corp. | Boston, MA |
| BB Capital Brazil NewCo. | George Town, Grand Cayman, Cayman Is. |
| BBC Co-Investment Partners (1998) LP | Boston, MA |
| BBI (BLE) Holdings LLC | Boston, MA |
| BBI Management Co. LLC | Boston, MA |
| BBI Switch LP | Boston, MA |
| BBLA Holding Europe S.L. | Madrid, Spain |
| BBV Management Co. LLC | Boston, MA |
| BBV Switch LP | Boston, MA |
| Beemster Bay B.V. | Amsterdam, The Netherlands |
| BEG Nominees (Paroc) Carried Interest Partnership, L.P. | Chicago, IL |
| Ben Franklin/Progress Capital Fund LP | Blue Bell, PA |
| Birchwood Funding LLC | Charlotte, NC |
| Birkdale Trading Limited | George Town, Grand Cayman, Cayman Is. |
| BIRMSON, L.L.C. | Wilton, CT |
| BJCC, Inc. | Wilton, CT |
| BKB Foreign Sales Corporation | Christiansted, St.Thomas, U.S. V.I. |
| Black Business Investment Fund of Central Florida, Inc. | Orlando, FL |
| Black Mountain Funding LLC | Charlotte, NC |
| Blackwood Run Trading LLC | Charlotte, NC |
| Blue Finn Holdings Limited | George Town, Grand Cayman, Cayman Is. |
| Blue Ridge Investments, L.L.C. | Charlotte, NC |
| BoA Lending L.L.P. | Charlotte, NC |
| BoA Nederland Krediet Cooperatieve U.A. | Amsterdam, The Netherlands |
| BoA Netherlands Cooperatieve U.A. | Amsterdam, The Netherlands |
| BoA Trustee Services Limited | London, U.K. |
| BOA/Mermart Joint Venture | San Diego, CA |
| Boatmen’s Insurance Agency, Inc. | St. Louis, MO |
| Bodiam Hill Limited | London, U.K. |
| BofA Commodities, Inc. | New York, NY |
| Bond Products Depositor LLC | Charlotte, NC |
| Boston Asesores de Seguros, S.A. | Buenos Aires, Argentina |
| Boston Centros de Inversion S.A. | Buenos Aires, Argentina |
| Boston International Holdings Corporation | Boston, MA |
| Boston Latin America Finance Company | George Town, Grand Cayman, Cayman Is. |
| Boston Negocios e Participacoes Ltda. | Sao Paulo, Brazil |

| Name | Location |
|---|---|
| Boston Overseas Financial Corporation | Boston, MA |
| Boston Overseas Financial Corporation S.A. | Buenos Aires, Argentina |
| Boston Overseas Holding Corporation | Boston, MA |
| Boston Overseas Private Equity LLC | Boston, MA |
| Boston Securities S.A. Sociedad de Bolsa | Buenos Aires, Argentina |
| Boston World Holding Corporation | Boston, MA |
| Bovard Management LLC | Charlotte, NC |
| Bracebridge Corporation | Wilmington, DE |
| Bridger Holdings LLC | Mill Valley, CA |
| Bridgeport Phase I Tenant LLC | New York, NY |
| Bridgewater Bay Limited Liability Partnership | London, U.K. |
| Brigibus, Limited | London, U.K. |
| Bristol Pines Limited Partnership | Washington, DC |
| Bristol Pines Manager LLC | Baltimore, MD |
| Brockman Investments LLC | Charlotte, NC |
| BTV, LLC | Atlanta, GA |
| Bulfinch Indemnity Company, Ltd. | Boston, MA |
| Burton Road Development Partners, LLC | Atlanta, GA |
| C&S Premises-SPE, Inc. | Charlotte, NC |
| Cabot Investments | London, U.K. |
| Cairo Procurement Services, LLC | Channahon, IL |
| California Environmental Redevelopment Fund, LLC | Sacramento, CA |
| Calnevari Holdings, Inc. | Charlotte, NC |
| CalSTRS/Banc of America Capital Access Fund, LLC | Chicago, IL |
| CalSTRS/Banc of America Capital Access Fund III, LLC | Chicago, IL |
| Calvada Lane Pty Limited | Charlotte, NC |
| Canyon Station Investments GP | Charlotte, NC |
| Capacitor, LLC | Las Vegas, NV |
| Carlow Holdings Trust | Dublin, Ireland |
| Carlton Court CDC, Inc. | Dallas, TX |
| Carolina Investments Limited | London, U.K. |
| Carrara Lane Pty Limited | Charlotte, NC |
| Carringgate Limited | London, U.K. |
| Casa de Bolsa Santander Serfin, S.A. de C.V. | Mexico City, Mexico |
| Castle Lofts, L.P. | Kansas City, MO |
| Cayman Joint Venture Holding Company | George Town, Grand Cayman, Cayman Is. |
| CBT Realty Corporation | Providence, RI |
| Centerpoint Development LLC | Baltimore, MD |
| Centerpoint Theater LLC | Baltimore, MD |
| Central Park Development Group, LLC | Tampa, FL |
| Centro Comercial Zacatecas, S.A. de C.V. | Mexico City, Mexico |
| Ceramica International Holdings S.a.r.L. | Luxembourg, Luxembourg |
| Champion Hills Funding LLC | Charlotte, NC |
| Charlotte Gateway Village, LLC | Charlotte, NC |
| Charlotte Transit Center, Inc. | Charlotte, NC |
| Cherry Park LLC | Charlotte, NC |
| Chester Property & Services Limited | Chester, England |
| Church Street Housing Partners I, LLC | Orlando, FL |
| Church Street Retail Partners I, LLC | Orlando, FL |
| Circulos OCA S.A. | Montevideo, Uruguay |
| City Hall Lofts, L.P. | Kansas City, MO |
| CIVC Partners Fund IIIa, L.P. | Chicago, IL |
| CIVC Partners Fund, L.P. | Chicago, IL |
| CIVC Partners Fund, LLC | Chicago, IL |

| Name | Location |
|---|---|
| CIVC-Partners Equity Investment Company LLC | Chicago, IL |
| Clark Street Redevelopment Corporation | St. Louis, MO |
| Clipper Mill Federal LLC | Baltimore, MD |
| CNBC Leasing LLC | Chicago, IL |
| Cold Feet, L.L.C. | Chicago, IL |
| Colonial Funding LLC | Charlotte, NC |
| Columbia Diversified Alpha Fund, LP | New York, NY |
| Columbia Diversified Alpha Fund (Master), Ltd. | George Town, Grand Cayman, Cayman Is. |
| Columbia Management Advisors, LLC | Boston, MA |
| Columbia Management Distributors, Inc. | Boston, MA |
| Columbia Management Group, LLC | Boston, MA |
| Columbia Management Pte. Ltd. | Singapore, Singapore |
| Columbia Management Services, Inc. | Boston, MA |
| Columbia Senior Residences at Edgewood, L.P. | Atlanta, GA |
| Columbia Wanger Asset Management, L.P. | Chicago, IL |
| Columbus Bay Limited | George Town, Grand Cayman, Cayman Is. |
| Columbus Square LLC | Kansas City, MO |
| Columbus Square II LLC | St. Louis, MO |
| Commercial Abstract LP | Milford, DE |
| Community Reinvestment Group, L.C. | Fort Lauderdale, FL |
| Contacto Serfin, S.A. de C.V. | Mexico City, Mexico |
| Continental Finanziaria S.P.A. | Milan, Italy |
| Continental Illinois Venture Corporation | Chicago, IL |
| Continental Servicios Corporativos, S.A. de C.V. | Mexico City, Mexico |
| Conversus Asset Management, LLC | Chicago, IL |
| Coral Hill LLC | Charlotte, NC |
| Core Bond Products LLC | Charlotte, NC |
| Corfe Hill Limited | London, U.K. |
| Corporate Leasing Facilities Limited | London, U.K. |
| Corporate Properties Services, Inc. | Wilmington, DE |
| Covation LLC | Atlanta, GA |
| Coventry Village Apartments, Inc. | Nashville, TN |
| CP Development Group 2, LLC | Tampa, FL |
| CP Development Group 3, LLC | Tampa, FL |
| Cranford Aircraft Commercial Leasing Corporation | Providence, RI |
| Credit Opportunities Funding, Inc. | Miami, FL |
| Crockett Funding II, Inc. | Charlotte, NC |
| Crockett Funding LLC | Charlotte, NC |
| Cross Creek Funding LLC | Charlotte, NC |
| Crown Point Investments LP | Las Vegas, NV |
| CSC Associates, L.P. | Marietta, GA |
| CSF Holdings, Inc. | Tampa, FL |
| CTC Consulting, Inc. | Portland, OR |
| CUETS Financial Ltd. | Regina, Saskatchewan, Canada |
| Cupples Development, L.L.C. | St. Louis, MO |
| Cupples Garage, L.L.C. | St. Louis, MO |
| Cypress Point Trading LLC | Charlotte, NC |
| Cypress Tree CLAIF Funding LLC | Charlotte, NC |
| Dalespring Corporation | Baltimore, MD |
| DFO Partnership | San Francisco, CA |
| Diamond Springs Trading LLC | Charlotte, NC |
| Dollis Hill Limited | London, U.K. |
| Douglass Road LLC | Washington, DC |
| Dover Mortgage Capital Corporation | Charlotte, NC |

| Name | Location |
|---|---|
| Dover Mortgage Capital 2005-A Corporation | Charlotte, NC |
| Dover Two Mortgage Capital Corporation | Charlotte, NC |
| Dover Two Mortgage Capital 2005-A Corporation | Charlotte, NC |
| Downtown Place, LLC | Miami, FL |
| Dunes Funding LLC | Charlotte, NC |
| Eagle Corporation, The | Boston, MA |
| Eagle Investments S.A., The | Montevideo, Uruguay |
| Eban Incorporated | Dallas, TX |
| Eban Village I, Ltd. | Dallas, TX |
| Eban Village II, Ltd. | Dallas, TX |
| Echo Canyon Park LLC | Charlotte, NC |
| Edgewood Partners, LLC | Atlanta, GA |
| Edificaciones Arendonk, S.L. | Madrid, Spain |
| EFP (Cayman) Funding I Limited | George Town, Grand Cayman, Cayman Is. |
| EFP (Cayman) Funding II Limited | George Town, Grand Cayman, Cayman Is. |
| EFP (Cayman) Funding 2006-1 Limited | George Town, Grand Cayman, Cayman Is. |
| EFP (Cayman) Funding 2006-2 Limited | George Town, Grand Cayman, Cayman Is. |
| EFP (Cayman) Funding 2006-3 Limited | George Town, Grand Cayman, Cayman Is. |
| EFP (Hong Kong) Funding I Limited | Hong Kong, SAR |
| EFP (Hong Kong) Funding II Partnership | Hong Kong, SAR |
| EFP (Hong Kong) Funding 2006-1 Partnership | Hong Kong, SAR |
| EFP (Hong Kong) Funding 2006-2 Partnership | Hong Kong, SAR |
| EFP Netherlands Investment, B.V. | Amsterdam, The Netherlands |
| EFP Netherlands Investment II, V.O.F. | Amsterdam, The Netherlands |
| Egan Crest Investments, LLC | Charlotte, NC |
| EGB Podstawowy Niestandaryzowany Sekurytyzacyjny Fundusz Inwestycyjny | Warsaw, Poland |
| EGB-Skarbiec Bis Powizany Fundusz Inwestycyjny Zamknity | Warsaw, Poland |
| EGB-Skarbiec Powizany Fundusz Inwestycyjny Zamknity | Warsaw, Poland |
| Eight Star Investments, L.L.C. | Kansas City, MO |
| Electra Leasing LLC | Boston, MA |
| ELHV Inc. | New York, NY |
| Elmfield Investments Limited | London, U.K. |
| Elmsleigh Funding, Ltd. | George Town, Grand Cayman, Cayman Is. |
| ELT Ltd. | Charlotte, NC |
| ENB Realty Co., Inc. | Chicago, IL |
| Endeavour, LLC | Babylon, NY |
| eoTek, LLC | Evergreen, CO |
| EQCC Asset Backed Corporation | Las Vegas, NV |
| EQCC Receivables Corporation | Las Vegas, NV |
| EquiCredit Corporation of America | Jacksonville, FL |
| Equity/Protect Reinsurance Company | Jacksonville, FL |
| Eureka Service Corporation | Chicago, IL |
| Everest Funding LLC | Charlotte, NC |
| Factoring Santander Serfin, S.A. de C.V. | Mexico City, Mexico |
| Fallon Lane II, Inc. | Charlotte, NC |
| Fallon Lane LLC | Charlotte, NC |
| FBF Insurance Agency, Inc. | Avon, MA |
| FCA Company, LLC | Providence, RI |
| Federal Street Investments S.A. | Montevideo, Uruguay |
| Federal Street Shipping LLC | Boston, MA |
| Fernhill Holding, Inc. | San Francisco, CA |
| FFG Property Holding Corp. | Providence, RI |
| FHA Company, LLC | Providence, RI |

| Name | Location |
|---|---|
| FIA Card Services, National Association | Wilmington, DE |
| FIA Funding Luxembourg Limited | Luxembourg, Luxembourg |
| FIA (Gibraltar) Holdings Limited | Gibraltar, Gibraltar |
| FIA Holdings S.a.r.l. | Luxembourg, Luxembourg |
| FIA Swiss Funding Limited | Luxembourg, Luxembourg |
| Fideicomiso GSSLPT | Mexico City, Mexico |
| FIM Funding, Inc. | Boston, MA |
| Financial Centre Insurance Agency, Inc. | Boston, MA |
| Financial ServiceSolutions Information Systems, LLC | Charlotte, NC |
| Financial ServiceSolutions, LLC | Charlotte, NC |
| Finch Funding LLC | Charlotte, NC |
| Finsbury Square Limited Partnership | Washington, DC |
| Finsbury Square Manager LLC | Washington, DC |
| Firnabos Nominees, Limited | London, U.K. |
| First Bank of Pinellas County Land Corporation | Tampa, FL |
| First Capital Corporation of Boston | Boston, MA |
| First Coast Black Business Investment Corporation | Jacksonville, FL |
| Firstval Properties, Inc. | Bethlehem, PA |
| Five Dollars a Day, LLC | San Francisco, CA |
| FKF, Inc. | Des Moines, IA |
| Flat Rock Funding LLC | Charlotte, NC |
| Fleet Canada Square Limited | London, U.K. |
| Fleet Capital International, Inc. | Providence, RI |
| Fleet Capital Trust II | Boston, MA |
| Fleet Capital Trust IX | Boston, MA |
| Fleet Capital Trust V | Boston, MA |
| Fleet Capital Trust VII | Boston, MA |
| Fleet Capital Trust VIII | Boston, MA |
| Fleet Center Associates | Providence, RI |
| Fleet Clearing Corporation | New York, NY |
| Fleet Commercial Loan Funding LLC | Boston, MA |
| Fleet Commercial Loan Master LLC | Boston, MA |
| Fleet Community Development Corporation | Providence, RI |
| Fleet Credit Card Funding Trust | Horsham, PA |
| Fleet Credit Card Holdings, Inc. | Providence, RI |
| Fleet Credit Card Services L.P. | Providence, RI |
| Fleet Development Ventures L.L.C. | Boston, MA |
| Fleet Equity Partners V, L.P. | Providence, RI |
| Fleet Equity Partners VI, L.P. | Providence, RI |
| Fleet Equity Partners VII, L.P. | Providence, RI |
| Fleet Finance, Inc. | Providence, RI |
| Fleet Financial Corporation | Providence, RI |
| Fleet Financial Pennsylvania Corp. | Bala Cynwyd, PA |
| Fleet Fund Investors, LLC | Providence, RI |
| Fleet Funding, Inc. | Las Vegas, NV |
| Fleet Growth Resources II, Inc. | Providence, RI |
| Fleet Growth Resources III, Inc. | Providence, RI |
| Fleet Growth Resources IV, Inc. | Providence, RI |
| Fleet Growth Resources, Inc. | Charlotte, NC |
| Fleet Historic Associates | Providence, RI |
| Fleet Home Equity Loan Trust 2001-1 | Wilmington, DE |
| Fleet Home Equity Loan, LLC | Boston, MA |
| Fleet Insurance Agency (NJ), Inc. | Clinton, NJ |
| Fleet Insurance Agency Corp.—Connecticut | Chester, CT |

| Name | Location |
|---|---|
| Fleet Insurance Agency Corp.—New York | Castleton on Hudson, NY |
| Fleet Insurance Agency Corporation | Boston, MA |
| Fleet Insurance Company | Horsham, PA |
| Fleet International Advisors S.A. | Montevideo, Uruguay |
| Fleet Land Company | Providence, RI |
| Fleet Leasing Partners I, L.P. | Providence, RI |
| Fleet Leasing Partners II, L.P. | Providence, RI |
| Fleet Life Insurance Company | Horsham, PA |
| Fleet NJ Community Development Corp. | Hartford, CT |
| Fleet Overseas Asset Management, Inc. | Boston, MA |
| Fleet Overseas Capital, LLC | Providence, RI |
| Fleet Pennsylvania Services Inc. | Scranton, PA |
| Fleet Property Company | Providence, RI |
| Fleet Retail Group, LLC | Boston, MA |
| Fleet Trade Services, Limited | Hong Kong, PRC |
| Fleet Venture Partners I | Providence, RI |
| Fleet Venture Partners II | Providence, RI |
| Fleet Venture Partners III | Providence, RI |
| Fleet Venture Partners IV, L.P. | Providence, RI |
| Fleet Venture Resources, Inc. | Providence, RI |
| FleetBoston Co-Investment Partners (2000) LP | Boston, MA |
| FleetBoston Co-Investment Partners (2001) LP | Boston, MA |
| Florida Affordable Housing 1998, L.L.C. | Charlotte, NC |
| FNB Funding LLC 1 | Las Vegas, NV |
| Fomento Cultural Santander Mexicano, A.C. | Mexico City, Mexico |
| Fonlyser, S.A. de C.V. | Mexico City, Mexico |
| Forest SPC LLC | Charlotte, NC |
| Framework, Inc. | Charlotte, NC |
| Franklin Bay Limited | George Town, Grand Cayman, Cayman Is. |
| FSC Corp. | Boston, MA |
| Fugu Credit Limited | London, U.K. |
| Full Court Tenant, LLC | New York, NY |
| Fund Five Financial, Inc. | San Francisco, CA |
| GALCO B.V. | Amsterdam, The Netherlands |
| Galway Holdings Trust | Dublin, Ireland |
| Gardnerton Partners | Charlotte, NC |
| Gaskell Management LLC | Charlotte, NC |
| Gatwick LLC | Charlotte, NC |
| GEARS Holding LLC 2004-A | Charlotte, NC |
| GEARS Holding LLC 2005-A | Charlotte, NC |
| General Fidelity Insurance Company | Columbia, SC |
| General Fidelity Life Insurance Company | Columbia, SC |
| Germany Telecommunications 1 S.a.r.L | Luxembourg, Luxembourg |
| Gestion Santander Mexico, S.A. de C.V. | Mexico City, Mexico |
| Glacier Point (Philippines), Inc. | Makati, Philippines |
| Gleneagles Trading LLC | Charlotte, NC |
| GLM Investments, Inc. | Charlotte, NC |
| Gold Park Creek LLC | Las Vegas, NV |
| Goldbourne Park Limited | Dublin, Ireland |
| Golden Gate Invesments S.A. | Bogota, Colombia |
| Golden Peak Investments LLC | Charlotte, NC |
| Greenwood Apartments, LLC | Tampa, FL |
| Groom Lake, LLC | Charlotte, NC |
| Grupo Financiero Bank of America, S.A. de C.V. | Mexico City, Mexico |

| Name | Location |
|---|---|
| Grupo Financiero Santander Serfin, S.A. de C.V. | Mexico City, Mexico |
| GTVBI, Inc. | Port Louis, Mauritius |
| Hampton Funding LLC | Charlotte, NC |
| Harbour Directors I Limited | George Town, Grand Cayman, Cayman Is. |
| Harbour Directors II Limited | George Town, Grand Cayman, Cayman Is. |
| Harbour Nominees Ltd. | George Town, Grand Cayman, Cayman Is. |
| Harbour Secretaries I Limited | George Town, Grand Cayman, Cayman Is. |
| Harbour Town Funding LLC | Charlotte, NC |
| Harney Lane Limited | Dublin, Ireland |
| Harper Farm M Corp. | Baltimore, MD |
| HCL Acquisition LLC | Boston, MA |
| HCL Developer LLC | Boston, MA |
| HCL Manager LLC | Boston, MA |
| HealthLogic Systems Corporation | Norcross, GA |
| Heathrow LLC | Charlotte, NC |
| Heathrow, Inc. II | Charlotte, NC |
| Helios Funding LLC | Charlotte, NC |
| Hercules Trading LLC | Charlotte, NC |
| Hever Hill Limited | London, U.K. |
| High Grade Structured Credit CDO 2007-1 | George Town, Grand Cayman, Cayman Is. |
| Historic Ellison, L.P. | Kansas City, MO |
| Historic Munsey LLC | Baltimore, MD |
| HNC Realty Company | Hartford, CT |
| Home Equity USA, Inc. | Providence, RI |
| HomeFocus Services, LLC | St. Louis, MO |
| HomeFocus Tax Services, LLC | Richmond, VA |
| Homestead Trading LLC | Charlotte, NC |
| Hornby Lane Limited | Dublin, Ireland |
| Howlan Park Limited | Dublin, Ireland |
| Hunters Station LLC | Charlotte, NC |
| IFIA Insurance Services, Inc. | Greenville, DE |
| IHR, LLC | San Francisco, CA |
| InCapital Europe Limited | London, U.K. |
| Incapital Holdings, LLC | Chicago, IL |
| InCapital, LLC | Chicago, IL |
| Independence One Life Insurance Company | Phoenix, AZ |
| Independence One Mortgage Corporation | Ann Arbor, MI |
| Indian Head Banks, Inc. | Manchester, NH |
| Industrial Investment Corporation | Baltimore, MD |
| Industrial Leasing Corporation of Fitchburg, Inc. | Providence, RI |
| Industrial Leasing Corporation of Massachusetts, Inc. | Providence, RI |
| Industrial Leasing Corporation of Springfield, Inc. | Providence, RI |
| Industrial National Leasing Corporation | Providence, RI |
| Inmobiliaria de Lerma y Amazonas, S.A. de C.V. | Mexico City, Mexico |
| Instituto Serfin, A.C. | Mexico City, Mexico |
| International Special Situations Holdings C.V. | George Town, Grand Cayman, Cayman Is. |
| InverAmerica S.A. | Santa Fe de Bogota, Colombia |
| Investment Fund Partners | Providence, RI |
| Investments 2234 Chile Fondo de Inversion Privado I | Santiago, Chile |
| Investments 2234 Chile Fondo de Inversion Privado II | Santiago, Chile |
| Investments 2234 China Fund 1 B.V. | Amsterdam, The Netherlands |
| Investments 2234, LLC | Charlotte, NC |
| Investments 2234 Overseas Fund I B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund II B.V. | Amsterdam, The Netherlands |

| Name | Location |
|---|---|
| Investments 2234 Overseas Fund III B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund IV B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund V B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund VI B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund VII B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund VIII B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund IX B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund X B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund 11 B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund 12 B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund 13 B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Fund 14 B.V. | Amsterdam, The Netherlands |
| Investments 2234 Overseas Holdings B.V. | Amsterdam, The Netherlands |
| Investments 2234 Philippines Fund I (SPV-AMC), Inc. | Manila, Philippines |
| Investments Dos Dos Tres Cuatro Chile Holdings S.A. | Santiago, Chile |
| Invista Castle Limited | London, U.K. |
| IRESC, Inc. | Farmington Hills, MI |
| Iskalo Electric Tower Master Tenant LLC | Williamsville, NY |
| Island Funding, Ltd. | George Town, Grand Cayman, Cayman Is. |
| Ismael I, Inc. | George Town, Grand Cayman, Cayman Is. |
| IWPB, Inc. | Farmington Hills, MI |
| IX Holdings, L.L.C. | Chicago, IL |
| JCCA, Inc. | Wilton, CT |
| Jupiter Loan Funding LLC | Charlotte, NC |
| Justin, Inc. | George Town, Grand Cayman, Cayman Is. |
| Kaldi Funding LLC | Charlotte, NC |
| Kauai Hotel, L.P. | Los Angeles, CA |
| Keowee Falls Funding LLC | Charlotte, NC |
| L.A. Funding LLC | Charlotte, NC |
| Laguna Funding LLC | Charlotte, NC |
| Laredo Park Holdings, Inc. | Charlotte, NC |
| Laredo Partners | Charlotte, NC |
| LaSalle Bank Corporation | Chicago, IL |
| LaSalle Bank Midwest National Association | Troy, MI |
| LaSalle Bank National Association | Chicago, IL |
| LaSalle Business Credit, LLC | Chicago, IL |
| LaSalle Commercial Mortgage Securities, Inc. | Chicago, IL |
| LaSalle Community Development Corporation | Chicago, IL |
| LaSalle Financial Services, Inc. | Chicago, IL |
| LaSalle Funding LLC | Chicago, IL |
| LaSalle Healthcare Administrative Services LLC | Chicago, IL |
| LaSalle Merchant Services, LLC | Louisville, KY |
| LaSalle National Leasing Corporation | Chicago, IL |
| LaSalle National Trust Delaware | Wilmington, DE |
| LaSalle New Markets, LLC | Chicago, IL |
| LaSalle Street Capital, Inc. | Chicago, IL |
| LaSalle Trade Services Corporation | Chicago, IL |
| LaSalle Trade Services Limited | Hong Kong, PRC |
| LBC Limited | Nassau, Bahamas |
| Lexington Trails Holdings, LP | Dallas, TX |
| Leyden Bay B.V. | Amsterdam, The Netherlands |
| Limacon Park Limited | Dublin, Ireland |
| Lincoln Road Real Estate Partners, LLC | Miami Beach, FL |
| Links at Eastwood LLC, The | Charlotte, NC |

| Name | Location |
|---|---|
| Linville Funding LLC | Charlotte, NC |
| Live Oak Apartments, LLC | Charlotte, NC |
| Loans.co.uk Limited | Watford, England |
| Madison Park A Corp. | Baltimore, MD |
| Magellan Bay Limited | George Town, Grand Cayman, Cayman Is. |
| Main Place Funding, LLC | New York, NY |
| Mainsearch Company Limited | Chester, England |
| Manele Bay II Limited | Amsterdam, The Netherlands |
| Marlborough Sounds LLC | Charlotte, NC |
| Marlin House Holdings Limited | Herts, England |
| Marsico Management Holdings, L.L.C. | Charlotte, NC |
| Maryvale Urban Investments, Inc. | Phoenix, AZ |
| Mayfair Partners | Charlotte, NC |
| MBNA Canada Bank | Gloucester, Canada |
| MBNA Canada Properties Co. | Gloucester, Canada |
| MBNA Capital A | Wilmington, DE |
| MBNA Capital B | Wilmington, DE |
| MBNA Capital C | Wilmington, DE |
| MBNA Capital D | Wilmington, DE |
| MBNA Capital E | Wilmington, DE |
| MBNA Community Development Corporation | Wilmington, DE |
| MBNA Direct Limited | Chester, England |
| MBNA Dublin Properties Limited | Dublin, Ireland |
| MBNA Europe Bank Limited | Chester, England |
| MBNA Europe Funding, PLC | Chester, England |
| MBNA Europe Holdings Limited | Chester, England |
| MBNA Europe Lending S.a.r.l. | Kirschberg, Luxembourg |
| MBNA Global Services Limited | Chester, England |
| MBNA Holdings, Inc. | Wilmington, DE |
| MBNA Indian Services Private Limited | Bangalore, India |
| MBNA International Investment Holdings, LLC | Wilmington, DE |
| MBNA International Properties Limited | Chester, England |
| MBNA Ireland Limited | Carrick-on-Shannon, Ireland |
| MBNA Luxemburg Holdings S.a.r.l. | Grand Duchy of Luxemburg, Luxembourg |
| MBNA Marketing Systems, Inc. | Wilmington, DE |
| MBNA Procurement Services, Inc. | Wilmington, DE |
| MBNA Property Services Limited | Chester, England |
| MBNA R & L S.a.r.l. | Kirschberg, Luxemburg |
| MBNA Receivables Limited | Kirschberg, Luxemburg |
| MBNA Technology, Inc. | Wilmington, DE |
| Mecklenburg Park, Inc. | Charlotte, NC |
| Medina Lane, Inc. | Charlotte, NC |
| Mediterranean Funding LLC | Charlotte, NC |
| Merchant Alliance, Inc. | Louisville, KY |
| MerryPlace at Pleasant City Associates, Ltd. | Tampa, FL |
| MerryPlace Development, LLC | Charlotte, NC |
| MerryPlace, LLC | Charlotte, NC |
| MESBIC Ventures, Inc. | Richardson, TX |
| Metro Plaza, Inc. | Boston, MA |
| Metro-Broward Capital Corporation | Ft. Lauderdale, FL |
| Middletown Finance, LLC | Charlotte, NC |
| Midway Road Funding Ltd. | George Town, Grand Cayman, Cayman Is. |
| Midwest Affordable Housing 1997-1, L.L.C. | Charlotte, NC |
| Midwest Mezzanine Fund III, L.P. | Chicago, IL |

| Name | Location |
|---|---|
| Mineral Rapids Investments LP | Charlotte, NC |
| Mitchell Funding LLC | Charlotte, NC |
| MM3 HY Funding LLC | Charlotte, NC |
| MMoney, LLC | San Francisco, CA |
| MMovie Star Movie, LLC | San Francisco, CA |
| MNB Smartcard Technologies, Inc. | Farmington Hills, MI |
| MNC Affiliates Group, Inc. | Washington, DC |
| MNC Credit Corp | Washington, DC |
| MOIL Corporation | Wilton, CT |
| Mortgage Equity Conversion Asset Corporation | Wilmington, DE |
| MRII Investments LLC | Charlotte, NC |
| Muirfield Trading LLC | Charlotte, NC |
| Multi-Family Housing Investment Fund I, LLC | Charlotte, NC |
| Murry Park, Inc. | Charlotte, NC |
| Myers Park Trading LLC | Charlotte, NC |
| N.B. (Bahamas) Ltd. | Nassau, Bahamas |
| Nations Europe Limited | London, U.K. |
| NationsBanc Business Credit, Inc. | Charlotte, NC |
| NationsBanc Leasing & R.E. Corporation | Charlotte, NC |
| NationsCredit Financial Services Corporation | Jacksonville, FL |
| NationsCredit Insurance Agency, Inc. | Jacksonville, FL |
| NB Capital Trust I | Charlotte, NC |
| NB Capital Trust II | Charlotte, NC |
| NB Capital Trust III | Charlotte, NC |
| NB Capital Trust IV | Charlotte, NC |
| NB Finance Lease, Inc. | San Francisco, CA |
| NB Funding Company LLC | Charlotte, NC |
| NB Holdings Corporation | Charlotte, NC |
| NB International Finance B.V. | Amsterdam, The Netherlands |
| NB Partner Corp. | Charlotte, NC |
| NBCDC Osborne, Inc. | Tampa, FL |
| NBRE Realty LLC | Charlotte, NC |
| NCNB Lease Atlantic, Inc. | Wilmington, DE |
| NCNB Lease International, LLC | San Francisco, CA |
| NeSBIC Buy Out Fund Invest VII B.V. | Utrecht, The Netherlands |
| Nevis Investments Limited | George Town, Grand Cayman, Cayman Is. |
| Newark Lane Pty Limited | Charlotte, NC |
| Newco Home Funding Partners, LLC | Springfield, VA |
| Newfound Bay Investments Limited | London, U.K. |
| Newfound Bay Limited | London, U.K. |
| Newland Lane Limited | George Town, Grand Cayman, Cayman Is. |
| Nexstar Financial Corporation | Saint Charles, MO |
| Nightingale Lane Pty Limited | Charlotte, NC |
| Ninth North-Val, Inc. | Baltimore, MD |
| NMS Capital, L.P. | Chicago, IL |
| NMS Investment Holdings, LLC | New York, NY |
| NMS Services (Cayman) Inc. | George Town, Grand Cayman, Cayman Is. |
| NMS Services, Inc. | New York, NY |
| NMS/Oak VIII, LLC | San Francisco, CA |
| Nobility Hill Realty Trust | Worchester, MA |
| Norris Associates, L.L.C. | Charlotte, NC |
| Norstar Venture Partners I | Providence, RI |
| North East Hillcroft, Inc. | Providence, RI |
| Northam Lane Limited | George Town, Grand Cayman, Cayman Is. |

| Name | Location |
|---|---|
| Northquay Investments Limited | London, U.K. |
| NorthRoad Capital Management LLC | New York, NY |
| Northwest Florida Black Business Investment Corporation | Tallahassee, FL |
| Northwood Villas, L.P. | Dallas, TX |
| Norton Golf LLC | Boston, MA |
| NPC International S.A. de C.V. | Juarez, Mexico |
| Nubia Redevelopment Partnership | Dallas, TX |
| Oakland Funding No. 1 LLC | Las Vegas, NV |
| Oakland Funding No. 2 LLC | London, U.K. |
| Oakridge Pines, LLC | Tampa, FL |
| Odessa Park, Inc. | Charlotte, NC |
| Oechsle International Advisors, LLC | Boston, MA |
| Old Colony Nominees, Limited | London, U.K. |
| Oldland Lane Limited | George Town, Grand Cayman, Cayman Is. |
| One Bryant Park LLC | New York, NY |
| OneFed Leasing Corporation | Providence, RI |
| Operadora de Derivados Serfin, S.A. de C.V. | Mexico City, Mexico |
| Orix Funding LLC | Charlotte, NC |
| Osborne Landing, Ltd. | Tampa, FL |
| Oshkosh/McNeilus Financial Services Partnership | Dodge Center, MN |
| OSP Funding LLC | Charlotte, NC |
| Otter Lake Funding LLC | Charlotte, NC |
| Pacale, S.A. de C.V. | Mexico City, Mexico |
| Pacesetter/MVHC, Inc. | Richardson, TX |
| Pacific Dunes Trading LLC | Charlotte, NC |
| Pacific Funding LLC | Charlotte, NC |
| Palm Beach County Black Business Investment Corporation | Riviera Beach, FL |
| Paneldeluxe Company Limited | Chester, England |
| Paradise Funding, Ltd. | George Town, Grand Cayman, Cayman Is. |
| Paradise Urban Investments, LLC | Dallas, TX |
| Parkside Residential LLC | Washington, DC |
| Parkside Senior Housing LLC | Washington, DC |
| PC Dallas Holdings, LP | Dallas, TX |
| Pegasus Trading LLC | Charlotte, NC |
| Perissa LLC | San Francisco, CA |
| Persimmon Springs Funding LLC | Charlotte, NC |
| PH Sentry Associates | Blue Bell, PA |
| Piccadilly Financing LLC | Charlotte, NC |
| Pilot Financial Corp. | Blue Bell, PA |
| Pine Harbour Limited | London, U.K. |
| Pinehurst Trading, Inc. | Charlotte, NC |
| Pinnacle Ridge Funding LLC | Charlotte, NC |
| Pinyon Park LLC | Charlotte, NC |
| PJM Office Building, LLC | Baltimore, MD |
| PJM Retail Center, LLC | Baltimore, MD |
| Plano Partners | Charlotte, NC |
| Poplar Partners I | Charlotte, NC |
| Poseidon Trading LLC | Charlotte, NC |
| Power Equities, Inc. | Richardson, TX |
| Powergate Associates Limited | Amsterdam, The Netherlands |
| PPM Monarch Bay Funding LLC | Charlotte, NC |
| PPM Shadow Creek Funding LLC | Charlotte, NC |
| PPM Spyglass Funding Trust | Wilmington, DE |
| Premium Credit Ltd | Epsom, United Kingdom |

| Name | Location |
|---|---|
| Premium Credit Receivables Limited | Epsom, United Kingdom |
| PRLAP, Inc. *(Alaska Corporation)* | Juneau, AK |
| PRLAP, Inc. *(Missouri Corporation)* | Clayton, MO |
| PRLAP, Inc. *(North Carolina Corporation)* | Charlotte, NC |
| PRLAP, Inc. *(Tennessee Corporation)* | Knoxville, TN |
| PRLAP, Inc. *(Texas Corporation)* | Dallas, TX |
| PRLAP, Inc. *(Virginia Corporation)* | Richmond, VA |
| PRLAP, Inc. *(Washington Corporation)* | Seattle, WA |
| Prodigy Holdings Private Limited | Curepipe, Mauritius |
| Progress Capital Trust I | Blue Bell, PA |
| Progress Capital Trust II | Blue Bell, PA |
| Progress Capital Trust III | Blue Bell, PA |
| Progress Capital Trust IV | Blue Bell, PA |
| Progress Capital, Inc. | Boston, MA |
| Progress Realty Advisors, Inc. | Blue Bell, PA |
| Puritan Mill, LLC | Atlanta, GA |
| Pydna Corporation | San Francisco, CA |
| Quail Brook Holdings, LP | Dallas, TX |
| Quail Creek Holdings, LP | Dallas, TX |
| Raintree Trading LLC | Charlotte, NC |
| Ravenswood Investments LLC | Charlotte, NC |
| RCL Holdings LLC | Chicago, IL |
| Red Fox Funding LLC | Charlotte, NC |
| Red River Park, Inc. | Charlotte, NC |
| Reed Street Partners, L.P. | Atlanta, GA |
| Reedy Creek Funding LLC | Charlotte, NC |
| Regent Street II, Inc. | Charlotte, NC |
| Relay Funding, LLC | Las Vegas, NV |
| RepublicBank Insurance Agency, Inc. | Dallas, TX |
| RIHT Life Insurance Company | Phoenix, AZ |
| RIMCO XIV, Inc. | Farmington Hills, MI |
| Rising Sun Mills LLC | Baltimore, MD |
| Ritchie Court M Corporation | Baltimore, MD |
| Riverfalls Urban Investments, LLC | Dallas, TX |
| Riverside Park Investments LLC | Charlotte, NC |
| Riverside Trust | London, U.K. |
| Riviera Funding LLC | Charlotte, NC |
| Rob-Wal Investment Co. | Chicago, IL |
| Robertson Stephens Asset Management, Inc. | San Francisco, CA |
| Robertson Stephens Capital Markets Holdings Ltd. | Tel Aviv, Israel |
| Robertson Stephens Group, Inc. | San Francisco, CA |
| Robertson Stephens International Holdings, Inc. | San Francisco, CA |
| Robertson Stephens International, Ltd. | London, U.K. |
| Robertson Stephens Israel Ltd. | Tel Aviv, Israel |
| Robertson Stephens Services, LLC | Boston, MA |
| Robertson Stephens U.S. Holdings, Inc. | San Francisco, CA |
| Robertson Stephens Ventures, Inc. | San Francisco, CA |
| Robertson Stephens, Inc. | Boston, MA |
| Rock Harbour Funding LLC | Charlotte, NC |
| Rockett, LLC, The | San Francisco, CA |
| Rosebank Meadows Subdivision, LLC | Nashville, TN |
| Rosedale General Partner, LLC | Baltimore, MD |
| Rosedale Terrace Limited Partnership | Baltimore, MD |
| Round Spring Investments GP | Charlotte, NC |

| Name | Location |
|---|---|
| Ruby Aircraft Leasing and Trading Limited | London, U.K. |
| Salem Lafayette Development LLC | Boston, MA |
| Santander Mexicano, S.A. de C.V. Afore | Mexico City, Mexico |
| Savoie Holdings S.a.r.l. | Luxembourg, Luxembourg |
| Sawgrass Trading LLC | Charlotte, NC |
| SB Holdings, Inc. | Charlotte, NC |
| Sceptre Management Services LLC | Las Vegas, NV |
| SCCP I GP, LLC | Baltimore, MD |
| SCI Holdings Corporation | Baltimore, MD |
| SCIC Properties, LLC | Baltimore, MD |
| SCIC Riverwalk, LLC | Baltimore, MD |
| SCIC San Antonio II, LLC | Baltimore, MD |
| Sea Pines Funding LLC | Charlotte, NC |
| Security Pacific Capital Leasing Corporation | San Francisco, CA |
| Security Pacific EuroFinance Holdings, Inc. | San Francisco, CA |
| Security Pacific EuroFinance, Inc. | San Francisco, CA |
| Security Pacific Hong Kong Holdings Limited | Hong Kong, PRC |
| Security Pacific Housing Services, Inc. | San Diego, CA |
| Security Pacific Lease Finance (Europe) Inc. | San Francisco, CA |
| Seguros Santander Mexicano, S.A. | Mexico City, Mexico |
| Seguros Serfin, S.A. | Mexico City, Mexico |
| Seminole Funding LLC | Charlotte, NC |
| Service-Wright Corporation | Washington, DC |
| Servicios Corporativos de Seguros Serfin, S.A. de C.V. | Mexico City, Mexico |
| Servicios Corporativos Serfin, S.A. de C.V. | Mexico City, Mexico |
| Seventh Street Holdings of Delaware, Inc. | Las Vegas, NV |
| Seventh Street REIT, Inc. | Las Vegas, NV |
| Seventh Street TRS, Inc. | Las Vegas, NV |
| Seville Urban Investments, LLC | Dallas, TX |
| SFIMP I C.V. | Chicago, IL |
| SFPIC Netherlands C.V. | Chicago, IL |
| SGL Holding LLC | Chicago, IL |
| Sierra Nevada Realty, G.P. | Charlotte, NC |
| Silicon Holdings LLC | Chicago, IL |
| Silver Peak REIT Holding Company, Inc. | Las Vegas, NV |
| Silver Peak REIT, Inc. | Las Vegas, NV |
| Silvertree Australian Investments Pty Limited | Sydney, New South Wales, Australia |
| Sky Financial Securitization Corp. III | Dover, DE |
| Sky Financial Securitization Corp. IV | Dover, DE |
| Sky Financial Securitization Corp. V | Dover, DE |
| Sky Financial Securitization Corp. VI | Dover, DE |
| Sky Financial Securitization Corp. VII | Dover, DE |
| Sligo Lane Limited | Dublin, Ireland |
| Smother, LLC | San Francisco, CA |
| Sociedad de Consultoria Administrativa, S.A. de C.V. | Mexico City, Mexico |
| SOP M Corp. | Baltimore, MD |
| South Charles Capital Partners I, L.P. | Baltimore, MD |
| South Charles Investment Corporation | Baltimore, MD |
| Southam Lane Limited | George Town, Grand Cayman, Cayman Is. |
| Southern Dallas Development Fund, Inc. | Dallas, TX |
| Southport Investments, LLC | Charlotte, NC |
| Southquay Finance Limited | London, U.K. |
| Sovran Capital Management Corporation | Richmond, VA |
| Spectrum Mortgage Company, Inc. | Princeton, NJ |

| Name | Location |
|---|---|
| Spring Valley Management LLC | Charlotte, NC |
| Springfield Finance and Development Corporation | Springfield, MO |
| Spruce Bay Limited | George Town, Grand Cayman, Cayman Is. |
| SRF 2000, Inc. | Las Vegas, NV |
| St. Johns Place, L.C. | Jacksonville, FL |
| Stamford Fidelity Realty Company, Inc., The | Fairfield, CT |
| Stamford Investors GP LLC | Dover, DE |
| Stamford Investors LLC | Dover, DE |
| Stan Fed Proprietary Investment Company I | Chicago, IL |
| Stan Fed Proprietary Investment Company II | Chicago, IL |
| Standard Federal Bank Community Development Corporation | Chicago, IL |
| Standard Federal International, LLC | Chicago, IL |
| Stanton Road Housing LLC | Washington, DC |
| Stanwich Loan Funding LLC | Charlotte, NC |
| Steppington/Dallas, Inc. | Dallas, TX |
| Sterling Farms Funding, Inc. | Las Vegas, NV |
| Stonegate Meadows, L.P. | Kansas City, MO |
| Summerhill Redevelopment Partners, LLC | Atlanta, GA |
| Summit Capital Trust I | Wilmington, DE |
| Summit Corporate Secretary, Inc. | Princeton, NJ |
| Summit Credit Life Insurance Company | Phoenix, AZ |
| Sunset Hill Corporation | Baltimore, MD |
| Sycamore Green, LLC | Charlotte, NC |
| Tabono Joint Venture, The | Dallas, TX |
| Tabono Partnership II, Ltd. | Dallas, TX |
| Taconic Trading LLC | Charlotte, NC |
| Tampa Bay Black Business Investment Corporation, Inc. | Tampa, FL |
| Taurus Finance Inc. | New York, NY |
| Teardrop Diamond, LLC | San Francisco, CA |
| Threadneedle Corporation, The | Boston, MA |
| Tidewater Pointe Funding LLC | Charlotte, NC |
| Tikkurila Holdings II S.a.r.l. | Luxembourg, Luxembourg |
| Titulos Rioplatenses S.A. | Montevideo, Uruguay |
| Tonopah, LLC | Charlotte, NC |
| Topanga Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga II Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga III Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga IV Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga V Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga VI Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga VII Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga VIII Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga IX Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga X Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga XI Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga XII Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga XIII Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga XV Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga XVI Inc. | George Town, Grand Cayman, Cayman Is. |
| Topanga XX Inc. | George Town, Grand Cayman, Cayman Is. |
| Town Park Associates, LLC | Miami, FL |
| Trade Street Auction Rate Funding, LLC | Charlotte, NC |
| Transistor Holdings, LLC | Las Vegas, NV |
| Transistor, LLC | Las Vegas, NV |

| Name | Location |
|---|---|
| Transit Holding, Inc. | San Francisco, CA |
| Transit Leasing Corporation | San Francisco, CA |
| Trenton Park Apartments Limited Partnership | Washington, DC |
| Trenton Park Housing, LLC | Washington, DC |
| Trifesol, S.L. | Madrid, Spain |
| TriSail Capital Corporation | Boston, MA |
| TriSail Funding Corporation | Boston, MA |
| TriSail/MMA GP, LLC | Boston, MA |
| TriSail/MMA Realty Capital Partners I, L.P. | Boston, MA |
| TriStar Communications, Inc. | San Francisco, CA |
| Tryon Assurance Company, Ltd. | Hamilton, Bermuda |
| Tucker Commercial Lease Funding, LLC | San Francisco, CA |
| Turtle Hill GP LLC | Kansas City, MO |
| Turtle Hill Townhomes, L.P. | Kansas City, MO |
| Tyler Trading, Inc. | Charlotte, NC |
| U.S. Trust Company of Delaware | Wilmington, DE |
| U.S. Trust Hedge Fund Management, Inc. | Stamford, CT |
| Ulysses Leasing Limited | St. Helier, Jersey, Channel Islands |
| Union Capital A.F.A.P. S.A. | Montevideo, Uruguay |
| Union Realty and Securities Company | St. Louis, MO |
| United States Trust Company, National Association | New York, NY |
| Urban Mecca I, LLC | Atlanta, GA |
| USTrust Technology and Support Services, Inc. | Jersey City, New Jersey |
| UST Advisers, Inc. | Stamford, CT |
| UST Securities Corp. | Jersey City, New Jersey |
| Varese Holdings S.ar.l. | Luxembourg, Luxembourg |
| Venco, B.V. | George Town, Grand Cayman, Cayman Is. |
| Vendcrown Limited | Epsom, United Kingdom |
| Verdington LLC | Charlotte, NC |
| Vernon Park LLC | Charlotte, NC |
| Viewpointe Archive Services, L.L.C. | Charlotte, NC |
| Villages Urban Investments, LLC | Phoenix, AZ |
| Vine Street Lofts, L.P. | Kansas City, MO |
| Vine Street Place, L.L.C. | Kansas City, MO |
| Vine Street Views, L.L.C. | Kansas City, MO |
| WAM Acquisition GP, Inc. | Chicago, IL |
| Washington Mill Manager LLC | Boston, MA |
| Washington View (H) Corporation | Charlotte, NC |
| Washington Wheatley Neighorhood Partnership | Kansas City, MO |
| Waterville Funding LLC | Charlotte, NC |
| Waxhaw Park Investments LLC | Charlotte, NC |
| WCH Limited Partnership | Dallas, TX |
| Wellington Land Company, Inc. | Baltimore, MD |
| Wellington Park/Lewisville, Inc. | Dallas, TX |
| Wendover Lane II, Inc. | Charlotte, NC |
| Wendover Lane LLC | Charlotte, NC |
| West Trade, LLC | Charlotte, NC |
| West Trade/Sycamore Street, LLC | Charlotte, NC |
| Westhill Investments Limited | St. Helier, Jersey, Channel Islands |
| Westminster Properties, Inc. | Providence, RI |
| Westquay Investments Limited | London, U.K. |
| Westside Acquisition, LLC | Charlotte, NC |
| Weybosset Street Capital, Inc. | Charlotte, NC |
| Whistling Pines Funding LLC | Charlotte, NC |

| Name | Location |
|---|---|
| White Ridge Investment Advisors LLC | New York, NY |
| White Ridge Investments Limited | London, U.K. |
| White Rock Lane LLC | Charlotte, NC |
| White Springs LLC | Charlotte, NC |
| Wickliffe A Corp. | Baltimore, MD |
| Willow Park LLC | Charlotte, NC |
| Willowbrook Funding LLC | Charlotte, NC |
| Willows SA Holdings, LP | Dallas, TX |
| Windeluxe Company Limited | Chester, England |
| WM Acquisition LLC | Boston, MA |
| WM Developer LLC | Boston, MA |
| WM Master Tenant LLC | Boston, MA |
| Worthen Mortgage Company | Buffalo, NY |
| Worthington Avenue, LLC | Charlotte, NC |
| Yellow Rose Investments Company | Charlotte, NC |
| Yerington LLC | Charlotte, NC |
| Zentac Productions, Inc. | San Francisco, CA |
| Zeus Trading LLC | Charlotte, NC |

**Exhibit 23**

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in:

- the Registration Statements on Form S-3 (Nos. 333-133852; 333-130821; 333-112708; 333-123714; 333-70984; 333-15375; 333-18273; 333-43137; 333-97157; 333-97197; 333-83503; 333-07229; 333-51367; 033-57533; 033-30717; 033-49881; 333-13811; 333-47222; 333-65750; 333-64450; and 333-104151);
- the Registration Statements on Form S-4 (No. 333-149204)
- the Registration Statements on Form S-8 (Nos. 333-133566; 333-121513; 333-69849; 333-81810; 333-53664; 333-102043; 333-102852; 333-65209; 033-45279; 002-80406; 333-02875; 033-60695; and 333-58657);
- and the Post-Effective Amendments on Form S-8 to Registration Statements on Form S-4 (Nos. 333-127124; 333-110924; 033-43125; 033-55145; 033-63351; 033-62069; 033-62208; 333-16189; 333-60553; and 333-40515)

of Bank of America Corporation of our report dated February 20, 2008 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

Charlotte, North Carolina
February 28, 2008

**Exhibit 24(a)**

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each of Bank of America Corporation and the several undersigned officers and directors whose signatures appear below, hereby makes, constitutes and appoints Teresa M. Brenner, Alice A. Herald and Timothy J. Mayopoulos, and each of them acting individually, its, his and her true and lawful attorneys with power to act without any other and with full power of substitution, to prepare, execute, deliver and file in its, his and her name and on its, his and her behalf, and in each of the undersigned officer's and director's capacity or capacities as shown below, an Annual Report on Form 10-K for the year ended December 31, 2007, and all exhibits thereto and all documents in support thereof or supplemental thereto, and any and all amendments or supplements to the foregoing, hereby ratifying and confirming all acts and things which said attorneys or attorney might do or cause to be done by virtue hereof.

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, Chief Executive Officer and President**

Dated: January 23, 2008

| Signature | Title | Date |
|---|---|---|
| /S/ KENNETH D. LEWIS<br>**Kenneth D. Lewis** | Chairman, Chief Executive Officer, President and Director (Principal Executive Officer) | January 23, 2008 |
| /S/ JOE L. PRICE<br>**Joe L. Price** | Chief Financial Officer<br>(Principal Financial Officer) | January 23, 2008 |
| /S/ NEIL A. COTTY<br>**Neil A. Cotty** | Senior Vice President and Chief Accounting Officer (Principal Accounting Officer) | January 23, 2008 |
| /S/ WILLIAM BARNET, III<br>**William Barnet, III** | Director | January 23, 2008 |
| /S/ FRANK P. BRAMBLE, SR.<br>**Frank P. Bramble, Sr.** | Director | January 23, 2008 |
| /S/ JOHN T. COLLINS<br>**John T. Collins** | Director | January 23, 2008 |
| /S/ GARY L. COUNTRYMAN<br>**Gary L. Countryman** | Director | January 23, 2008 |
| /S/ TOMMY R. FRANKS<br>**Tommy R. Franks** | Director | January 23, 2008 |
| /S/ CHARLES K. GIFFORD<br>**Charles K. Gifford** | Director | January 23, 2008 |
| /S/ W. STEVEN JONES<br>**W. Steven Jones** | Director | January 23, 2008 |
| /S/ MONICA C. LOZANO<br>**Monica C. Lozano** | Director | January 23, 2008 |
| /S/ WALTER E. MASSEY<br>**Walter E. Massey** | Director | January 23, 2008 |
| /S/ THOMAS J. MAY<br>**Thomas J. May** | Director | January 23, 2008 |
| /S/ PATRICIA E. MITCHELL<br>**Patricia E. Mitchell** | Director | January 23, 2008 |
| /S/ THOMAS M. RYAN<br>**Thomas M. Ryan** | Director | January 23, 2008 |
| /S/ O. TEMPLE SLOAN, JR.<br>**O. Temple Sloan, Jr.** | Director | January 23, 2008 |
| /S/ MEREDITH R. SPANGLER<br>**Meredith R. Spangler** | Director | January 23, 2008 |
| /S/ ROBERT L. TILLMAN<br>**Robert L. Tillman** | Director | January 23, 2008 |
| /S/ JACKIE M. WARD<br>**Jackie M. Ward** | Director | January 23, 2008 |

**Exhibit 24(b)**

**BANK OF AMERICA CORPORATION**

**CERTIFICATE OF ASSISTANT SECRETARY**

I, Allison L. Gilliam, Assistant Secretary of Bank of America Corporation, a corporation duly organized and existing under the laws of the State of Delaware, do hereby certify that attached is a true and correct copy of resolutions duly adopted by a majority of the Board of Directors of the Corporation at a meeting of the Board of Directors held on January 23, 2008, at which meeting a quorum was present and acted 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 this 24th day of January, 2008.

(SEAL)

/s/ ALLISON L. GILLIAM

**Allison L. Gilliam**
**Assistant Secretary**

**BANK OF AMERICA CORPORATION**
**BOARD OF DIRECTORS**
**RESOLUTIONS**

**January 23, 2008**

**Annual Report on Form 10-K**

**NOW, THEREFORE, BE IT:**

**RESOLVED,** that Teresa M. Brenner, Alice A. Herald and Timothy J. Mayopoulos be, and each of them with full power to act without the other hereby is, authorized and empowered to prepare, execute, deliver and file the 2007 Form 10-K and any amendment or amendments thereto on behalf of and as attorneys for the Corporation and on behalf of and as attorneys for any of the following: the principal executive officer, the principal financial officer, the principal accounting officer, and any other officer of the Corporation;

**Exhibit 31(a)**

**Certification Pursuant to Section 302**
**of the Sarbanes-Oxley Act of 2002**
**for the Chief Executive Officer**

I, Kenneth D. Lewis, certify that:

1. I have reviewed this Annual Report on Form 10-K of Bank of America Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 28, 2008

/s/ Kenneth D. Lewis
Kenneth D. Lewis
Chief Executive Officer

**Exhibit 31(b)**

**Certification Pursuant to Section 302**
**of the Sarbanes-Oxley Act of 2002**
**for the Chief Financial Officer**

I, Joe L. Price, certify that:

1. I have reviewed this Annual Report on Form 10-K of Bank of America Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 28, 2008

/s/ Joe L. Price
Joe L. Price
Chief Financial Officer

**Exhibit 32(a)**

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

I, Kenneth D. Lewis, state and attest that:

(1) I am the Chief Executive Officer of Bank of America Corporation (the "Registrant").

(2) I hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that

- the Annual Report on Form 10-K of the Registrant for the year ended December 31, 2007 (the "periodic report") containing financial statements fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- the information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the Registrant as of, and for, the periods presented.

Name: /s/ Kenneth D. Lewis
Title: Chief Executive Officer
Date: February 28, 2008

**Exhibit 32(b)**

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

I, Joe L. Price, state and attest that:

(1) I am the Chief Financial Officer of Bank of America Corporation (the "Registrant").

(2) I hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that

- The Annual Report on Form 10-K of the Registrant for the year ended December 31, 2007 (the "periodic report") containing financial statements fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- the information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the Registrant as of, and for, the periods presented.

Name: /s/ Joe L. Price
Title: Chief Financial Officer
Date: February 28, 2008

February 28, 2008

**VIA EDGAR**

Securities and Exchange Commission
Washington, D.C. 20549

**Re: Bank of America Corporation: Annual Report on Form 10-K for the Fiscal Year Ended December 31, 2007 (Commission File Number 1-6523)**

Ladies and Gentlemen:

On behalf of Bank of America Corporation ("the Corporation"), I am transmitting via EDGAR the Corporation's Annual Report on Form 10-K for the fiscal year ended December 31, 2007 (the "Form 10-K"). The financial statements incorporated in the Form 10-K reflect the impact of the adoption of SFAS No. 157, "*Fair Value Measurements*"; SFAS No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities*"; FASB Staff Position No. FAS 13-2, "*Accounting for a Change or Projected Change in the Timing of Cash Flows Relating to Income Taxes Generated by a Leveraged Lease Transaction* "; and FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109* ", all effective as of January 1, 2007. The financial statements do not reflect a change from the preceding year in any other accounting principles or practices, or in the method of applying any such principles or practices.

Should you have any questions on this filing, please do not hesitate to call the undersigned at 704.386.4238.

Very truly yours,

/s/ Teresa M. Brenner

Teresa M. Brenner
Associate General Counsel