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

FORM 10-K

(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, 2008

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 London Stock Exchange Tokyo Stock Exchange
Depositary Shares, each Representing a 1/1,000th 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 8.20% Non-Cumulative Preferred Stock, Series H	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
Depositary Shares, each representing a 1/1,200th interest in a share of Bank of America Corporation Floating Rate Non-Cumulative Preferred Stock, Series 1	New York Stock Exchange
Depositary Shares, each representing a 1/1,200th interest in a share of Bank of America Corporation Floating Rate Non-Cumulative Preferred Stock, Series 2	New York Stock Exchange
Depositary Shares, each representing a 1/1,200th interest in a share of Bank of America Corporation 6.375% Non-Cumulative Preferred Stock, Series 3	New York Stock Exchange
Depositary Shares, each representing a 1/1,200th interest in a share of Bank of America Corporation Floating Rate Non-Cumulative Preferred Stock, Series 4	New York Stock Exchange
Depositary Shares, each representing a 1/1,200th interest in a share of Bank of America Corporation Floating Rate Non-Cumulative Preferred Stock, Series 5	New York Stock Exchange
Depositary Shares, each representing a 1/40th interest in a share of Bank of America Corporation 6.70% Non-cumulative Perpetual Preferred Stock, Series 6	New York Stock Exchange
Depositary Shares, each representing a 1/40th interest in a share of Bank of America Corporation 6.25% Non-cumulative Perpetual Preferred Stock, Series 7	New York Stock Exchange
Depositary Shares, each representing a 1/1,200th interest in a share of Bank of America Corporation 8.625% Non-Cumulative Preferred Stock, Series 8	New York Stock Exchange
6.75% Trust Preferred Securities of Countrywide Capital IV (and the guarantees related thereto)	New York Stock Exchange
7.00% Capital Securities of Countrywide Capital V (and the guarantees related thereto)	New York Stock Exchange
Capital Securities of BAC Capital Trust I (and the guarantee related thereto)	New York Stock Exchange
Capital Securities of BAC Capital Trust II (and the guarantee related thereto)	New York Stock Exchange
Capital Securities of BAC Capital Trust III (and the guarantee related thereto)	New York Stock Exchange
5 7/8% Capital Securities of BAC Capital Trust IV (and the guarantee related thereto)	New York Stock Exchange
6% Capital Securities of BAC Capital Trust V (and the guarantee related thereto)	New York Stock Exchange
6% Capital Securities of BAC Capital Trust VIII (and the guarantee related thereto)	New York Stock Exchange
6 ¼% Capital Securities of BAC Capital Trust X (and the guarantee related thereto)	New York Stock Exchange
6 7/8% Capital Securities of BAC Capital Trust XII (and the guarantee related thereto)	New York Stock Exchange
Floating Rate Preferred Hybrid Income Term Securities of BAC Capital Trust XIII (and the guarantee related thereto)	New York Stock Exchange
5.63% Fixed to Floating Rate Preferred Hybrid Income Term Securities of BAC Capital Trust XIV (and the guarantee related thereto)	New York Stock Exchange

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

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 Act). Yes No ✓

The aggregate market value of the registrant's common stock ("Common Stock") held by non-affiliates is approximately $151,887,915,138 (based on the June 30, 2008 closing price of Common Stock of $23.87 per share as reported on the New York Stock Exchange). As of February 25, 2009, there were 6,401,387,626 shares of Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Document of the Registrant	Form 10-K Reference Locations
Portions of the 2009 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 (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.* With the acquisition of Merrill Lynch & Co., Inc. (Merrill Lynch) on January 1, 2009, we have one of the largest wealth management businesses in the world with more than 18,000 financial advisors and more than $1.8 trillion in client assets, and we are a global leader in corporate and investment banking and trading across a broad range of asset classes serving corporations, governments, institutions and individuals around the world. In addition, through our ownership of Merrill Lynch, we have an approximately 50 percent economic ownership in BlackRock, Inc., a publicly traded investment management company. With the acquisition of Merrill Lynch, we currently operate in all 50 states, the District of Columbia and more than 40 foreign countries. As of December 31, 2008, the Bank of America retail banking footprint covers more than 82 percent of the U.S. population and 44 percent of the country's wealthy households, and in the United States, we serve approximately 59 million consumer and small business relationships with more than 6,100 banking centers, approximately 18,700 ATMs, nationwide call centers, and leading online and mobile banking platforms. We have banking centers in 13 of the 15 fastest growing states and have leadership positions in 10 of those states. We offer industry-leading support to more than 4 million small business owners.

Additional information relating to our businesses and our subsidiaries is included in the information set forth in pages 26 through 43 of Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) and *Note 22 – Business Segment Information* to the Notes to the Consolidated Financial Statements in Item 8, Financial Statements and Supplemental Data (Consolidated Financial Statements).

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 (SEC). In addition, we make available on *http://investor.bankofamerica.com* under the heading Corporate Governance: (i) our Code of Ethics (including our 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, among others, customer service, quality and range of products and services offered, price, reputation, interest rates on loans and deposits, lending limits and customer convenience. Our ability to continue to compete effectively also depends in large part on our ability to attract new employees and retain and motivate our existing employees, while managing compensation and other costs. In connection with the purchase by the U.S. Department of the Treasury (U.S. Treasury) of an additional series of our preferred stock in January 2009, we agreed to certain compensation limitations, and the recently enacted American Recovery and Reinvestment Act of 2009 (ARRA) includes certain additional restrictions, applicable to our senior executive officers and certain other senior managers, which may impact our ability to attract or retain employees.

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, wealth management, investment advisory and brokerage businesses, our nonbanking subsidiaries compete with U.S. and international commercial banking and investment banking firms, investment advisory firms, brokerage firms, investment companies, mutual funds, hedge funds, private equity funds, 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 and mortgage related 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.

We also compete 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. Investment banks and

other entities that became bank holding companies and financial holding companies as a result of the financial crisis also may become competitors for deposits. In addition, we compete for funding in the domestic and international short-term and long-term debt securities capital markets.

Over time, certain sectors of the financial services industry have become more concentrated, as institutions involved in a broad range of financial services have been acquired by or merged into other firms or have declared bankruptcy. This trend accelerated over the course of 2008 as the credit crisis caused numerous mergers and asset acquisitions among industry participants. This trend toward consolidation has significantly increased the capital base and geographic reach of some of our competitors. This trend has also hastened the globalization of the securities and other financial services market. These developments could result in our remaining competitors gaining greater capital and other resources or having stronger local presences and longer operating histories outside the U.S.

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, 2008, there were approximately 243,000 full-time equivalent employees with Bank of America and our subsidiaries. Of these employees, 158,700 were employed within *Global Consumer and Small Business Banking,* 28,300 were employed within *Global Corporate and Investment Banking* and 15,500 were employed within *Global Wealth and Investment Management.* The remainder were employed elsewhere within our company including various staff and support functions. With the acquisition of Merrill Lynch on January 1, 2009, we added approximately 59,000 employees, of which 29,000 were employed within the Merrill Lynch Global Wealth Management business and 10,000 were employed within the Merrill Lynch Global Trading and Investment Banking business. The remainder were employed elsewhere within Merrill Lynch 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 January 1, 2009, the Corporation completed the acquisition of Merrill Lynch through its merger with a subsidiary of the Corporation. On July 1, 2008, the Corporation completed the acquisition of Countrywide Financial Corporation through its merger with a subsidiary of the Corporation. Additional information on our acquisitions and mergers is included under *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements 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 (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 (Comptroller or OCC), the Federal Deposit Insurance Corporation (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 (FSA). Bank of America also controls a federal thrift that is subject to the examination and supervision of the Office of Thrift Supervision. 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 (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 and financial services industries are frequently introduced in Congress, in the

state legislatures and before the various bank regulatory agencies. For example, the U.S. Treasury, the FDIC and the FRB have developed programs and facilities, including, among others, the U.S Treasury's Troubled Asset Relief Program (TARP) Capital Purchase Program, designed to support the banking and financial services industries, as further described in "Regulatory Initiatives" in the MD&A. In addition, Congress and the U.S. government have continued to evaluate and develop legislation, programs and initiatives designed to stabilize the financial and housing markets and stimulate the economy, including the ARRA, which increases government spending and provides tax cuts designed to stimulate the economy, the U.S. Treasury's recently announced Financial Stability Plan and the U.S. government's recently announced foreclosure prevention program. The final form of any such programs or initiatives or related legislation, the likelihood and timing of any other future 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 U.S. 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, 2008 were 9.15 percent and 13.00 percent. At December 31, 2008, 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, 2008 was 6.44 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, 2008.

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.

As a result of our issuance of preferred stock to the U.S. Treasury pursuant to the TARP Capital Purchase Program, dividend payments on, and repurchases of our outstanding preferred and common stock are subject to certain restrictions. For more information on these restrictions, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

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 our 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 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* to the Consolidated Financial Statements); 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* to the Consolidated Financial Statements); Deposits (under the caption "Balance Sheet Analysis – Deposits" and "Liquidity Risk and Capital Management – Liquidity Risk" in the MD&A and *Note 11 – Deposits* to the Consolidated Financial Statements); 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* to the Consolidated Financial Statements); Trading Account Assets and Liabilities (under the caption "Balance Sheet Analysis – Federal Funds Sold and Securities Purchased Under Agreements to Resell and Trading Account Assets", "Balance Sheet Analysis – Federal Funds Purchased and Securities Sold Under Agreements to Repurchase and Trading Account Liabilities" and "Market Risk Management – Trading Risk Management" in the MD&A and *Note 3 – Trading Account Assets and Liabilities* to the Consolidated Financial Statements); 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); Compliance and Operational Risk Management (under the caption "Compliance and Operational Risk Management" in the MD&A); and Performance by Geographic Area (under *Note 24 – Performance by Geographical Area* to the Consolidated Financial Statements).

Item 1A. Risk Factors

In the course of conducting our business operations, Bank of America and our subsidiaries are exposed to a variety of risks that are inherent to the financial services industry. The following discusses some of the key inherent risk factors that could affect our business and operations, as well as other risk factors which are particularly relevant to us in the current period of significant economic and market disruption. 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 and our subsidiaries.

Business and economic conditions. Our businesses and earnings are affected by general business and economic 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 U.S. 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, home prices, employment levels, bankruptcies, household income, consumer spending, 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 U.S. economy and the local economies in which we operate.

Economic conditions in the United States and abroad deteriorated significantly during the second half of 2008, and the United States, Europe and Japan currently are in a recession. Dramatic declines in the housing market, with falling home prices and increasing foreclosures, unemployment and underemployment, have negatively impacted the credit performance of mortgage loans and resulted in significant write-downs of asset values by financial institutions, including government-sponsored entities as well as major commercial and investment banks. These write-downs, initially of mortgage-backed securities but spreading to credit default swaps and other derivative and cash securities, in turn, have caused many financial institutions to seek additional capital, to merge with larger and stronger institutions and, in some cases, to fail. Many lenders and institutional investors have reduced or ceased providing funding to borrowers, including to other financial institutions, reflecting concern about the stability of the financial markets generally and the strength of counterparties. This market turmoil and tightening of credit have led to an increased level of commercial and consumer delinquencies, a significant reduction in consumer confidence, increased market volatility and widespread reduction of business activity generally. The resulting economic pressure on consumers and lack of confidence in the financial markets has adversely affected our business, financial condition, results of operations, liquidity and access to capital and credit. We do not expect that the difficult conditions in the United States and international financial markets are likely to improve in the near future. A worsening of these conditions would likely exacerbate the adverse effects of these difficult market conditions on us and others in the financial institutions industry.

Instability of the U.S. financial system. Beginning in the fourth quarter of 2008, the U.S. government has responded to the ongoing financial crisis and economic slowdown by enacting new legislation and expanding or establishing a number of programs and initiatives. The U.S. Treasury, the FDIC and the Federal Reserve Board each have developed programs and facilities, including, among others, the TARP Capital Purchase Program and other efforts, designed to increase inter-bank lending, improve funding for consumer receivables and restore consumer and counterparty confidence in the banking sector, as more particularly described in "Regulatory Initiatives" in the MD&A. In addition, the recently enacted ARRA is intended to expand and establish government spending programs and provide tax cuts to stimulate the economy. Congress and the U.S. government continue to evaluate and develop various programs and initiatives designed to stabilize the financial and housing markets and stimulate the economy, including the U.S. Treasury's recently announced Financial Stability Plan and the U.S. government's recently announced foreclosure prevention program. The final form of any such programs or initiatives or related legislation cannot be known at this time. There can

be no assurance as to the impact that the ARRA, the Financial Stability Plan or any other such initiatives or governmental programs will have on the financial markets, including the extreme levels of volatility and limited credit availability currently being experienced. The failure of these efforts to stabilize the financial markets and a continuation or worsening of current or financial market conditions could materially and adversely affect our business, financial condition, results of operations, access to credit, or the trading price of our common stock and other equity and debt securities.

International risk. We do business throughout the world, including in developing regions of the world commonly known as emerging markets, and our acquisition of Merrill Lynch on January 1, 2009, has significantly increased our exposure to a number of risks, including economic, market, reputational, litigation and regulatory risks, in non-U.S. markets. Our businesses and revenues derived from non-U.S. operations are subject to risk of loss from currency fluctuations, social or political 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 or trade 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.

Soundness of other financial institutions. Our ability to engage in routine trading and funding transactions could be adversely affected by the actions and commercial soundness of other financial institutions. Financial services institutions are interrelated as a result of trading, funding, clearing, counterparty or other relationships. We have exposure to many different industries and counterparties, and we routinely execute transactions with counterparties in the financial industry, including brokers and dealers, commercial banks, investment banks, mutual and hedge funds, and other institutional clients. As a result, defaults by, or even rumors or questions about, one or more financial services institutions, or the financial services industry generally, have led to market-wide liquidity problems and could lead to losses or defaults by us or by other institutions. Many of these transactions expose us to credit risk in the event of default of our counterparty or client. In addition, our credit risk may be exacerbated when the collateral held by us cannot be realized upon or is liquidated at prices not sufficient to recover the full amount of the loan or derivative exposure due us. There is no assurance that any such losses would not materially and adversely affect our results of operations.

We are party to a large number of derivative transactions, including credit derivatives. Many of these derivative instruments are individually negotiated and non-standardized, which can make exiting, transferring or settling the position difficult. Many credit derivatives require that we deliver to the counterparty the underlying security, loan or other obligation in order to receive payment. In a number of cases, we do not hold, and may not be able to obtain, the underlying security, loan or other obligation. This could cause us to forfeit the payments due to us under these contracts or result in settlement delays with the attendant credit and operational risk as well as increased costs to us.

Derivative contracts and other transactions entered into with third parties are not always confirmed by the counterparties on a timely basis. While the transaction remains unconfirmed, we are subject to heightened credit and operational risk and in the event of default may find it more difficult to enforce the contract. In addition, as new and more complex derivative products have been created, covering a wider array of underlying credit and other instruments, disputes about the terms of the underlying contracts may arise, which could impair our ability to effectively manage our risk exposures from these products and subject us to increased costs.

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. Some of these policies require use of estimates and assumptions that may affect the value of our assets or liabilities and financial results and are critical because they require management to make difficult, subjective and complex judgments about matters that are inherently uncertain. From time to time the Financial Accounting Standards Board (FASB) and the SEC change the financial accounting and reporting standards that govern the preparation of our financial statements. In addition, accounting standard setters and those who interpret the accounting standards (such as the FASB, the SEC, banking regulators and our outside auditors) may change or even reverse their previous interpretations or positions on how these standards should be applied. 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.

For a further discussion of some of our critical accounting policies and standards and recent accounting changes, see "Recent Accounting Developments" and "Complex Accounting Estimates" in the MD&A and *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

Competition. We operate in a highly competitive environment. Over time, there has been substantial consolidation among companies in the financial services industry, and this trend accelerated over the course of 2008 as the credit crisis has led to numerous mergers and asset acquisitions among industry participants and in certain cases reorganization, restructuring, or even bankruptcy. This trend also has hastened the globalization of the securities and financial services markets. We will continue to experience intensified competition as continued consolidation in the financial services industry in connection with current market conditions may produce larger and better-capitalized companies that are capable of offering a wider array of financial products and services at more competitive prices. To the extent we expand into new business areas and new geographic regions, we may face competitors with more experience and more established relationships with clients, regulators and industry participants in the relevant market, which could adversely affect our ability to compete. 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. Increased competition may affect our results by creating pressure to

lower prices on our products and services and reducing market share.

Our continued ability to compete effectively in our businesses, including management of our existing businesses as well as expansion into new businesses and geographic areas, depends on our ability to retain and motivate our existing employees and attract new employees. We face significant competition for qualified employees both within the financial services industry, including foreign-based institutions and institutions not subject to compensation restrictions imposed under the TARP Capital Purchase Program, the ARRA or any other U.S. government initiatives, and from businesses outside the financial services industry. This is particularly the case in emerging markets, where we are often competing for qualified employees with entities that may have a significantly greater presence or more extensive experience in the region. Over the past year, we have significantly reduced compensation levels. In January 2009, in connection with the U.S. Treasury's purchase of an additional series of our preferred stock, we agreed to certain compensation limitations, and the ARRA also includes certain additional compensation restrictions, applicable to our senior executive officers and certain other senior managers. A substantial portion of our annual bonus compensation paid to our senior employees has in recent years been paid in the form of equity-based awards. The value of these awards has been impacted by the significant decline in the market price of our common stock. We also have reduced the number of employees across nearly all of our businesses during the latter portion of 2008 and into 2009. In addition, the recent consolidation in the financial services industry has intensified the challenges of cultural integration between differing types of financial services institutions. The combination of these events could have a significant adverse impact on our ability to retain and hire the most qualified employees.

Credit and concentration 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. Negative economic conditions are likely to adversely affect our home equity line of credit, credit card and other loan portfolios, including causing increases in delinquencies and default rates, which we expect could impact our charge-offs and provision for credit losses.

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. Our ability to assess the creditworthiness of our customers may be impaired if the models and approaches we use become less predictive of future behaviors, valuations, assumptions or estimates.

We have experienced concentration of risk with respect to our consumer real estate and credit card portfolios, each of which represents a large percentage of our overall credit portfolio. The current financial crisis and economic slowdown has adversely affected these portfolios and exposed this concentration of risk. Continued deterioration in real estate values and household incomes could result in materially higher credit losses.

In the ordinary course of our business, we also may be subject to a concentration of credit risk to a particular industry, counterparty, borrower or issuer. A deterioration in the financial condition or prospects of a particular industry or a failure or downgrade of, or default by, any particular entity or group of entities could negatively impact our businesses, perhaps materially, and the systems by which we set limits and monitor the level of our credit exposure to individual entities, industries and countries may not function as we have anticipated. While our activities expose us to many different industries and counterparties, we routinely execute a high volume of transactions with counterparties in the financial services industry, including brokers and dealers, commercial banks, investment funds and insurers. This has resulted in significant credit concentration with respect to this industry.

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

Liquidity risk. Liquidity is essential to our businesses. Under normal business conditions, primary sources of funding for the parent company include dividends received from banking and nonbanking subsidiaries and proceeds from the issuance of securities in the capital markets. The primary sources of funding for our banking subsidiaries include customer deposits and wholesale market-based funding. Our liquidity could be impaired by an inability to access the capital markets or by unforeseen outflows of cash, including deposits. This situation may arise due to circumstances that we may be unable to control, such as a general market disruption, negative views about the financial services industry generally, or an operational problem that affects third parties or us. Our ability to raise funding in the debt or equity capital markets has been and could continue to be adversely affected by conditions in the United States and international markets and economy. Global capital and credit markets have been experiencing volatility and disruption since the second half of 2007, and in the second half of 2008, volatility reached unprecedented levels. In some cases, the markets have produced downward pressure on stock prices and credit availability for issuers without regard to those issuers' underlying financial strength. As a result of disruptions in the capital and credit markets, we have utilized several of the U.S. government liquidity programs, which are temporary in nature, to enhance our liquidity position. Our ability to borrow from other financial institutions or to engage in securitization funding transactions on favorable terms or at all could be adversely affected by further disruptions in the capital markets or other events, including actions by rating agencies and deteriorating investor expectations.

Our credit ratings and the credit ratings of our securitization trusts are important to our liquidity. The ratings of our long-term debt have been downgraded during 2008 by all of the major rating agencies. These rating agencies regularly evaluate us and our securities, and their ratings of our long-term and short-term debt and other securities, including asset securitizations, are based on a number of factors, including our financial strength as well as factors not entirely within our control, including conditions affecting the financial services industry generally. In light of the difficulties in the financial services industry and the financial markets, there can be no assurance that we will maintain our current ratings. Our failure to maintain those ratings could adversely affect our liquidity and competitive position, increase our borrowing costs or limit our access to the capital markets or our ability to engage in securitization funding transactions at all. While the impact on the incremental cost of funds and potential lost funding of an incremental downgrade of our long-term debt by one level might be negligible, a downgrade of the Corporation's short-term credit rating could negatively impact our commercial paper program by materially affecting our incremental cost of funds and potential lost funding. A reduction in our credit ratings also could have a significant impact on certain trading revenues, particularly in those businesses where longer term counterparty performance is critical. In connection with

certain trading agreements, we may be required to provide additional collateral in the event of a credit ratings downgrade.

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

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, credit spreads 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.

The models that we use to assess and control our risk exposures reflect assumptions about the degrees of correlation or lack thereof among prices of various asset classes or other market indicators. In times of market stress or other unforeseen circumstances, such as the market conditions experienced during 2008, previously uncorrelated indicators may become correlated, or previously correlated indicators may move in different directions. These types of market movements have at times limited the effectiveness of our hedging strategies and have caused us to incur significant losses, and they may do so in the future. These changes in correlation can be exacerbated where other market participants are using risk or trading models with assumptions or algorithms that are similar to ours. In these and other cases, it may be difficult to reduce our risk positions due to the activity of other market participants or widespread market dislocations, including circumstances where asset values are declining significantly or no market exists for certain assets. To the extent that we make investments directly in securities that do not have an established liquid trading market or are otherwise subject to restrictions on sale or hedging, we may not be able to reduce our positions and therefore reduce our risk associated with such positions.

Merrill Lynch and its businesses are subject to many of the same difficulties resulting from the market turmoil and tightening of credit as we are. As a result of the acquisition, we have increased our trading-related activities and exposure as well as our exposure to the mortgage market through securities, derivatives, loans and loan commitments, including CDOs and subprime mortgages or related securities, with respect to which Merrill Lynch has entered into credit derivatives with various counterparties, including financial guarantors. Like us, Merrill Lynch also faces counterparty risk. Valuation of these exposures will continue to be impacted by external market factors, including default rates, rating agency actions, and the prices at which observable market transactions occur and the continued availability of these transactions. Merrill Lynch’s ability to mitigate its risk by selling or hedging its exposures is also limited by the market environment, and its future results may continue to be materially impacted by the valuation adjustments applied to these positions.

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

Declining asset values. We have a large portfolio of assets held for sale at any time in connection with our “originate to distribute” strategy. We also have large proprietary trading and investment positions in a number of our businesses. These positions are accounted for at fair value, and the declines in the values of assets had a direct and large negative impact on our earnings in 2008, as well as the earnings of Merrill Lynch. We may incur additional losses as a result of increased market volatility or decreased market liquidity, which may adversely impact the valuation of our trading and investment positions. If an asset is marked to market, declines in asset values directly and immediately impact our earnings, unless we have effectively “hedged” our exposures to such declines. These exposures may continue to be impacted by declining values of the underlying assets. In addition, the prices at which observable market transactions occur and the continued availability of these transactions, and the financial strength of counterparties, such as financial guarantors, with whom we have economically hedged some of our exposure to these assets. Sudden declines and significant volatility in the prices of assets may substantially curtail or eliminate the trading activity for these assets, which may make it very difficult to sell, hedge or value such assets. The inability to sell or effectively hedge assets reduces our ability to limit losses in such positions and the difficulty in valuing assets may increase our risk-weighted assets which requires us to maintain additional capital and increases our funding costs.

Asset values also directly impact revenues from our asset management business. We receive asset-based management fees based on the value of our clients’ portfolios or investment in funds managed by us and, in some cases, we also receive incentive fees based on increases in the value of such investments. Declines in asset values have reduced the value of our clients’ portfolios or fund assets, which in turn has reduced the fees we earn for managing such assets.

Merger risks. There are significant risks and uncertainties associated with mergers. We have made several significant acquisitions in the last several years, and there is a risk that integration difficulties or a significant decline in asset valuations or cash flows may cause us not to realize expected benefits from the transactions and may affect our results, including adversely impacting the carrying value of the acquisition premium or goodwill. The success of the Merrill Lynch merger will depend, in part, on our ability to realize the anticipated benefits and cost savings from combining the businesses of Bank of America and Merrill Lynch. To realize these anticipated benefits and cost savings, we must successfully combine our businesses and the businesses of Merrill Lynch. If we are not able to achieve these objectives, the anticipated benefits and cost savings of the merger may not be realized fully or at all or may take longer to realize than expected. For example, we may fail to realize the growth opportunities and cost savings anticipated to be derived from the merger. Our businesses currently are experiencing unprecedented challenges as a result of the current economic environment and ongoing financial crisis. Upon consummation of the merger, we acquired additional exposure to the mortgage market through the securities, derivatives, loans and loan commitments, including CDOs and subprime mortgages or related securities held by Merrill Lynch, which could expose us to additional losses as a result of further declines in the value of these assets.

In addition, it is possible that the integration process, including changes or perceived changes in our compensation practices, could result in the loss of key employees, the disruption of our and Merrill Lynch’s ongoing businesses or inconsistencies in standards, controls, procedures and policies that adversely affect our ability to maintain relationships with clients, customers, depositors and employees or to

achieve the anticipated benefits of the merger. Integration efforts also may divert management attention and resources. These integration matters could have an adverse effect on us for an undetermined period after consummation of the merger. 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.

Regulatory considerations and restrictions on dividends. 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.

As a result of the ongoing financial crisis and challenging market conditions, we expect to face increased regulation and regulatory and political scrutiny of the financial services industry, including as a result of our participation in the TARP Capital Purchase Program and the ARRA and the U.S. Treasury's Financial Stability Plan. As part of the Financial Stability Plan's new Capital Assistance Program, we will be subject to a forward-looking stress test to determine if we have a sufficient capital buffer to withstand the impact of certain economic scenarios, including under economic conditions more severe than we currently anticipate. The increased regulation will allow regulators to determine whether we might require additional capital or a change in the composition of our capital.

Compliance with such regulation and scrutiny may significantly increase our costs, impede the efficiency of our internal business processes, require us to increase our regulatory capital and limit our ability to pursue business opportunities in an efficient manner. We also will be required to pay significantly higher FDIC premiums because market developments have significantly depleted the insurance fund of the FDIC and reduced the ratio of reserves to insured deposits. The increased costs associated with anticipated regulatory and political scrutiny could adversely impact our results of operations.

In October 2008 and January 2009, we issued preferred stock and warrants to purchase our common stock to the U.S. Treasury under the TARP Capital Purchase Program and targeted investment program. Pursuant to the terms of these issuances, for so long as any of such preferred stock remains outstanding, we are prohibited from increasing the current dividend rate on our common stock (currently $0.01 per share) and from repurchasing our trust preferred securities or equity securities, including our common stock (except for repurchases of common stock in connection with benefit plans consistent with past practice), without the U.S. Treasury's consent until January 2012 or until the U.S. Treasury has transferred all of the preferred stock to third parties. Furthermore, as long as the preferred stock issued to the U.S. Treasury is outstanding, dividend payments and repurchases or redemptions relating to certain equity securities, including our common stock, are prohibited until all accrued and unpaid dividends are paid on such preferred stock, subject to certain limited exceptions.

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 and are increasing. Substantial legal liability or significant regulatory action against Bank of America and our subsidiaries could have material adverse financial effects or cause significant reputational harm to us, which in turn could seriously harm our business prospects. In addition, we face increased litigation risk as a result of the Merrill Lynch acquisition and recent decreases in the market price of our securities. Any such litigation could lead to more volatility of our stock price.

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

Risks related to our commodities business. We are exposed to environmental, reputational, regulatory, market and credit risk as a result of our commodities related activities. Through our commodities business, we enter into exchange-traded contracts, financially settled over-the-counter derivatives, contracts for physical delivery and contracts providing for the transportation, transmission and/or storage rights on or in vessels, barges, pipelines, transmission lines or storage facilities. Contracts relating to physical ownership, delivery and/or related activities can expose us to numerous risks, including performance, environmental and reputational risks. For example, we may incur civil or criminal liability under certain environmental laws and our business and reputation may be adversely affected. In addition, regulatory authorities have recently intensified scrutiny of certain energy markets, which has resulted in increased regulatory and legal enforcement, litigation and remedial proceedings involving companies engaged in the activities in which we are engaged.

Governmental fiscal and monetary policy. Our businesses and earnings are affected by domestic and international fiscal and 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 fiscal and monetary policy are beyond our control and hard to predict.

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 "Compliance and 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.

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 subsidiaries 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. We also are facing enhanced public and regulatory scrutiny resulting from, among other things, the U.S. Treasury's purchase of our preferred stock, which ranges from questions regarding our volume of lending, our acquisition of Merrill Lynch and our compensation of senior executives. Failure to appropriately address any of these issues could also give rise to additional regulatory restrictions, reputational harm and legal risks, which could among other things 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 financial 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.

Geopolitical risks. Geopolitical conditions can 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.

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 SEC's staff 180 days or more before the end of Bank of America's 2008 fiscal year relating to our periodic or current reports filed under the Securities Exchange Act of 1934.

Item 2. Properties

As of December 31, 2008, Bank of America's principal offices and primarily all of our business segments were located in or used the 60-story Bank of America Corporate Center in Charlotte, North Carolina, which is owned by one of our subsidiaries. We occupy approximately 587,000 square feet and lease approximately 598,000 square feet to third parties at market rates, which represents substantially all of the space in this facility.

We also occupy approximately 680,000 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, at market rates, approximately 469,000 square feet to third parties, which, along with the space we occupy, represents substantially all of the space in this facility.

We also occupy approximately 1,678,000 square feet of space at Bank of America Tower at One Bryant Park in New York, New York, which is the headquarters for one of our primary business segments, *Global Corporate and Investment Banking*. The 51-story building is 49% owned by one of our subsidiaries, which also leases or has available for lease at market rates approximately 480,000 square feet to third parties, which, along with the space we occupy, represents substantially all of the space in this facility.

With the acquisition of Merrill Lynch, on January 1, 2009, we added the following facilities, which support the Merrill Lynch Global Wealth Management and Global Markets and Investment Banking businesses:

Significant Facilities in the U.S. We lease and occupy 100% of the approximately 1,800,000 square feet of space at 4 World Financial Center in New York, New York. One of our subsidiaries is a partner in the partnership that holds the ground leasee's interest in 4 World Financial Center. We also lease approximately 2,500,000 square feet of space at 2 World Financial Center, in New York, New York, occupy 27% of the space in this facility and sublease the remainder to third parties.

We own a 760,000 square foot building at 222 Broadway in New York, New York, and occupy substantially all of the space in this facility. We also lease and occupy, pursuant to an operating lease with an unaffiliated lessor, approximately 1,737,000 square feet of space and ancillary buildings in Hopewell, New Jersey. One of our subsidiaries is the lessee under the operating lease and owns the underlying land upon which the Hopewell facilities are located. We also own a 54-acre campus in Jacksonville, Florida, with four buildings.

Significant Facilities Outside the U.S. In London, we lease and occupy 100% of the approximately 576,000 square foot London headquarters facility known as Merrill Lynch Financial Centre. In addition, we lease approximately 305,000 square feet of space in other London locations, of which we occupy approximately 134,000 square feet of space and sublease the remainder to third parties. In Tokyo, we lease and occupy approximately 292,000 square feet for the Merrill Lynch Japan headquarters.

With the acquisition of Merrill Lynch, as of January 1, 2009, we owned or leased approximately 28,937 locations in 50 states and the District of Columbia. We also owned or leased locations in more than 62 cities in over 40 foreign countries.

Item 3. Legal Proceedings

See "Litigation and Regulatory Matters" in *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements beginning on page 149 for Bank of America's litigation disclosure which is incorporated herein by reference.

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

1. A Special Meeting of Stockholders was held on December 5, 2008.
2. The following are the combined common stock and Series B preferred stock voting results on each matter submitted to the stockholders:
   a. To approve the issuance of shares of Bank of America common stock as contemplated by the Agreement and Plan of Merger, dated as of September 15, 2008, by and between Merrill Lynch & Co., Inc. and Bank of America Corporation, as such agreement may be amended from time to time.

For	Against	Abstentions	Broker Non-Votes
2,615,291,535	575,611,403	18,329,942	960,240,625

   b. To approve an amendment to the 2003 Key Associate Stock Plan, as amended and restated.

For	Against	Abstentions	Broker Non-Votes
2,571,420,883	599,866,888	37,944,709	960,241,025

   c. To adopt an amendment to the Bank of America amended and restated certificate of incorporation to increase the number of authorized shares of Bank of America common stock from 7.5 billion to 10 billion.[1]

For	Against	Abstentions	Broker Non-Votes
3,529,366,791	608,728,959	31,377,755	0

[1]Common stock only results were 3,529,362,972 For; 608,728,697 Against; 31,377,755 Abstentions; and no Broker non-votes.

   d. To approve the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies, in the event that there are not sufficient votes at the time of the special meeting to approve the foregoing proposals.

For	Against	Abstentions	Broker Non-Votes
2,439,270,907	747,432,033	22,498,440	960,272,125

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. Executive officers are appointed annually by the Board of Directors at the meeting of directors immediately following the annual meeting of stockholders.

Amy Woods Brinkley, age 53, 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 of the Corporation in 1979. She also serves as Chief Risk Officer and a director of Bank of America, N.A., FIA Card Services, N.A., Countrywide Bank, FSB, and Merrill Lynch & Co., Inc.

Barbara J. Desoer, age 56, President, Bank of America Mortgage, Home Equity and Insurance Services. Ms. Desoer was named to her present position in July 2008. From August 2004 to July 2008, she served as Global Technology and Operations Executive. 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 of the Corporation in 1998. She also serves as President, Bank of America Mortgage, Home Equity and Insurance Services and as a director of Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB.

Kenneth D. Lewis, age 61, 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 of the Corporation in 1971. Mr. Lewis also serves as a director of the Corporation, as Chairman, Chief Executive Officer, President and a director of Bank of America, N.A., FIA Card Services, N.A., Countrywide Bank, FSB and as Chairman and a director of Merrill Lynch & Co., Inc.

Liam E. McGee, age 54, President, Bank of America Consumer and Small Business Bank. Mr. McGee was named to his present position in May 2008. From August 2004 to May 2008, he served as President, Global Consumer and Small Business Banking; 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 of the Corporation in 1998. He also serves as President, Bank of America Consumer and Small Business Bank and as a director of Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB.

Brian T. Moynihan, age 49, President, Global Banking and Wealth Management. Mr. Moynihan was named to his present position in January 2009. From December 2008 to January 2009, he served as General Counsel. From October 2007 to December 2008, he served as President, Global Corporate and Investment Banking. 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 of the Corporation in 2004. He also serves as President, Global Banking and Wealth Management and a director of Bank of America, N.A., FIA Card Services, N.A. and Countrywide Bank, FSB and as Chief Executive Officer of Merrill Lynch & Co., Inc.

Joe L. Price, age 48, Chief Financial Officer. Mr. Price was named to his present position in January 2007. From June 2003 to December 2006, he served as Global Corporate and Investment Banking 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 of the Corporation in 1993. He also serves as Chief Financial Officer and a director of Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB and as a director of Merrill Lynch & Co., Inc.

Richard K. Struthers, 53, President, Bank of America Global Card Services. Mr. Struthers was named to his present position in January 2009. From May 2008 to January 2009, he served as Consumer Credit Risk Executive; from June 2007 to May 2008, he served as North America Card Services Executive; from December 2006 to June 2007, he served as Credit and Operations Executive, and from January 2006 to December 2006, he served as Card Operations Executive. Prior to Bank of America acquiring MBNA in January 2006, he was Executive Vice Chairman of MBNA Bank, N.A. from January 2002 to January 2006. He first became an officer of the Corporation in 2006. He currently serves as a director of Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB.

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
2007	first	$ 54.05	$ 49.46
	second	51.82	48.80
	third	51.87	47.00
	fourth	52.71	41.10
2008	first	45.03	35.31
	second	40.86	23.87
	third	37.48	18.52
	fourth	38.13	11.25

As of February 20, 2009, there were 263,495 registered shareholders of Common Stock. During 2007 and 2008, 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
2007	first	$0.56
	second	0.56
	third	0.64
	fourth	0.64
2008	first	0.64
	second	0.64
	third	0.64
	fourth	0.32

For additional information regarding the Corporation's ability to pay dividends, see the discussion under the heading "Government Supervision and Regulation – Distributions" on page 3 of this report and *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements beginning on page 156, *Note 15 – Regulatory Requirements and Restrictions* to the Consolidated Financial Statements beginning on page 159 and *Note 25 – Subsequent Events* to the Consolidated Financial Statements on page 184, which are incorporated herein by reference.

For information on the Corporation's equity compensation plans, see Item 12 on page 186 of this report and *Note 17 – Stock-Based Compensation Plans* to the Consolidated Financial Statements beginning on page 165, both of which are incorporated herein by reference.

The table below presents share repurchase activity for each quarterly period in 2008, each month within the fourth quarter of 2008 and the year ended December 31, 2008, including total common shares repurchased under announced programs, weighted average per share price and the remaining buy back authority under announced share repurchase programs. The Corporation did not repurchase any other shares of equity securities during 2008. Under the TARP Capital Purchase Program, repurchases of the Corporation's outstanding preferred and common stock are subject to certain restrictions. For more information on these restrictions, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* beginning on page 156 and *Note 25 – Subsequent Events* to the Consolidated Financial Statements on page 184 which are 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, 2008	-	-	$ 13,480	189,358
Three months ended June 30, 2008	-	-	13,480	189,358
Three months ended September 30, 2008	-	-	3,750	75,000
October 1 – 31, 2008	-	-	3,750	75,000
November 1 – 30, 2008	-	-	3,750	75,000
December 1 – 31, 2008	-	-	3,750	75,000
Three months ended December 31, 2008	-	-		
Year ended December 31, 2008	-	-		

(1) There were no share repurchases during 2008.

(2) On July 23, 2008, the Board of Directors (the Board) authorized a stock repurchase program of up to 75 million shares of the Corporation's common stock at an aggregate cost not to exceed $3.75 billion and is limited to a period of 12 to 18 months. The repurchase program is subject to repurchase restrictions imposed under the TARP Capital Purchase Program. On January 24, 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. This stock repurchase program expired on July 24, 2008.

The Corporation did not have any unregistered sales of its equity securities in fiscal year 2008, except as previously disclosed on Form 8-K.

Item 6. Selected Financial Data

See Table 5 in the MD&A on page 22 and Table XII of the Statistical Tables on page 102 which are incorporated herein by reference.

Item 7. Bank of America Corporation and Subsidiaries
Management's Discussion and Analysis of Financial Condition and Results of Operations

Table of Contents

Throughout the MD&A, we use certain acronyms and abbreviations which are defined in the Glossary beginning on page 105.

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

This report may contain, and from time to time our management may make, certain statements that constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. 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. These statements are not historical facts, but instead represent Bank of America Corporation and its subsidiaries' (the Corporation) current expectations, plans or forecasts of the Corporation's future results, integration plans and cost savings, future loan modifications, effect of various legal proceedings discussed in "Litigation and Regulatory Matters" in Note 13 – Commitments and Contingencies to the Consolidated Financial Statements, growth opportunities, business outlook, loan and deposit growth, mortgage production, credit losses, liquidity position and other similar matters. These statements are not guarantees of future results or performance and involve certain risks, uncertainties and assumptions that are difficult to predict and often are beyond the Corporation's control. Actual outcomes and results may differ materially from those expressed in, or implied by, the Corporation's forward-looking statements. You should not place undue reliance on any forward-looking statement and should consider all uncertainties and risks discussed in this report, including under Item 1A. "Risk Factors," as well as those discussed in any of the Corporation's other subsequent SEC filings. Forward-looking statements speak only as of the date they are made, and the Corporation undertakes no obligation to update any forward-looking statement to reflect the impact of circumstances or events that arise after the date the forward-looking statement was made.

In addition to the other risk factors discussed under Item 1A. "Risk Factors" in this report, possible events or factors that could cause results or performance to differ materially from those expressed in our forward-looking statements include the following: negative economic conditions that adversely affect the general economy, housing prices, the job market, consumer confidence and spending habits which may affect, among other things, the credit quality of our loan portfolios (the degree of the impact of which is dependent upon the duration and severity of these conditions); the level and volatility of the capital markets, interest rates, currency values and other market indices which affect among other things the value of our assets and liabilities and, in turn, our trading and investment portfolios; changes in consumer, investor and counterparty confidence in, and the related impact on, financial markets and institutions; the Corporation's credit ratings and the credit ratings of our securitizations, which are important to the Corporation's liquidity, borrowing costs and trading revenues; estimates of fair value of certain of the Corporation's assets and liabilities, which could change in value significantly from period to period; legislative and regulatory actions in the United States and internationally which may increase the Corporation's costs and adversely affect the Corporation's businesses and economic conditions as a whole; the impact of litigation and regulatory investigations, including costs, expenses, settlements and judgments; various monetary and fiscal policies and regulations of the U.S. and non-U.S. governments; changes in accounting standards, rules and interpretations and the impact on the Corporation's financial statements; increased globalization of the financial services industry and competition with other U.S. and international financial institutions; the Corporation's ability to attract new employees and retain and motivate existing employees; mergers and
acquisitions and their integration into the Corporation, including our ability to realize the benefits and costs savings from and limit any unexpected liabilities acquired as a result of the Merrill Lynch acquisition; the Corporation's reputation; and decisions to downsize, sell or close units or otherwise change the business mix of the Corporation.

The Corporation, headquartered in Charlotte, North Carolina operates in 32 states, the District of Columbia and more than 30 foreign countries as of December 31, 2008. 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, 2008, the Corporation had $1.8 trillion in assets and approximately 243,000 full-time equivalent employees. Notes to the 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.

2008 Economic Environment

2008 was a year in which the U.S. economy moved into an economic recession that deepened late in the fourth quarter, triggered in part by the intensifying financial crisis. Housing activity and prices declined throughout the year. Consumer spending softened in the first half of 2008, and then declined in the second half, weighed down by the spike in energy prices that reduced real purchasing power, weaker trends in employment, including underemployment, and personal income and the loss of household wealth resulting from declines in home prices and stock market valuations. Sales of automobiles, household durables and consumer discretionary items were hit the hardest.

In response to the weaker demand, businesses cut production and employment, and postponed capital spending plans. As a result of the financial crisis and the economic slowdown, federal government agencies including the U.S. Treasury Department (U.S. Treasury) and the Federal Reserve initiated several actions which changed the landscape of the U.S. financial services industry. For more information related to these actions, see the Regulatory Initiatives discussion to follow.

The alternative lending facilities provided by the U.S. Treasury, the FDIC and the Federal Reserve along with aggressive interest rate cuts, failed to stem the increasing disruptions in the financial markets. In particular, the tax rebates provided by the Economic Stimulus Act of 2008 gave only a temporary boost to consumer spending. U.S. export growth, which had been the strongest sector of the economy in recent years, weakened with softer global economic conditions. The financial crisis intensified in September 2008 following the collapse of several leading investment banks. Declines in employment intensified significantly in every month in 2008 and real GDP contracted sharply in the fourth quarter. In addition, mortgage, corporate and the related counterparty credit spreads widened and heightened concerns about the impact of monoline insurers (monolines), auction rate securities (ARS), structured investment vehicles (SIVs) and other financial instruments adversely impacted the financial markets.

The deteriorating economy continued to negatively impact the credit quality of our loan portfolios with more rapid deterioration occurring in the latter part of 2008. The stress consumers experienced from depreciating home prices, rising unemployment, underemployment and tighter credit conditions resulted in a higher level of bankruptcy filings during the year

as well as higher levels of delinquencies and losses in our consumer and small business portfolios. Housing value declines, a slowdown in consumer spending and the turmoil in the global financial markets also impacted our commercial portfolios where we experienced higher levels of losses, particularly in the homebuilder sector of our commercial real estate portfolio. Commercial criticized utilized exposures have also increased due to broader-based economic pressures. For more information on credit quality, see the Credit Risk Management discussion beginning on page 55.

Market dislocations throughout 2008, including the severe volatility, illiquidity and credit dislocations that were experienced in the debt and equity markets in the fourth quarter of 2008, adversely impacted our CDOs and related subprime exposure as well as our other *Capital Markets and Advisory Services (CMAS)* exposures. Further, we have also incurred losses associated with investments in certain equity securities (e.g., Fannie Mae and Freddie Mac) and have incurred losses on the buyback of ARS from our clients as discussed in the Recent Events discussion beginning on page 16. For more information on CDOs, the related ongoing exposure and the impacts of the continuing market dislocations (e.g., leveraged finance and CMBS writedowns), see the *CMAS* discussion beginning on page 34.

The market dislocations have continued to impact certain SIVs and have recently begun to impact senior debt issued by financial services companies. During 2008, we provided additional support to certain cash funds managed within *GWIM* by utilizing existing capital commitments and purchasing certain investments from these funds. For more information on our cash funds support, see the *GWIM* discussion beginning on page 39.

Market conditions also impacted the ratings of certain monolines, which has adversely 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, in certain situations, recognized losses related to some of these exposures during 2008. For more information related to our monoline exposure, see the Industry Concentrations discussion on page 70.

The above conditions, together with deterioration in the overall economy, will continue to affect these and other global markets in which we do business and will adversely impact our results in 2009. The degree of the impact is dependent upon the duration and severity of such conditions.

Regulatory Initiatives

On February 27, 2009, the FDIC passed an interim rule that allows it to charge banks a special assessment of 20 basis points (bps) on insured deposits to replenish the deposit insurance fund. This special assessment will be collected in the third quarter of 2009. Additionally, beginning April 1, 2009, the FDIC will increase fees by approximately two bps on insured deposits.

On October 3, 2008, the Emergency Economic Stabilization Act of 2008 (EESA) was signed into law. Pursuant to the EESA, the U.S. Treasury created the Troubled Asset Relief Program (TARP) to, among other things, invest in financial institutions through capital infusions and purchase mortgages, mortgage-backed securities and certain other financial instruments from financial institutions, in an aggregate amount up to $700 billion, for the purpose of stabilizing and providing liquidity to the U.S. financial markets.

Also pursuant to the EESA, on February 10, 2009 the U.S. Treasury announced the creation of the Financial Stability Plan. This plan outlined five key initiatives; a new Capital Assistance Program (CAP) to help ensure that banking institutions have sufficient capital; the creation of a new Public-Private Investment Fund on an initial scale of up to $500 billion to accelerate the removal of certain legacy assets from the balance sheets of financial institutions; the expansion of the Term Asset-Backed Securities Loan Facility (TALF) as discussed below; the extension of the FDIC's Temporary Liquidity Guarantee Program (TLGP) to October 31, 2009; and a new framework of governance and oversight related to the use of funds of the Financial Stability Plan. As part of the CAP we will be subject to stress testing. The objective of stress testing is an assessment of losses that could occur under certain economic scenarios, including economic conditions more severe than we currently anticipate. We received the terms of the stress test on February 25, 2009 and are currently in the process of compiling the applicable information. The Federal supervising agencies will conclude their stress testing as soon as possible but no later than April 30, 2009.

On October 14, 2008, in connection with the TARP Capital Purchase Program, established as part of the EESA, the U.S. Treasury announced a plan to invest up to $250 billion in certain eligible financial institutions in the form of non-voting, senior preferred stock initially paying quarterly dividends at a five percent annual rate. This amount was subsequently increased to $350 billion. When the U.S. Treasury makes such preferred investments in any company, it also receives 10-year warrants to acquire common shares. In connection with the U.S. Treasury's announcement, we were identified as one of the nine financial institutions to participate in the first $125 billion of U.S. Treasury investments.

As a result in October 2008, we issued to the U.S. Treasury 600 thousand shares of Bank of America Corporation Fixed Rate Cumulative Perpetual Preferred Stock, Series N (Series N Preferred Stock) with a par value of $0.01 per share for $15.0 billion. Also, as part of the initial $125 billion investment and in connection with the Merrill Lynch & Co., Inc. (Merrill Lynch) acquisition, in January 2009 we issued to the U.S. Treasury 400 thousand shares of Bank of America Corporation Fixed Rate Cumulative Perpetual Preferred Stock, Series Q (Series Q Preferred Stock) with a par value of $0.01 per share for $10.0 billion. The Series N and Series Q Preferred Stock initially pay quarterly dividends at a five percent annual rate that increases to nine percent after five years and have a call feature after three years. In connection with these investments, we also issued to the U.S. Treasury 10-year warrants to purchase approximately 121.8 million shares of Bank of America Corporation common stock at an exercise price of $30.79 per share. In addition, as discussed in Recent Events, in January 2009 as part of the Merrill Lynch acquisition we issued to the U.S. Treasury an additional 800 thousand shares of Bank of America Corporation Fixed Rate Cumulative Perpetual Preferred Stock, Series R (Series R Preferred Stock) with a par value of $0.01 per share for $20.0 billion. The Series R Preferred Stock pays dividends at an eight percent annual rate and may only be redeemed after the Series N and Series Q Preferred Stock have been redeemed. In connection with this investment, the Corporation also issued to the U.S. Treasury 10-year warrants to purchase approximately 150.4 million shares of Bank of America Corporation common stock at an exercise price of $13.30 per share.

Under the TARP Capital Purchase Program, dividend payments on, and repurchases of our outstanding preferred and common stock are subject to certain restrictions. For more information on these restrictions, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

On November 25, 2008 the U.S. Treasury, using its authority under the EESA, announced a plan to allocate $20 billion of TARP funds to the Federal Reserve Bank of New York as credit protection for the newly established TALF. The TALF is intended to assist the credit markets in accommodating the credit needs of consumers and small businesses by facilitating the issuance of asset-backed securities and improving the asset-backed securities markets. Under the TALF, the Federal Reserve Bank of New York will lend up to $200 billion on a nonrecourse basis to holders of newly issued AAA-rated asset-backed securities for a term of one

year. The underlying credit exposures of eligible securities used for collateral must be newly or recently originated auto loans, student loans, credit card loans, small business loans guaranteed by the U.S. Small Business Administration, or commercial mortgage-backed securities. Originators of the credit exposures underlying the eligible asset-backed securities must have agreed to comply with, or already be subject to, the executive compensation requirements of the EESA. As announced in connection with the Financial Stability Plan, the TALF may be expanded to as much as $1.0 trillion and eligible asset classes may be expanded later to include other assets such as non-agency residential mortgage-backed securities and assets collateralized by corporate debt. The Corporation is currently evaluating the terms of this program.

The U.S. Department of Education implemented initiatives to ensure uninterrupted and timely access to federal student loans by taking steps to maintain stability in student lending through both the Federal Family Education Loan (FFEL) Program and the Direct Loan Program. As part of these efforts, the U.S. Department of Education announced in November 2008 that it would provide liquidity support to one or more conforming Asset-Backed Commercial Paper (ABCP) conduits. The conduits will purchase FFEL Program loans, providing longer-term stability to the marketplace. The U.S. Department of Education in turn will serve as a potential buyer of last resort or backstop to the conduits. As an additional measure, the U.S. Department of Education will purchase certain 2007-2008 academic year FFEL Program loans. This will be a short-term program designed to act as a mechanism to minimize disruptions in the interim until the conduits are operational, or until February 28, 2009, whichever occurs first. The Corporation is evaluating the terms of this initiative and participation in this program.

Due to liquidity issues in the short-term funding markets, the Federal Reserve implemented a temporary Term Auction Facility (TAF) program in which the Federal Reserve auctions term funds to depository institutions. The TAF is a credit facility that allows a depository institution to place a bid for an advance from its local Federal Reserve Bank at an interest rate that is determined as the result of an auction. By allowing the Federal Reserve to inject term funds through a broader range of counterparties and against a broader range of collateral than open market operations, this facility is aimed to help ensure that liquidity provisions can be disseminated efficiently even when the unsecured interbank markets are under stress. The TAF will typically auction term funds with 28-day or 84-day maturities and is available to all depository institutions that are judged to be in generally sound financial condition by their local Federal Reserve Bank. Additionally, all TAF credit must be fully collateralized. We are currently utilizing the TAF and have pledged residential, commercial mortgage and credit card loans as collateral.

In order to improve the ability of primary dealers to provide financing to participants in the securitization markets in exchange for any tri-party-eligible collateral the Federal Reserve created the Primary Dealer Credit Facility (PDCF). The PDCF provides discount window loans to primary dealers that will settle on the same business day and will mature on the following business day. The rate paid on the loan will be the same as the primary credit rate at the Federal Reserve Bank of New York. In addition, primary dealers will be subject to a frequency-based fee after they exceed 45 days of use. The frequency-based fee will be based on an escalating scale and communicated to the primary dealers in advance. The PDCF will remain available to primary dealers until October 30, 2009 or longer if conditions warrant. During 2008 we utilized this facility.

The Federal Reserve has also established the Term Securities Lending Facility (TSLF), a weekly loan facility, to promote liquidity in U.S. Treasury and other collateral markets and foster the functioning of financial markets. The program offers U.S. Treasury securities held by the System Open Market Account (SOMA) for loan over a one-month term against other program-eligible general collateral. Loans will be awarded to primary dealers based on competitive bidding, subject to a minimum fee requirement. The Open Market Trading Desk of the Federal Reserve Bank of New York will auction general U.S. Treasury collateral (treasury bills, notes, bonds and inflation-indexed securities) held by SOMA for loan against all collateral currently eligible for tri-party repurchase agreements arranged by the Open Market Trading Desk and separately against collateral and investment grade corporate securities, municipal securities, mortgage-backed securities, and asset-backed securities. The Corporation has utilized this facility and has pledged agency mortgage-backed securities and private label mortgage-backed securities as collateral.

The FDIC has implemented the TLGP to strengthen confidence and encourage liquidity in the banking system. The TLGP is comprised of the Debt Guarantee Program (DGP) and the Transaction Account Guarantee Program (TAGP). Under the DGP, the FDIC will guarantee all newly issued senior unsecured debt (e.g., promissory notes, unsubordinated unsecured notes and commercial paper) up to prescribed limits issued by participating entities beginning on October 14, 2008 and continuing through October 31, 2009. For eligible debt issued by that date, the FDIC will provide the guarantee coverage until the earlier of the maturity date of the debt or June 30, 2012. Under the TAGP, the FDIC will guarantee noninterest-bearing deposit accounts held at FDIC-insured depository institutions. The unlimited deposit coverage will be voluntary for eligible institutions and would be in addition to the $250,000 FDIC deposit insurance per account that was included as part of the EESA. The TAGP coverage became effective on October 14, 2008 and will continue for participating institutions until December 31, 2009.

Initially, the DGP and TAGP were provided at no cost for the first 30 days and allowed for eligible institutions to opt out of such programs. An entity that chose not to opt out of either or both programs became a participating entity and will be assessed fees for participation. Participants in the DGP will be charged an annualized fee between 50 and 100 bps, multiplied by the debt issued, and calculated for the maturity period of that debt, or through the term of the guarantee, whichever is earlier. Any eligible entity that has not chosen to opt out of the TAGP will be assessed, on a quarterly basis, an annualized 10 bps fee on balances in noninterest-bearing transaction accounts that exceed the existing deposit insurance limit of $250,000. In December 2008, Bank of America, N.A. issued $4.3 billion in long-term senior unsecured bank notes while the parent company issued $15.6 billion in long-term senior notes under the TLGP program. We have also issued short-term notes under this program. In addition, we have participated in the TAGP program. For further discussion on our liquidity and capital, see Liquidity Risk and Capital Management beginning on page 49.

In addition to the TLGP, in September 2008, the U.S. Treasury implemented the Temporary Guarantee Program for Money Market Funds. This is a voluntary and temporary program that is in effect through at least April 30, 2009. The program provides for a guarantee with respect to a fixed number of shares held by certain shareholders as of September 19, 2008, to receive $1.00 per share in the event that a participating fund no longer has a $1.00 per share net asset value and liquidates. With respect to such shares covered by the program, the guarantee payment would be equal to any shortfall between the amount received by a shareholder in a liquidation and $1.00 per share. The eligible money market mutual funds pay a fee to the U.S. Treasury to participate in the program. Several money market funds managed within *GWIM* currently participate in the program.

In September and October 2008, the Federal Reserve announced the creation of the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility (AMLF), the Commercial Paper Funding Facility (CPFF) as well as the Money Market Investor Funding Facility (MMIFF). These facilities were created to provide liquidity to the U.S. short-term

debt markets in an effort to increase the availability of credit. Under the AMLF, nonrecourse loans are provided to U.S. financial institutions for the purchase of U.S. dollar-denominated high-quality asset-backed commercial paper from money market mutual funds under certain conditions. The program is intended to assist money market funds that hold such paper in meeting demands for redemptions by investors and to foster liquidity in the asset-backed commercial paper market and money markets more generally. Financial institutions will bear no credit risk associated with commercial paper purchased under the AMLF. Under the CPFF, registered issuers will be allowed to sell commercial paper through a primary dealer to the CPFF subject to certain fees. Pricing will be based on whether the commercial paper is secured or unsecured. In addition, there are issuer-based limits on the amount of commercial paper the facility will hold. Upon implementation of the MMIFF, senior secured funding will be provided to a series of special purpose vehicles to finance the purchase of U.S. dollar-denominated certificates of deposit and commercial paper with a remaining maturity of 90 days or less issued by highly-rated financial institutions and from qualifying investors including U.S. money market mutual funds. We have participated in the AMLF and CPFF programs, and continue to evaluate participation in the MMIFF program.

In July 2008 the Housing and Economic Recovery Act of 2008 was signed into law. This Act has several provisions including the establishment of a voluntary program that permits the Federal Housing Administration (FHA) to refinance eligible mortgages for certain qualified borrowers. Some of this Act's other provisions include changes to the FHA program, increases in the limits on the principal balances of mortgage loans that the FHA and government-sponsored enterprises (GSEs) can purchase, creating a new regulator for the GSEs, and establishing a registration system for loan originators.

In December 2008, federal bank regulators in the U.S. adopted final rules under the Federal Trade Commission Act changing existing rules regarding Unfair and Deceptive Acts or Practices (UDAP). The final rules will change the way interest charges are handled in certain situations including increases in the rate during the first year after opening and increases in the rate charged on pre-existing credit card balances. In addition, the final rules will increase the amount of time customers have to make their credit card payments, change the use of payment allocations related to interest charges and limit certain fees. Further, federal bank regulators plan to adopt final rules to amend the Truth in Lending Act, requiring changes to the disclosures consumers receive in connection with credit card accounts and other revolving credit plans. Both of the above final rules addressing credit card accounts take effect on July 1, 2010. As a result of the new regulations, we will likely make significant changes to our credit card practices. Also in December 2008, the federal bank regulators withdrew the UDAP proposal related to overdraft services and fees on consumer deposit accounts. As an alternative, the Federal Reserve, under the Electronic Funds Transfer Act, proposed amendments that would require banks to offer consumer deposit customers the opportunity to opt out of overdraft services and fees. If the amendments are adopted as proposed, we would need to make significant changes in the manner in which we process transactions that affect consumer deposit accounts.

Recent Events

On January 16, 2009, due to larger than expected 2008 fourth quarter losses of Merrill Lynch and as part of its commitment to support the financial markets stability, the U.S. government agreed to assist the Corporation in the Merrill Lynch acquisition by agreeing to provide certain guarantees and capital.

The U.S. Treasury, the FDIC and the Federal Reserve have agreed in principle to provide protection against the possibility of unusually large losses on an asset pool of approximately $118.0 billion of financial instruments comprised of $81.0 billion of derivative assets and $37.0 billion of other financial assets. The assets that would be protected under this agreement are expected generally to be domestic, pre-market disruption (i.e., originated prior to September 30, 2007) leveraged and commercial real estate loans, CDOs, financial guarantor counterparty exposure, certain trading counterparty exposure and certain investment securities. These protected assets would be expected to exclude certain foreign assets and assets originated or issued on or after March 14, 2008. The majority of the protected assets were added by the Corporation as a result of its acquisition of Merrill Lynch. This guarantee is expected to be in place for 10 years for residential assets and five years for non-residential assets unless the guarantee is terminated by the Corporation at an earlier date. It is expected that the Corporation will absorb the first $10.0 billion of losses related to the assets while any additional losses will be shared between the Corporation (10 percent) and U.S. government (90 percent). These assets would remain on our balance sheet and we would continue to manage these assets in the ordinary course of business as well as retain the associated income. The assets that would be covered by this guarantee are expected to carry a 20 percent risk weighting for regulatory capital purposes. As a fee for this arrangement, we expect to issue to the U.S. Treasury and FDIC a total of $4.0 billion of a new class of preferred stock and to issue warrants to acquire 30.1 million shares of Bank of America common stock.

In connection with this arrangement we would continue with our current mortgage loan modification programs discussed below. Any increase in the quarterly common stock dividend for the next three years would require the consent of the U.S. government.

If necessary, under this proposed agreement, the Federal Reserve will provide liquidity for the residual risk in the asset pool through a nonrecourse loan facility. As previously discussed, the Corporation would be responsible for the first $10.0 billion in losses on the asset pool. Once additional losses exceed this amount by $8.0 billion we would be able to draw on this facility. This loan facility would terminate and any related funded loans would mature on the termination dates of the U.S. government's guarantee. The Federal Reserve is expected to charge a fee of 20 bps per annum on undrawn amounts and a floating interest rate of the overnight index swap (OIS) rate plus 300 bps per annum on funded amounts. Interest and fee payments would be with recourse to the Corporation.

Further, the U.S. Treasury invested an additional $20.0 billion in the Corporation from the TARP. As a result, in January 2009, we issued to the U.S. Treasury 800 thousand shares of Series R Preferred Stock with a par value of $0.01 per share for $20.0 billion. The Series R Preferred Stock pays dividends at an eight percent annual rate. In connection with this investment, the Corporation also issued to the U.S. Treasury 10-year warrants to purchase approximately 150.4 million shares of Bank of America Corporation common stock at an exercise price of $13.30 per share.

Combined, these actions strengthen the Corporation and allow us to continue business levels that both support the U.S. economy and create future value for shareholders. We would have the right to terminate the guarantee at any time with the consent of the U.S. government, and we would negotiate in good faith to an appropriate fee or rebate in connection with any agreed upon termination. Additionally, under early termination we would prepay in full any related outstanding Federal Reserve loan.

In January 2009, the Board of Directors (the Board) declared a regular quarterly cash dividend on common stock of $0.01 per share, payable on March 27, 2009 to common shareholders of record on March 6, 2009, as compared to the quarterly cash dividend on common stock of $0.32 per share paid on December 26, 2008 to common shareholders of record

on December 5, 2008. In October 2008, we reduced our regular quarterly cash dividend on common stock by 50 percent. In January 2009, we further reduced our regular quarterly dividend to $0.01 per share. In addition in January 2009, we declared aggregate dividends on preferred stock of $909 million, including $145 million related to preferred stock exchanged in connection with the Merrill Lynch acquisition, and in the fourth quarter of 2008 recorded aggregate dividends on preferred stock of $423 million. For further discussion on our liquidity and capital, see Liquidity Risk and Capital Management beginning on page 49.

In October 2008, prior to the U.S. Treasury's announcement of the TARP Capital Purchase Program previously discussed in Regulatory Initiatives, we issued 455 million shares of common stock at $22.00 per share resulting in proceeds of $9.9 billion, net of underwriting expenses.

During 2008 we initiated loan modification programs projected to offer modifications for up to 630,000 borrowers, representing $100 billion in mortgage financings. In April 2008, we announced that the combined company would modify or workout at least $40.0 billion in troubled mortgage loans in the next two years and estimated that these efforts will assist at least 265,000 customers. Under this program alone, by the end of 2008 Bank of America and Countrywide Financial Corporation (Countrywide) had achieved workout solutions for over 190,000 borrowers.

In October 2008 in agreement with several state attorneys general, the Corporation announced the Countrywide National Homeownership Retention Program. Under the program, we will systematically identify and seek to offer loan modifications for eligible Countrywide subprime and pay option adjustable rate mortgage (ARM) borrowers whose loans are in delinquency or scheduled for an interest rate or payment change. Only customers who financed their primary residence with subprime or pay option ARMs originated and serviced by Countrywide between January 1, 2004 and December 31, 2007 are eligible for this program. In some cases, these programs overlap as loans modified under the first program include subprime and pay option ARMs.

During 2008, to help borrowers avoid foreclosure, Bank of America and Countrywide had completed over 230,000 modifications.

In addition to being committed to the loan modification programs, we continued to focus on extending new credit by extending approximately $115 billion of credit during the fourth quarter including $49 billion in commercial non-real estate; $45 billion in mortgages; nearly $8 billion in domestic card and unsecured consumer loans; nearly $7 billion in commercial real estate; approximately $5 billion in home equity products; and approximately $2 billion in Dealer Financial Services consumer credit.

In September 2008, we announced an agreement in principle with the Massachusetts Securities Division under which we will offer to purchase at par ARS held by certain customers. Further in October 2008, we announced other agreements in principle with the SEC, the Office of the New York State Attorney General (NYAG), and the North American Securities Administrators Association. These agreements are substantially similar except that the agreement with the NYAG requires the payment of a penalty. These agreements will cover approximately $5.3 billion in ARS held by an estimated 5,600 of our customers. As of December 31, 2008, we repurchased $4.7 billion of ARS from our customers, more than 80 percent of our outstanding buyback commitment. In addition, during 2008 we recorded losses of $493 million in other income related to the buyback of ARS from our clients and also recorded a penalty of $50 million in other general operating expense.

Recent Accounting Developments

On September 15, 2008 the FASB released exposure drafts which would amend SFAS 140 and FIN 46R. As written, the proposed amendments would, among other things, eliminate the concept of a QSPE and change the standards for consolidation of VIEs. The changes would be effective for both existing and newly-created entities as of January 1, 2010. If adopted as written, the amendments would likely result in the consolidation of certain QSPEs and VIEs that are not currently recorded on the Corporation's Consolidated Balance Sheet (e.g., credit card securitization trusts). These consolidations may result in an increase in outstanding loans and on-balance sheet funding, higher provision and allowance for credit losses as well as changes in the timing of recognition and classification in our income statement. In addition, regulatory capital amounts and ratios may be negatively impacted based on the outcome of the FASB and regulatory agencies' decisions. However, the impact on the Corporation cannot be determined until the FASB issues the final amendments to SFAS 140 and FIN 46R and the banking regulators provide guidance on how these amendments will impact regulatory capital. See *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements for a further discussion of recently proposed and issued accounting pronouncements.

Merger Overview

On January 1, 2009, we acquired Merrill Lynch through its merger with a subsidiary of the Corporation in exchange for common and preferred stock with a value of $29.1 billion, creating a premier financial services franchise with significantly enhanced wealth management, investment banking and international capabilities. Under the terms of the merger agreement, Merrill Lynch common shareholders received 0.8595 of a share of Bank of America Corporation common stock in exchange for each share of Merrill Lynch common stock. In addition, Merrill Lynch non-convertible preferred shareholders received Bank of America Corporation preferred stock having substantially identical terms. Merrill Lynch convertible preferred stock remains outstanding and is convertible into Bank of America common stock at an equivalent exchange ratio. The acquisition added Merrill Lynch's approximately 16,000 financial advisors, $1.2 trillion of client assets and its interest in BlackRock, Inc., a publicly traded investment management company. In addition, the acquisition adds strengths in debt and equity underwriting, sales and trading, and merger and acquisition advice, creating significant opportunities to deepen relationships with corporate and institutional clients around the globe. At January 1, 2009, Merrill Lynch increased our total assets by $651.6 billion and total liabilities by $627.9 billion.

On July 1, 2008, we acquired Countrywide through its merger with a subsidiary of the Corporation in exchange for stock with a value of $4.2 billion. Under the terms of the agreement, Countrywide shareholders received 0.1822 of a share of Bank of America Corporation common stock in exchange for each share of Countrywide common stock. The acquisition of Countrywide significantly improved our mortgage originating and servicing capabilities, making us a leading mortgage originator and servicer.

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 increased the size and capabilities of our wealth management business and positioned us as one of the largest financial services companies managing private wealth in the U.S.

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

Performance Overview

Net income was $4.0 billion, or $0.55 per diluted common share in 2008, as compared to $15.0 billion, or $3.30 per diluted common share in 2007.

Table 1 Business Segment Total Revenue and Net Income

	Total Revenue [1]		Net Income (Loss)	
(Dollars in millions)	**2008**	2007	**2008**	2007
Global Consumer and Small Business Banking [2]	**$58,344**	$47,855	**$ 4,234**	$ 9,362
Global Corporate and Investment Banking	**13,440**	13,651	**(14)**	510
Global Wealth and Investment Management	**7,785**	7,553	**1,416**	1,960
All Other [2]	**(5,593)**	(477)	**(1,628)**	3,150
Total FTE basis	**73,976**	68,582	**4,008**	14,982
FTE adjustment	**(1,194)**	(1,749)	**–**	–
Total Consolidated	**$72,782**	$66,833	**$ 4,008**	$14,982

(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 23.
(2) *GCSBB* is presented on a managed basis with a corresponding offset recorded in *All Other*.

The table above presents total revenue and net income for the business segments and *All Other* and the following discussion presents a summary of the related results. For more information on these results, see Business Segment Operations beginning on page 26.

- *GCSBB's* net income decreased as higher revenue was more than offset by increased provision for credit losses and noninterest expense. Total revenue increased from merger-related and organic average loan and deposit growth, as well as higher mortgage banking income and insurance premiums due to the acquisition of Countrywide. Higher provision for credit losses resulted from the impacts of continued weakness in the housing markets and the slowing economy. Noninterest expense increased primarily due to the addition of Countrywide and LaSalle. For more information on *GCSBB*, see page 27.
- *GCIB* reported a net loss due to significant writedowns and increased credit costs, partially offset by reduced performance-based incentive compensation. Revenue decreased as an increase in net interest income, primarily market-based, and higher service charges and investment banking income were more than offset by the market-based disruptions which impacted our *CMAS* business. The higher provision for credit losses was due to deterioration in the homebuilder, non-real estate commercial and dealer-related portfolio. For more information on *GCIB*, see page 32.
- *GWIM's* net income decreased as the increase in revenue was more than offset by higher provision for credit losses and higher noninterest expenses. Total revenue rose due to the full year impact of U.S. Trust Corporation and LaSalle and organic loan and deposit growth, partially offset by losses related to the support of certain cash funds and weaker equity markets. The increase in provision for credit losses was driven by deterioration in the housing markets and the slowing economy. Noninterest expense increased due to the full year additions of U.S. Trust Corporation and LaSalle. For more information on *GWIM*, see page 39.
- *All Other* reported a net loss due to losses in equity investment income, higher credit costs primarily related to our ALM residential mortgage portfolio, and an increase in merger and restructuring charges. In addition *All Other's* results were adversely impacted by the absence of earnings after the sale of certain businesses and foreign operations in 2007 including the $1.5 billion gain recorded on the sale of Marsico Capital Management, LLC (Marsico). These items were partially offset by an increase in gains on sales of debt securities. For more information on *All Other*, see page 42.

Financial Highlights

Net Interest Income

Net interest income on a FTE basis increased $10.4 billion to $46.6 billion for 2008 compared to 2007. The increase was driven by strong loan growth, as well as the acquisitions of Countrywide and LaSalle, and the contribution from market-based net interest income related to our *CMAS* business, which benefited from the steepening of the yield curve and product mix. The net interest yield on a FTE basis increased 38 bps to 2.98 percent for 2008 compared to 2007, due to the improvement in market-based yield, the beneficial impact of the current interest rate environment and loan growth. Partially offsetting these increases were the additions of lower yielding assets from the Countrywide and LaSalle acquisitions. For more information on net interest income on a FTE basis, see Tables I and II beginning on page 93.

Noninterest Income

Table 2 Noninterest Income

(Dollars in millions)	**2008**	2007
Card income	**$13,314**	$14,077
Service charges	**10,316**	8,908
Investment and brokerage services	**4,972**	5,147
Investment banking income	**2,263**	2,345
Equity investment income	**539**	4,064
Trading account profits (losses)	**(5,911)**	(4,889)
Mortgage banking income	**4,087**	902
Insurance premiums	**1,833**	761
Gains on sales of debt securities	**1,124**	180
Other income (loss)	**(5,115)**	897
Total noninterest income	**$27,422**	$32,392

Noninterest income decreased $5.0 billion to $27.4 billion in 2008 compared to 2007.

- Card income decreased $763 million primarily due to the negative impact of higher credit costs on securitized credit card loans and the related unfavorable change in value of the interest-only strip as well as decreases in interchange income and late fees. Partially offsetting these decreases was higher debit card income.
- Service charges grew $1.4 billion resulting from growth in new deposit accounts and the beneficial impact of the LaSalle acquisition.
- Investment and brokerage services decreased $175 million primarily due to the absence of fees related to Marsico which was sold in late 2007 and the impact of significantly lower valuations in the equity

markets, partially offset by the full year impact of the U.S. Trust Corporation and LaSalle acquisitions.

- Investment banking income decreased $82 million due to reduced advisory fees related to the slowing economy.
- Equity investment income decreased $3.5 billion due to a reduction in gains from our Principal Investing portfolio attributable to the lack of liquidity in the marketplace when compared to 2007 and other-than-temporary impairments taken on certain AFS marketable equity securities.
- Trading account losses were $5.9 billion in 2008 driven by losses related to CDO exposure and the continuing impact of the market disruptions on various parts of the *CMAS* business. Contributing to these losses were severe volatility, illiquidity and credit dislocations in the debt and equity markets during the fourth quarter of 2008. For more information, see the *GCIB* discussion beginning on page 32.
- Mortgage banking income increased $3.2 billion in large part as a result of the Countrywide acquisition which contributed significantly to increases in servicing income of $1.7 billion and production income of $1.5 billion.
- Insurance premiums increased $1.1 billion primarily due to the acquisition of Countrywide.
- Gains on sales of debt securities increased $944 million driven by the sales of mortgage-backed securities and collateralized mortgage obligations.
- Other income decreased $6.0 billion due to *CMAS* related writedowns (e.g., CDO exposure, leveraged finance loans and CMBS) of $5.3 billion and $1.1 billion of losses associated with the support provided to certain cash funds managed within *GWIM*. In addition, 2008 was impacted by the absence of the $1.5 billion gain from the sale of Marsico recognized in 2007. Partially offsetting these items was the gain of $776 million related to the Visa IPO. For more information on the *CMAS* related writedowns, see page 34.

Provision for Credit Losses

The provision for credit losses increased $18.4 billion to $26.8 billion for 2008 compared to 2007 due to higher net charge-offs and additions to the reserve. The majority of the reserve additions were in consumer and small business portfolios, reflective of continued weakness in the housing markets and the slowing economy. Reserves were also increased on commercial portfolios for deterioration in the homebuilder and non-real estate commercial portfolios within *GCIB*. For further discussion, see Provision for Credit Losses on page 75.

Noninterest Expense

Table 3 Noninterest Expense

(Dollars in millions)	2008	2007
Personnel	**$18,371**	$ 18,753
Occupancy	**3,626**	3,038
Equipment	**1,655**	1,391
Marketing	**2,368**	2,356
Professional fees	**1,592**	1,174
Amortization of intangibles	**1,834**	1,676
Data processing	**2,546**	1,962
Telecommunications	**1,106**	1,013
Other general operating	**7,496**	5,751
Merger and restructuring charges	**935**	410
Total noninterest expense	**$41,529**	$ 37,524

Noninterest expense increased $4.0 billion to $41.5 billion for 2008 compared to 2007, primarily due to the acquisitions of Countrywide and LaSalle, which increased various expense categories, partially offset by a reduction in performance-based incentive compensation expense and the impact of certain benefits associated with the Visa IPO transactions.

Income Tax Expense

Income tax expense was $420 million for 2008 compared to $5.9 billion for 2007 resulting in effective tax rates of 9.5 percent and 28.4 percent. The effective tax rate decrease is due to permanent tax preference amounts (e.g., tax exempt income and tax credits) offsetting a higher percentage of our pre-tax income. For more information on income tax expense, see *Note 18 – Income Taxes* to the Consolidated Financial Statements.

Impact of Countrywide Acquisition

Effective July 1, 2008, Countrywide's results of operations are included in the Corporation's consolidated results. For 2008, the Countrywide acquisition contributed approximately $1.3 billion to net interest income on a FTE basis, $3.4 billion to noninterest income and $4.2 billion to noninterest expense. In addition, we recorded $750 million in provision for credit losses associated with deterioration in the SOP 03-3 loan portfolio subsequent to acquisition of these loans, which were initially recorded at fair value. At July 1, 2008, after consideration of purchase accounting adjustments the Countrywide acquisition contributed $86.2 billion to total loans and leases, $17.4 billion to securities, $17.2 billion to MSRs and $63.0 billion to total deposits.

The majority of Countrywide's ongoing operations are recorded in *Mortgage, Home Equity and Insurance Services* (*MHEIS*). Countrywide's acquired first mortgage and discontinued real estate portfolios were recorded in *All Other* and are managed as part of our overall ALM activities. For more information on Countrywide's impact in *MHEIS*, see the *MHEIS* discussion beginning on page 30. For more information related to the Countrywide acquisition, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

Balance Sheet Analysis

Table 4 Selected Balance Sheet Data

	December 31		Average Balance	
(Dollars in millions)	**2008**	2007	**2008**	2007
Assets				
Federal funds sold and securities purchased under agreements to resell	**$ 82,478**	$ 129,552	**$ 128,053**	$ 155,828
Trading account assets	**159,522**	162,064	**193,631**	187,287
Debt securities	**277,589**	214,056	**250,551**	186,466
Loans and leases, net of allowance for loan and lease losses	**908,375**	864,756	**893,353**	766,329
All other assets	**389,979**	345,318	**378,391**	306,163
Total assets	**$ 1,817,943**	$ 1,715,746	**$ 1,843,979**	$ 1,602,073
Liabilities				
Deposits	**$ 882,997**	$ 805,177	**$ 831,144**	$ 717,182
Federal funds purchased and securities sold under agreements to repurchase	**206,598**	221,435	**272,981**	253,481
Trading account liabilities	**57,287**	77,342	**75,270**	82,721
Commercial paper and other short-term borrowings	**158,056**	191,089	**182,729**	171,333
Long-term debt	**268,292**	197,508	**231,235**	169,855
All other liabilities	**67,661**	76,392	**85,789**	70,839
Total liabilities	**1,640,891**	1,568,943	**1,679,148**	1,465,411
Shareholders' equity	**177,052**	146,803	**164,831**	136,662
Total liabilities and shareholders' equity	**$ 1,817,943**	$ 1,715,746	**$ 1,843,979**	$ 1,602,073

At December 31, 2008, total assets were $1.8 trillion, an increase of $102.2 billion, or six percent, from December 31, 2007. The increase in total assets was primarily attributable to the acquisition of Countrywide, which impacted various line items including loans and leases, debt securities, MSRs and other assets. In addition to Countrywide, debt securities also increased due to net purchases of securities and the securitization of residential mortgage loans into mortgage-backed securities which we retained. Derivative assets, which are included in all other assets in the table above, increased due to mark-to-market gains resulting from the reduced interest rate environment and the strengthening of the U.S. dollar versus certain foreign currencies. Partially offsetting these increases was a decrease in federal funds sold and securities purchased under agreements to resell primarily attributable to balance sheet efficiencies and the sale of our equity prime brokerage business.

Average total assets in 2008 increased $241.9 billion, or 15 percent, from 2007 primarily due to higher loans and leases and debt securities. The increase in average loans and leases was attributable to organic growth and the Countrywide and LaSalle acquisitions. The increase in debt securities was driven by the same factors as noted above and the LaSalle acquisition.

At December 31, 2008, total liabilities were $1.6 trillion, an increase of $71.9 billion from December 31, 2007. The increase in total liabilities was attributable to the acquisition of Countrywide which impacted various line items including deposits and long-term debt. In addition to Countrywide, deposits increased as we benefited from a consumer and business flight-to-safety resulting from market instability. Long-term debt increased due to the addition of Countrywide and participation in the TLGP. Partially offsetting these increases was a decrease in commercial paper and other short-term borrowings due in part to the sale of our equity prime brokerage business.

Average total liabilities for 2008 increased $213.7 billion, or 15 percent from 2007. The increase in average total liabilities was attributable to higher deposits and long-term debt to support growth in overall assets and the inclusion of liabilities associated with the Countrywide and LaSalle acquisitions.

Federal Funds Sold and Securities Purchased Under Agreements to Resell and Trading Account Assets

Federal funds sold and securities purchased under agreements to resell consist of excess reserves placed with other banks with a relatively short-term maturity and securities that have been purchased subject to an agreement to resell securities with substantially identical terms at a specified date for a specified price. Trading account assets consist primarily of fixed income securities (including government and corporate debt), equity and convertible instruments. Period end and average federal funds sold and securities purchased under agreements to resell, and trading account assets decreased $49.6 billion and $21.4 billion in 2008, attributable to balance sheet efficiencies and the sale of our equity prime brokerage business partially offset by an increase in the amount of our securities used to hedge our MSRs. For additional information, see Market Risk Management beginning on page 78.

Debt Securities

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 debt securities portfolio primarily to manage interest rate and liquidity risk and to take advantage of market conditions that create more economically attractive returns on these investments. The period end and average balances in the debt securities portfolio increased $63.5 billion and $64.1 billion from 2007 due to net purchases of securities and the securitization of residential mortgage loans into mortgage-backed securities which we retained. These increases were also impacted by the addition of Countrywide. In addition, average balances benefited from the full year impact of the LaSalle acquisition. For additional information on our AFS debt securities portfolio, see Market Risk Management – Securities on page 83 and *Note 5 – Securities* to the Consolidated Financial Statements.

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

Period end and average loans and leases, net of allowance for loan and lease losses increased $43.6 billion to $908.4 billion and $127.0 billion to $893.4 billion in 2008 compared to 2007 due to consumer and commercial organic growth and the addition of Countrywide. The average consumer loan and lease portfolio increased $64.2 billion primarily due to organic growth and the addition of Countrywide. The average commercial loan and lease portfolio increased $70.5 billion primarily due to organic growth and the acquisition of LaSalle which occurred in the fourth quarter of 2007. For a more detailed discussion of the loan portfolio and the allowance for credit losses, see Credit Risk Management beginning on page 55, *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 $44.7 billion at December 31, 2008, an increase of 13 percent from December 31, 2007, driven primarily by the acquisition of Countrywide, which impacted various line items, including MSRs and LHFS. In addition, the increase was driven by higher derivative assets due to mark-to-market gains resulting from the reduced interest rate environment and the strengthening of the U.S. dollar versus certain foreign currencies.

Deposits

Period end and average deposits increased $77.8 billion to $883.0 billion and $114.0 billion to $831.1 billion in 2008 compared to 2007. The average increase was due to a $95.3 billion increase in average domestic interest-bearing deposits and a $19.4 billion increase in average noninterest-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 $103.0 billion to $696.9 billion in 2008, a 17 percent increase from the prior year. The increase was attributable to growth in our average NOW and money market accounts, average consumer CDs and IRAs and noninterest-bearing deposits due to the addition of Countrywide and the benefit we received from a consumer and business flight-to-safety resulting from market instability. Average market-based deposit funding increased $11.0 billion to $134.3 billion in 2008 compared to 2007 due to an increase in negotiable CDs, public funds and other time deposits related to the funding of growth in core and market-based assets. The increase in average deposits was also impacted by the assumption of deposits, primarily money market, consumer CDs, and other domestic time deposits associated with the LaSalle merger.

Federal Funds Purchased and Securities Sold Under Agreements to Repurchase and Trading Account Liabilities

Federal funds purchased and securities sold under agreements to repurchase consist of deposits borrowed from other banks with a relatively short-term maturity and securities that have been sold subject to an agreement to repurchase securities with substantially identical terms at a specified date for a specified price. Trading account liabilities consist primarily of short positions in fixed income securities (including government and corporate debt), equity and convertible instruments. Period end federal funds purchased and securities sold under agreements to repurchase, and trading account liabilities decreased $34.9 billion primarily due to the rebalancing of hedges for market movements and lower customer demand, and by the sale of our equity prime brokerage business. Average federal funds purchased and securities sold under agreements to repurchase, and trading account liabilities increased $12.0 billion primarily due to the relative low cost and availability of short-term funding.

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. Period end commercial paper and other short-term borrowings decreased $33.0 billion to $158.1 billion in 2008 compared to 2007 due in part to the sale of our equity prime brokerage business. Average commercial paper and other short-term borrowings increased $11.4 billion to $182.7 billion in 2008 due to an increase in short-term funding given the change in market conditions, partially offset by the sale of our equity prime brokerage business.

Long-term Debt

Period end and average long-term debt increased $70.8 billion to $268.3 billion and $61.4 billion to $231.2 billion in 2008 compared to 2007. The increases were attributable to issuances to support growth in overall assets and enhance our liquidity, and the inclusion of long-term debt associated with the Countrywide acquisition. Period end balances also benefited from our participation in the TLGP and average balances benefited from the LaSalle acquisition. For additional information on the TLGP, see Regulatory Initiatives on page 14. For additional information on long-term debt, see *Note 12 – Short-term Borrowings and Long-term Debt* to the Consolidated Financial Statements.

Shareholders' Equity

Period end shareholders' equity increased $30.2 billion due to the issuance of preferred stock including $15.0 billion to the U.S. Treasury in connection with the TARP Capital Purchase Program, a common stock offering of $9.9 billion, $4.2 billion of common stock issued in connection with the Countrywide acquisition, and net income. These increases were partially offset by a decrease in accumulated OCI and higher preferred dividend payments. The decrease in accumulated OCI was due to unrealized losses incurred on our debt and marketable equity securities and the adverse impact of employee benefit plan adjustments driven by the difference between the assumed and actual rate of return on benefit plan assets during the year. For additional information on our employee benefit plans, see *Note 16 – Employee Benefit Plans* to the Consolidated Financial Statements. Average shareholders' equity increased $28.2 billion due to the same period end factors discussed above, except accumulated OCI benefited from the fair value adjustment related to our investment in China Construction Bank (CCB) which we began to fair value in the fourth quarter of 2007.

Table 5 Five Year Summary of Selected Financial Data

(Dollars in millions, except per share information)	2008	2007	2006	2005	2004
Income statement					
Net interest income	**$ 45,360**	$ 34,441	$ 34,594	$ 30,737	$ 27,960
Noninterest income	**27,422**	32,392	38,182	26,438	22,729
Total revenue, net of interest expense	**72,782**	66,833	72,776	57,175	50,689
Provision for credit losses	**26,825**	8,385	5,010	4,014	2,769
Noninterest expense, before merger and restructuring charges	**40,594**	37,114	34,988	28,269	26,394
Merger and restructuring charges	**935**	410	805	412	618
Income before income taxes	**4,428**	20,924	31,973	24,480	20,908
Income tax expense	**420**	5,942	10,840	8,015	6,961
Net income	**4,008**	14,982	21,133	16,465	13,947
Average common shares issued and outstanding (in thousands)	**4,592,085**	4,423,579	4,526,637	4,008,688	3,758,507
Average diluted common shares issued and outstanding (in thousands)	**4,612,491**	4,480,254	4,595,896	4,068,140	3,823,943
Performance ratios					
Return on average assets	**0.22%**	0.94%	1.44%	1.30%	1.34%
Return on average common shareholders' equity	**1.80**	11.08	16.27	16.51	16.47
Return on average tangible shareholders' equity [1]	**5.31**	25.94	39.06	32.30	30.98
Total ending equity to total ending assets	**9.74**	8.56	9.27	7.86	9.03
Total average equity to total average assets	**8.94**	8.53	8.90	7.86	8.12
Dividend payout	**n/m**	72.26	45.66	46.61	46.31
Per common share data					
Earnings	**$ 0.56**	$ 3.35	$ 4.66	$ 4.10	$ 3.71
Diluted earnings	**0.55**	3.30	4.59	4.04	3.64
Dividends paid	**2.24**	2.40	2.12	1.90	1.70
Book value	**27.77**	32.09	29.70	25.32	24.70
Market price per share of common stock					
Closing	**$ 14.08**	$ 41.26	$ 53.39	$ 46.15	$ 46.99
High closing	**45.03**	54.05	54.90	47.08	47.44
Low closing	**11.25**	41.10	43.09	41.57	38.96
Market capitalization	**$ 70,645**	$ 183,107	$ 238,021	$ 184,586	$ 190,147
Average balance sheet					
Total loans and leases	**$ 910,878**	$ 776,154	$ 652,417	$ 537,218	$ 472,617
Total assets	**1,843,979**	1,602,073	1,466,681	1,269,892	1,044,631
Total deposits	**831,144**	717,182	672,995	632,432	551,559
Long-term debt	**231,235**	169,855	130,124	97,709	92,303
Common shareholders' equity	**141,638**	133,555	129,773	99,590	84,584
Total shareholders' equity	**164,831**	136,662	130,463	99,861	84,815
Asset quality [2]					
Allowance for credit losses [3]	**$ 23,492**	$ 12,106	$ 9,413	$ 8,440	$ 9,028
Nonperforming assets [4]	**18,232**	5,948	1,856	1,603	2,315
Allowance for loan and lease losses as a percentage of total loans and leases outstanding [5]	**2.49%**	1.33%	1.28%	1.40%	1.65%
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases [5]	**141**	207	505	532	390
Net charge-offs	**$ 16,231**	$ 6,480	$ 4,539	$ 4,562	$ 3,113
Net charge-offs as a percentage of average loans and leases outstanding [5]	**1.79%**	0.84%	0.70%	0.85%	0.66%
Nonperforming loans and leases as a percentage of total loans and leases outstanding [5]	**1.77**	0.64	0.25	0.26	0.42
Nonperforming assets as a percentage of total loans, leases and foreclosed properties [4, 5]	**1.96**	0.68	0.26	0.28	0.44
Ratio of the allowance for loan and lease losses at December 31 to net charge-offs	**1.42**	1.79	1.99	1.76	2.77
Capital ratios (period end)					
Risk-based capital:					
Tier 1	**9.15%**	6.87%	8.64%	8.25%	8.20%
Total	**13.00**	11.02	11.88	11.08	11.73
Tier 1 Leverage	**6.44**	5.04	6.36	5.91	5.89

(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 23.
(2) We account for acquired impaired loans in accordance with SOP 03-3. For more information on the impact of SOP 03-3 on asset quality, see Consumer Portfolio Credit Risk Management beginning on page 56.
(3) Includes the allowance for loan and lease losses and the reserve for unfunded lending commitments.
(4) Balances and ratios do not include nonperforming LHFS and nonperforming AFS debt securities.
(5) Balances and ratios do not include loans measured at fair value in accordance with SFAS 159.
n/m= not meaningful

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 previously mentioned, 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 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 and intangible assets (excluding MSRs). 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)	2008	2007	2006	2005	2004
Operating basis					
Operating earnings	**$ 4,638**	$ 15,240	$ 21,640	$ 16,740	$ 14,358
Return on average assets	**0.25%**	0.95%	1.48%	1.32%	1.37%
Return on average common shareholders' equity	**2.25**	11.27	16.66	16.79	16.96
Return on average tangible shareholders' equity	**6.14**	26.38	40.00	32.84	31.89
Operating efficiency ratio (FTE basis)	**54.88**	54.12	47.28	48.73	51.35
Dividend payout ratio	**n/m**	71.02	44.59	45.84	44.98
Operating leverage (FTE basis)	**(1.51)**	(13.40)	3.80	5.74	n/a
FTE basis data					
Net interest income	**$ 46,554**	$ 36,190	$ 35,818	$ 31,569	$ 28,677
Total revenue, net of interest expense	**73,976**	68,582	74,000	58,007	51,406
Net interest yield	**2.98%**	2.60%	2.82%	2.84%	3.17%
Efficiency ratio	**56.14**	54.71	48.37	49.44	52.55
Reconciliation of net income to operating earnings					
Net income	**$ 4,008**	$ 14,982	$ 21,133	$ 16,465	$ 13,947
Merger and restructuring charges	**935**	410	805	412	618
Related income tax benefit	**(305)**	(152)	(298)	(137)	(207)
Operating earnings	**$ 4,638**	$ 15,240	$ 21,640	$ 16,740	$ 14,358
Reconciliation of average shareholders' equity to average tangible shareholders' equity					
Average shareholders' equity	**$164,831**	$136,662	$130,463	$ 99,861	$ 84,815
Average goodwill	**(79,827)**	(69,333)	(66,040)	(45,331)	(36,612)
Average intangible assets	**(9,502)**	(9,566)	(10,324)	(3,548)	(3,184)
Average tangible shareholders' equity	**$ 75,502**	$ 57,763	$ 54,099	$ 50,982	$ 45,019
Reconciliation of return on average assets to operating return on average assets					
Return on average assets	**0.22%**	0.94%	1.44%	1.30%	1.34%
Effect of merger and restructuring charges, net-of-tax	**0.03**	0.01	0.04	0.02	0.03
Operating return on average assets	**0.25%**	0.95%	1.48%	1.32%	1.37%
Reconciliation of return on average common shareholders' equity to operating return on average common shareholders' equity					
Return on average common shareholders' equity	**1.80%**	11.08%	16.27%	16.51%	16.47%
Effect of merger and restructuring charges, net-of-tax	**0.45**	0.19	0.39	0.28	0.49
Operating return on average common shareholders' equity	**2.25%**	11.27%	16.66%	16.79%	16.96%
Reconciliation of return on average tangible shareholders' equity to operating return on average tangible shareholders' equity					
Return on average tangible shareholders' equity	**5.31%**	25.94%	39.06%	32.30%	30.98%
Effect of merger and restructuring charges, net-of-tax	**0.83**	0.44	0.94	0.54	0.91
Operating return on average tangible shareholders' equity	**6.14%**	26.38%	40.00%	32.84%	31.89%
Reconciliation of efficiency ratio to operating efficiency ratio (FTE basis)					
Efficiency ratio	**56.14%**	54.71%	48.37%	49.44%	52.55%
Effect of merger and restructuring charges	**(1.26)**	(0.59)	(1.09)	(0.71)	(1.20)
Operating efficiency ratio	**54.88%**	54.12%	47.28%	48.73%	51.35%
Reconciliation of dividend payout ratio to operating dividend payout ratio					
Dividend payout ratio	**n/m**	72.26%	45.66%	46.61%	46.31%
Effect of merger and restructuring charges, net-of-tax	**n/m**	(1.24)	(1.07)	(0.77)	(1.33)
Operating dividend payout ratio	**n/m**	71.02%	44.59%	45.84%	44.98%
Reconciliation of operating leverage to operating basis operating leverage (FTE basis)					
Operating leverage	**(2.81)%**	(12.16)%	2.77%	6.67%	n/a
Effect of merger and restructuring charges	**1.30**	(1.24)	1.03	(0.93)	n/a
Operating leverage	**(1.51)%**	(13.40)%	3.80%	5.74%	n/a

n/m = not meaningful
n/a = not applicable

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 32, 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. 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 below.

Core net interest income on a managed basis increased $8.1 billion to $49.5 billion for 2008 compared to 2007. The increase was driven by strong loan growth, as well as the acquisitions of Countrywide and LaSalle. Core net interest income on a managed basis also benefited from the reduced interest rate environment however this benefit was partially offset by the spread dislocation between the Federal Funds rate and LIBOR.

On a managed basis, core average earning assets increased $213.1 billion to $1.3 trillion for 2008 compared to 2007 due to higher average managed loans and an increase in debt securities. The increase in managed loans was driven by higher consumer managed loans resulting from organic growth and the acquisition of Countrywide. In addition, average commercial loans increased primarily due to organic growth and the acquisition of LaSalle which occurred in the fourth quarter of 2007. The average balance in the debt securities portfolio increased from 2007 due to net purchases of securities, the securitization of residential mortgage loans into mortgage-backed securities which we retained and the LaSalle and Countrywide acquisitions.

Core net interest yield on a managed basis remained flat at 3.82 percent for 2008, as the beneficial impact of the current interest rate environment and loan growth was offset by the addition of lower yielding assets from the Countrywide and LaSalle acquisitions.

Table 7 Core Net Interest Income – Managed Basis

(Dollars in millions)	2008	2007
Net interest income [1]		
As reported	**$ 46,554**	$ 36,190
Impact of market-based net interest income [2]	**(6,011)**	(2,718)
Core net interest income	**40,543**	33,472
Impact of securitizations [3]	**8,910**	7,841
Core net interest income – managed basis	**$ 49,453**	$ 41,313
Average earning assets		
As reported	**$1,562,729**	$1,390,192
Impact of market-based earning assets [2]	**(368,751)**	(412,587)
Core average earning assets	**1,193,978**	977,605
Impact of securitizations [4]	**100,145**	103,371
Core average earning assets – managed basis	**$1,294,123**	$1,080,976
Net interest yield contribution [1]		
As reported	**2.98%**	2.60%
Impact of market-based activities [2]	**0.42**	0.82
Core net interest yield on earning assets	**3.40**	3.42
Impact of securitizations	**0.42**	0.40
Core net interest yield on earning assets – managed basis	**3.82%**	3.82%

(1) FTE basis
(2) Represents the impact of market-based amounts included in the *CMAS* business within *GCIB*. For 2008 and 2007, the impact of market-based net interest income excludes $113 million and $70 million of net interest income on loans for which the fair value option has been elected and is not considered market-based income.
(3) Represents the impact of securitizations utilizing actual bond costs. This is different from the business segment view which utilizes funds transfer pricing methodologies.
(4) Represents average securitized loans less accrued interest receivable and certain securitized bonds retained.

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 assets, 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 23. We begin by evaluating the operating results of the businesses which by definition exclude 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 and Student Lending*) 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 within the *Deposits and Student Lending* business for *GCSBB*, and for *GCIB* and *GWIM* 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 stand-alone credit, market, interest rate and operational risk components. The nature of these risks is discussed further beginning on page 48. The Corporation benefits from the diversification of risk across these components, which is reflected as a reduction to allocated equity for each segment. For *GCSBB*, this benefit is reflected as a reduction to allocated equity proportionately across the three consumer businesses, *Deposits and Student Lending*, *Card Services*, and *MHEIS*. For the *GCIB* and *GWIM* segments, this benefit is recorded within *ALM/Other*. Average equity is allocated to the business segments and the businesses, and is impacted by the portion of goodwill that is specifically assigned to them.

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Global Consumer and Small Business Banking

(Dollars in millions)	2008 Total [1]	Deposits and Student Lending	Card Services [1]	Mortgage, Home Equity and Insurance Services
Net interest income [2]	$ 33,851	$ 11,395	$ 19,184	$ 3,272
Noninterest income:				
Card income	10,057	2,397	7,655	5
Service charges	6,807	6,803	–	4
Mortgage banking income	4,422	–	–	4,422
Insurance premiums	1,968	–	552	1,416
All other income	1,239	54	1,042	143
Total noninterest income	24,493	9,254	9,249	5,990
Total revenue, net of interest expense	58,344	20,649	28,433	9,262
Provision for credit losses [3]	26,841	1,014	19,550	6,277
Noninterest expense	24,937	9,869	8,120	6,948
Income (loss) before income taxes	6,566	9,766	763	(3,963)
Income tax expense (benefit) [2]	2,332	3,556	242	(1,466)
Net income (loss)	$ 4,234	$ 6,210	$ 521	$ (2,497)
Net interest yield [2]	8.43%	3.23%	8.36%	2.52%
Return on average equity [4]	5.78	28.37	1.25	(25.79)
Efficiency ratio [2]	42.74	47.79	28.56	75.02
Period end – total assets [5]	$511,401	$ 389,450	$ 249,676	$ 205,386

(Dollars in millions)	2007 Total [1]	Deposits and Student Lending	Card Services [1]	Mortgage, Home Equity and Insurance Services
Net interest income [2]	$ 28,712	$ 10,549	$ 16,284	$ 1,879
Noninterest income:				
Card income	10,194	2,156	8,032	6
Service charges	6,007	6,003	–	4
Mortgage banking income	1,332	–	–	1,332
Insurance premiums	912	–	565	347
All other income	698	143	434	121
Total noninterest income	19,143	8,302	9,031	1,810
Total revenue, net of interest expense	47,855	18,851	25,315	3,689
Provision for credit losses [3]	12,920	601	11,305	1,014
Noninterest expense	20,349	9,411	8,358	2,580
Income before income taxes	14,586	8,839	5,652	95
Income tax expense [2]	5,224	3,126	2,062	36
Net income	$ 9,362	$ 5,713	$ 3,590	$ 59
Net interest yield [2]	8.03%	3.19%	7.80%	2.35%
Return on average equity [4]	14.81	26.49	9.13	2.50
Efficiency ratio [2]	42.52	49.93	33.02	69.93
Period end – total assets [5]	$445,319	$ 380,934	$ 254,356	$ 100,992

(1)Presented on a managed basis, specifically *Card Services*.
(2)FTE basis
(3)Represents provision for credit losses on held loans combined with realized credit losses associated with the securitized loan portfolio.
(4)Average allocated equity for *GCSBB* was $73.3 billion and $63.2 billion in 2008 and 2007.
(5)Total assets include asset allocations to match liabilities (i.e., deposits).

(Dollars in millions)	December 31 2008	December 31 2007	Average Balance 2008	Average Balance 2007
Total loans and leases	**$ 365,198**	$ 325,759	**$ 350,264**	$ 294,030
Total earning assets [1]	**434,568**	381,520	**401,671**	357,639
Total assets [1]	**511,401**	445,319	**471,223**	409,999
Total deposits	**393,165**	346,908	**370,961**	330,661

(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 execute 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 6,139 banking centers, 18,685 domestic branded ATMs, and telephone and Internet channels. *GCSBB* is made up of three businesses: *Deposits and Student Lending*, *Card Services* and *MHEIS*. *GCSBB*, specifically the *Card Services* business, 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.

Net income decreased $5.1 billion, or 55 percent, to $4.2 billion compared to 2007 as growth in noninterest income and net interest income was more than offset by higher provision for credit losses and an increase in noninterest expense.

Net interest income increased $5.1 billion, or 18 percent, to $33.9 billion due to higher margin on ALM activities and the impact of the Countrywide and LaSalle acquisitions. In addition, average loans and leases, and average deposits increased $56.2 billion and $40.3 billion, or 19 percent and 12 percent. Noninterest income increased $5.4 billion, or 28 percent, due to increased mortgage banking income and insurance premiums primarily as a result of the Countrywide acquisition, and higher service charges. In addition, noninterest income benefited from the $388 million gain from the Visa IPO transactions and $283 million gain on the sale of a card portfolio.

Provision for credit losses increased $13.9 billion to $26.8 billion compared to $12.9 billion in 2007, driven by increases of $8.2 billion and $5.3 billion in *Card Services* and *MHEIS*. For further discussion related to *Card Services* and *MHEIS*, see their respective discussions beginning on pages 29 and 30.

Noninterest expense increased $4.6 billion, or 23 percent, to $24.9 billion, primarily driven by the Countrywide and LaSalle acquisitions.

Deposits and Student Lending

Deposits and Student Lending includes the results of consumer deposits activities which include a comprehensive range of products to consumers and small businesses. In addition, *Deposits and Student Lending* includes our student lending and small business banking results, excluding business card, and the net effect of our ALM activities. Debit Card results are also included in *Deposits and Student Lending*.

Our deposit products include traditional savings accounts, money market savings accounts, CDs and IRAs, and noninterest- and interest-bearing checking accounts. 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 and 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.

We added 2.2 million net new retail checking accounts in 2008. These additions resulted from continued improvement in sales and service results in the Banking Center Channel and Online, and the success of new Affinity relationships and products such as Keep the Change™. During 2008, our active online banking customer base grew to 28.9 million subscribers, an increase of 5.1 million net subscribers from 2007. In addition, our active bill pay users paid $309.7 billion worth of bills online during 2008.

We continue to migrate qualifying affluent customers and their related deposit balances to *GWIM*. In 2008 and 2007, a total of $20.5 billion and $11.4 billion of deposits were migrated from *Deposits and Student Lending* to *Premier Banking and Investments (PB&I)* within *GWIM*. The increase was mainly due to the initial migration of legacy LaSalle accounts and the acceleration of moving qualified clients into *PB&I* as part of our growth initiatives for our mass affluent and retirement customers. After migration, the associated net interest income, service charges and noninterest expense are recorded in *GWIM*.

Net income increased $497 million, or nine percent, to $6.2 billion compared to 2007 driven by higher noninterest income and net interest income partially offset by increases in noninterest expense and provision for credit losses.

Net interest income increased $846 million, or eight percent, driven by a higher contribution from our ALM activities and growth in average deposits partially offset by the impact of competitive deposit pricing. Average deposits grew $34.2 billion, or 11 percent, due to organic growth, including customers' flight-to-safety, as well as the acquisitions of Countrywide and LaSalle. Organic growth was partially offset by the migration of customer relationships and related deposit balances to *GWIM*.

Noninterest income increased $952 million, or 11 percent, to $9.3 billion driven by higher service charges of $800 million, or 13 percent, primarily as a result of increased volume, new demand deposit account growth and the addition of LaSalle. Additionally, debit card revenue growth of $241 million, or 11 percent, was due to new account and card growth, increased usage and the addition of LaSalle.

Provision for credit losses increased $413 million, or 69 percent, to $1.0 billion principally driven by deterioration in the small business lending portfolio due to the impacts of a slowing economy and seasoning of the portfolio reflective of growth. In addition, the provision for credit losses increased due to losses on overdraft accounts.

Noninterest expense increased $458 million, or five percent, to $9.9 billion compared to 2007, primarily due to the acquisitions of LaSalle and Countrywide, combined with an increase in accounts and transaction volumes.

Card Services

Card Services, which excludes the results of Debit Card (included in *Deposits and Student Lending*), 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 are one of the leading issuers of credit cards through endorsed marketing in the U.S. and Europe.

The Corporation reports its *Card Services* results on a managed basis, which is consistent with the way that management evaluates the results of *Card Services*. 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. The financial market disruptions that began in 2007 continued to impact the economy and financial services sector. Late in the third quarter and into the fourth quarter of 2008, liquidity for asset-backed securities disappeared and spreads rose to historic highs, negatively impacting our credit card securitization programs. If these conditions persist, it could adversely affect our ability to access these markets at favorable terms. For more information, see the Liquidity Risk and Capital Management discussion on page 49.

Net income decreased $3.1 billion, or 85 percent, to $521 million compared to 2007 as growth in net interest income and noninterest income was more than offset by higher provision for credit losses of $8.2 billion.

Net interest income grew $2.9 billion, or 18 percent, to $19.2 billion driven by higher managed average loans and leases of $21.3 billion, or 10 percent, combined with the beneficial impact of the decrease in short-term interest rates on our funding costs.

Noninterest income increased $218 million, or two percent, to $9.2 billion as other income benefited from the $388 million gain related to *Card Services'* allocation of the Visa IPO as well as a $283 million gain on the sale of a card portfolio. These increases were partially offset by the decrease in card income of $377 million, or five percent, due to the unfavorable change in the value of the interest-only strip and decreases in interchange income driven by reduced retail volume and late fees.

Provision for credit losses increased $8.2 billion, or 73 percent, to $19.6 billion compared to 2007 primarily driven by portfolio deterioration and higher bankruptcies from impacts of the slowing economy, a lower level of foreign securitizations and growth-related seasoning of the portfolio. For further discussion, see Provision for Credit Losses on page 75.

Noninterest expense decreased $238 million, or three percent, to $8.1 billion compared to 2007, as the impact of certain benefits associated with the Visa IPO transactions and lower marketing expense were partially offset by higher personnel and technology-related expenses from increased customer assistance and collections infrastructure.

Key Statistics

(Dollars in millions)	2008	2007
Card Services		
Average – total loans and leases:		
Managed	**$229,347**	$208,094
Held	**124,946**	104,810
Period end – total loans and leases:		
Managed	**226,081**	225,889
Held	**125,121**	122,922
Managed net losses [1]:		
Amount	**15,321**	10,088
Percent [3]	**6.68%**	4.85%
Credit Card [2]		
Average – total loans and leases:		
Managed	**$184,246**	$171,376
Held	**79,845**	70,242
Period end – total loans and leases:		
Managed	**182,234**	183,691
Held	**81,274**	80,724
Managed net losses [1]:		
Amount	**11,382**	8,214
Percent [3]	**6.18%**	4.79%

(1) Represents net charge-offs on held loans combined with realized credit losses associated with the securitized loan portfolio.
(2) Includes U.S. consumer, foreign and U.S. government card. Does not include business card and unsecured lending.
(3) Ratios are calculated as managed net losses divided by average outstanding managed loans and leases during the year.

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

Managed *Card Services* net losses increased $5.2 billion to $15.3 billion, or 6.68 percent of average outstandings, compared to $10.1 billion, or 4.85 percent in 2007. This increase was driven by portfolio deterioration and higher bankruptcies reflecting the impacts of the slowing economy. Additionally, portfolio deterioration during the second half of 2008 and growth-related seasoning of the unsecured lending portfolio drove a portion of the increase.

Managed credit card net losses increased $3.2 billion to $11.4 billion, or 6.18 percent of average credit card outstandings, compared to $8.2 billion, or 4.79 percent in 2007. The increase was driven by portfolio deterioration and higher bankruptcies reflecting the impacts of a slowing economy.

For more information on credit quality, see Consumer Portfolio Credit Risk Management beginning on page 56.

Mortgage, Home Equity and Insurance Services

MHEIS generates revenue by providing an extensive line of consumer real estate products and services to customers nationwide. *MHEIS* products are available to our customers through a retail network of personal bankers located in 6,139 banking centers, mortgage loan officers in nearly 1,000 locations and through a sales force offering our customers direct telephone and online access to our products. These products are also offered through our correspondent and wholesale loan acquisition channels. *MHEIS* products include fixed and adjustable rate first-lien mortgage loans for home purchase and refinancing needs, reverse mortgages, home equity lines of credit and home equity loans. First mortgage products are either sold into the secondary mortgage market to investors, while retaining MSRs and the Bank of America customer relationships, or are held on our balance sheet for ALM purposes. *MHEIS* is not impacted by the Corporation's mortgage production retention decisions as *MHEIS* is compensated for the decision on a management accounting basis with a corresponding offset recorded in *All Other.* In addition, *MHEIS* offers property, casualty, life, disability and credit insurance.

Effective July 1, 2008, Countrywide's results of operations are included in the Corporation's consolidated results. While the results of deposit operations are included in *Deposits and Student Lending* the majority of Countrywide's ongoing operations are recorded in *MHEIS.* Countrywide's acquired first mortgage and discontinued real estate portfolios were recorded in *All Other* and are managed as part of our overall ALM activities. For more information related to the Countrywide acquisition, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

MHEIS's net income decreased $2.6 billion to a net loss of $2.5 billion compared to 2007 as growth in noninterest income and net interest income was more than offset by higher provision for credit losses and an increase in noninterest expense.

Net interest income grew $1.4 billion, or 74 percent, driven primarily by an increase in average home equity loans and LHFS. The growth in average home equity loans of $32.3 billion, or 44 percent, and a $5.5 billion increase in LHFS were attributable to the Countrywide and LaSalle acquisitions as well as increases in our home equity portfolio as a result of slower prepayment speeds and organic growth.

Noninterest income increased $4.2 billion to $6.0 billion compared to 2007 driven by increases in mortgage banking income and insurance premiums. Mortgage banking income grew $3.1 billion due primarily to the acquisition of Countrywide combined with increases in the value of MSR economic hedge instruments partially offset by a decrease in value of MSRs. For more information, see the mortgage banking income discussion which follows. Insurance premiums increased $1.1 billion due to the acquisition of Countrywide.

Provision for credit losses increased $5.3 billion to $6.3 billion compared to 2007. This increase was driven primarily by higher losses inherent in the home equity portfolio, reflective of deterioration in the housing markets particularly in geographic areas that have experienced higher levels of declines in home prices. In addition, most home equity loans are secured by second lien positions significantly reducing and, in some cases, resulting in no collateral value after consideration of the first lien position. This drove more severe charge-offs as borrowers defaulted. For further discussion, see Provision for Credit Losses on page 75.

Noninterest expense increased $4.4 billion to $6.9 billion primarily driven by the Countrywide acquisition.

Mortgage Banking Income

We categorize *MHEIS's* mortgage banking income into production and servicing income. Production income is comprised of revenue from the fair value gains and losses recognized on our IRLCs and LHFS, and the related secondary market execution, and costs related to representations and warranties given in the sales transactions and other obligations incurred in the sales of mortgage loans. In addition, production income includes revenue for transfers of mortgage loans from *MHEIS* to the ALM portfolio related to the Corporation's mortgage production retention decisions which is eliminated in consolidation in *All Other.*

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. Our workout efforts are also part of our servicing activities, along with responding to customer inquiries and supervising foreclosures and property dispositions. Servicing income includes ancillary income derived in connection with these activities such as late fees and MSR valuation adjustments, net of economic hedge activities.

The following table summarizes the components of mortgage banking income:

Mortgage banking income

(Dollars in millions)	2008	2007
Production income	$ 2,119	$ 733
Servicing income:		
Servicing fees and ancillary income	3,529	903
Impact of customer payments	(3,313)	(766)
Fair value changes of MSRs, net of economic hedge results	1,906	462
Other servicing-related revenue	181	–
Total net servicing income	2,303	599
Total mortgage banking income	$ 4,422	$1,332

Production income increased $1.4 billion in 2008 compared to 2007. This increase was driven by the Countrywide acquisition which resulted in higher volumes, and an improvement in margins.

Net servicing income increased $1.7 billion in 2008 compared to 2007 due primarily to increases in the value of the MSR economic hedge instruments of $8.6 billion partially offset by changes in the fair value of MSRs of $6.7 billion. Generally, when mortgage interest rates decline, as occurred during the second half of 2008, there is an increase in the value of instruments used to economically hedge MSRs and a corresponding decrease in the value of MSRs. The decrease in the value of MSRs during the second half of 2008 was tempered by the expectation that weakness in the housing market would decrease the impact of market interest rates on expected future prepayments. For further discussion on MSRs and the related hedge instruments, see Mortgage Banking Risk Management on page 86.

The following table presents select key indicators for *MHEIS*.

Mortgage, Home Equity and Insurance Services Key Statistics

(Dollars in millions, except as noted)	**2008**	2007
Loan production:		
First mortgage	**$128,945**	$93,304
Home equity	**31,998**	69,226
Period end		
Mortgage servicing portfolio (in billions) [1]	**2,057**	517
Mortgage loans serviced for investors (in billions)	**1,654**	259
Mortgage servicing rights:		
Balance	**12,733**	3,053
Capitalized mortgage servicing rights (% of loans serviced)	**77bps**	118bps

(1) Servicing of residential mortgage loans, home equity lines of credit, home equity loans and discontinued real estate mortgage loans.

First mortgage and home equity production were $128.9 billion and $32.0 billion in 2008 compared to $93.3 billion and $69.2 billion in 2007. The increase of $35.6 billion in first mortgage production was due to the acquisition of Countrywide partially offset by decreased activity in the mortgage market. The decrease of $37.2 billion in home equity production was primarily due to more stringent underwriting guidelines for home equity lines of credit and loans, and lower consumer demand.

The servicing portfolio at December 31, 2008 was $2.1 trillion, $1.5 trillion higher than at December 31, 2007, driven by the acquisition of Countrywide. Included in this amount was $1.7 trillion of residential first mortgage, home equity lines of credit and home equity loans serviced for others.

At December 31, 2008, the consumer MSR balance was $12.7 billion, which represented 77 bps of the related unpaid principal balance as compared to $3.1 billion, or 118 bps of the related principal balance at December 31, 2007. The increase in the consumer MSR balance was driven by $17.2 billion of MSRs that we acquired from Countrywide which was partially offset by the impact of mortgage rates falling substantially during the fourth quarter of 2008. As a result of the decline in rates, the value of the MSRs decreased driven by a significant increase in expected prepayments which reduced the expected life of the consumer MSRs. This resulted in the 41 bps decrease in the capitalized MSRs as a percentage of loans serviced. MSR economic hedge results were more than sufficient to offset this decrease.

Global Corporate and Investment Banking

(Dollars in millions)	2008 Total	Business Lending	Capital Markets and Advisory Services [1]	Treasury Services	ALM/ Other
Net interest income [2]	$ 16,538	$ 6,221	$ 6,124	$ 3,610	$ 583
Noninterest income:					
Service charges	3,344	657	134	2,553	–
Investment and brokerage services	850	–	810	40	–
Investment banking income	2,708	–	2,708	–	–
Trading account profits (losses)	(5,956)	(251)	(5,787)	74	8
All other income (loss)	(4,044)	1,196	(7,007)	1,507	260
Total noninterest income (loss)	(3,098)	1,602	(9,142)	4,174	268
Total revenue, net of interest expense	13,440	7,823	(3,018)	7,784	851
Provision for credit losses	3,080	3,082	5	47	(54)
Noninterest expense	10,381	2,066	4,722	3,459	134
Income (loss) before income taxes	(21)	2,675	(7,745)	4,278	771
Income tax expense (benefit) [2]	(7)	953	(2,797)	1,546	291
Net income (loss)	$ (14)	$ 1,722	$ (4,948)	$ 2,732	$ 480
Net interest yield [2]	2.36%	1.97%	n/m	2.17%	n/m
Return on average equity [3]	(0.02)	7.38	(24.32)%	33.21	n/m
Efficiency ratio [2]	77.24	26.40	n/m	44.43	n/m
Period end – total assets [4]	$707,170	$ 336,561	$ 313,141	$223,895	n/m

(Dollars in millions)	2007 Total	Business Lending	Capital Markets and Advisory Services [1]	Treasury Services	ALM/ Other
Net interest income [2]	$ 11,206	$ 4,926	$ 2,788	$ 3,792	$ (300)
Noninterest income:					
Service charges	2,770	516	134	2,121	(1)
Investment and brokerage services	913	–	869	42	2
Investment banking income	2,537	–	2,537	–	–
Trading account profits (losses)	(4,921)	(180)	(4,811)	63	7
All other income (loss)	1,146	823	(968)	1,086	205
Total noninterest income (loss)	2,445	1,159	(2,239)	3,312	213
Total revenue, net of interest expense	13,651	6,085	549	7,104	(87)
Provision for credit losses	658	653	–	6	(1)
Noninterest expense	12,198	2,262	5,925	3,713	298
Income (loss) before income taxes	795	3,170	(5,376)	3,385	(384)
Income tax expense (benefit) [2]	285	1,170	(1,991)	1,249	(143)
Net income (loss)	$ 510	$ 2,000	$ (3,385)	$ 2,136	$ (241)
Net interest yield [2]	1.65%	1.96%	n/m	2.79%	n/m
Return on average equity [3]	1.12	12.36	(25.52)%	27.18	n/m
Efficiency ratio [2]	89.36	37.19	n/m	52.27	n/m
Period end – total assets [4]	$778,158	$ 303,966	$ 413,811	$183,996	n/m

(1) Includes $113 million and $70 million of net interest income on loans for which the fair value option has been elected and is not considered market-based income for 2008 and 2007. For more information, see the market-based revenue discussion beginning on page 34.
(2) FTE basis
(3) Average allocated equity for *GCIB* was $62.4 billion and $45.3 billion for 2008 and 2007. The increase was attributable to goodwill associated with the LaSalle acquisition, portfolio growth, and higher trading and operational risk.
(4) Total assets include asset allocations to match liabilities (i.e., deposits).
n/m= not meaningful

(Dollars in millions)	December 31 2008	December 31 2007	Average Balance 2008	Average Balance 2007
Total loans and leases	**$ 340,692**	$ 326,042	**$ 337,352**	$ 274,725
Total trading-related assets	**247,552**	308,316	**341,544**	362,195
Total market-based earning assets (1)	**244,914**	360,276	**368,751**	412,587
Total earning assets (2)	**589,431**	675,407	**699,708**	677,215
Total assets (2)	**707,170**	778,158	**816,832**	771,219
Total deposits	**251,798**	246,242	**239,097**	219,891

(1)Total market-based earning assets represents earning assets included in *CMAS* but excludes loans that are accounted for at fair value in accordance with SFAS 159.
(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, transaction and advisory services. *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. 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 73.

On January 1, 2009, we acquired Merrill Lynch in exchange for common and preferred stock with a value of $29.1 billion, creating a premier financial services franchise with significantly enhanced wealth management, investment banking and international capabilities. In addition, the acquisition adds strengths in debt and equity underwriting, sales and trading, and global merger and acquisition advice, creating significant opportunities to deepen relationships with corporate and institutional clients around the globe. For more information related to the Merrill Lynch acquisition, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

During 2008, we reached an agreement with the Massachusetts Securities Division under which we offered to purchase at par ARS held by our retail customers, including individual investors, businesses, and charitable organizations. Further in October 2008, we announced other agreements in principle with the SEC, the Office of the NYAG, and the North American Securities Administrators Association. These agreements are substantially similar except that the agreement with the NYAG requires the payment of a penalty. These agreements will cover approximately $5.3 billion in ARS held by an estimated 5,600 of our customers. We purchased approximately $4.7 billion of securities, $2.7 billion of which were purchased by *GWIM* and $2.0 billion of which were purchased by *GCIB*. During the year, we recognized mark-to-market losses of $181 million and $312 million in *GWIM* and *GCIB* on these securities and a penalty of $50 million which was equally allocated to *GWIM* and *GCIB*. As of December 31, 2008, our remaining commitment to purchase ARS was $675 million of which $537 million related to *GWIM* and $138 million related to *GCIB*.

Net income decreased $524 million to a net loss of $14 million and total revenue decreased $211 million, or two percent, to $13.4 billion in 2008 compared to 2007. These decreases were driven by losses resulting from our CDO and other trading exposures. Additionally, we experienced an increase in provision for credit losses which was partially offset by higher net interest income and a decrease in noninterest expense.

Net interest income increased $5.3 billion, or 48 percent, driven primarily by higher market-based net interest income which benefited from the steepening of the yield curve and product mix. Additionally, net interest income benefited from growth in average loans and leases of $62.6 billion, or 23 percent, combined with a higher margin on ALM activities. These benefits were partially offset by the impact of competitive deposit pricing and a shift in the deposit product mix as more customers moved their deposits to higher yielding products. The growth in average loans and deposits was due to the LaSalle merger as well as organic growth.

Noninterest income decreased $5.5 billion to a loss of $3.1 billion in 2008 compared to 2007, driven by declines in trading account profits (losses) of $1.0 billion and other income of $5.2 billion. For more information on the aforementioned decreases, see the *CMAS* discussion. Additionally, noninterest income benefited from the favorable impact of the Visa IPO transactions and an increase in service charge income.

The provision for credit losses increased $2.4 billion to $3.1 billion in 2008 compared to 2007 reflecting higher credit costs in *Business Lending*. For further information, see the *Business Lending* discussion.

Noninterest expense decreased $1.8 billion, or 15 percent, mainly due to a reduction in performance-based incentive compensation in *CMAS* and the impact of certain benefits associated with the Visa IPO transactions, partially offset by the addition of LaSalle.

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 products. 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 middle-market and real estate-related commercial credit counterparties utilizing various risk mitigation tools.

Net income decreased $278 million, or 14 percent, to $1.7 billion in 2008 compared to 2007 as increases in net interest income and noninterest income combined with a decrease in noninterest expense were more than offset by increases in provision for credit losses.

Net interest income increased $1.3 billion, or 26 percent, driven by average loan growth of 25 percent to $311.0 billion. The increase in average loans and leases was attributable to the LaSalle acquisition and organic growth primarily in commercial – domestic and real estate loans.

The increase in noninterest income of $443 million, or 38 percent, was mainly driven by improved economic hedging results of our exposures to certain commercial clients and an increase in service charges.

The provision for credit losses increased $2.4 billion to $3.1 billion in 2008 compared to 2007, reflecting reserve increases and higher charge-offs primarily due to the continued weakness in the housing markets on the homebuilder portfolio. Also contributing to this increase were higher commercial – domestic and foreign net charge-offs which increased from

very low prior year levels and higher net charge-offs and reserve increases in the retail dealer-related loan portfolios due to deterioration and seasoning of the portfolio reflective of growth.

Noninterest expense decreased $196 million, or nine percent, primarily due to decreased incentive compensation partially offset by 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 products 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 our primary dealer.

CMAS recognized a net loss of $4.9 billion in 2008 compared to a net loss of $3.4 billion in 2007. Market-based revenue was a net loss of $3.1 billion as compared to net revenue of $479 million. These decreases were driven by losses related to CDO exposure and the continuing impact of the market disruptions on various parts of our business including the severe volatility, illiquidity and credit dislocations that were experienced in the debt and equity markets in the fourth quarter of 2008. Partially offsetting these declines were favorable results in our liquid products and equity underwriting businesses. In addition, noninterest expense declined $1.2 billion primarily due to lower performance-based incentive compensation. For more information relating to our market-based revenue, see the discussion below.

Market-based Revenue

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 and foreign exchange contracts), credit products (primarily investment and noninvestment grade corporate debt obligations, credit derivatives and public finance), 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)	**2008**	2007
Investment banking income		
Advisory fees	**$ 287**	$ 443
Debt underwriting	**1,797**	1,775
Equity underwriting	**624**	319
Total investment banking income	**2,708**	2,537
Sales and trading revenue		
Fixed income:		
Liquid products	**3,608**	2,155
Credit products	**(2,273)**	(212)
Structured products	**(7,987)**	(5,326)
Total fixed income	**(6,652)**	(3,383)
Equity income	**813**	1,325
Total sales and trading revenue	**(5,839)**	(2,058)
Total Capital Markets and Advisory Services market-based revenue [1]	**$(3,131)**	$ 479

(1) Excludes $113 million and $70 million for 2008 and 2007 of net interest income on loans for which the fair value option has been elected and is not considered market-based income.

Investment banking income increased $171 million to $2.7 billion as compared to 2007 driven by increased equity underwriting fees partially offset by lower advisory fees. Advisory fees were adversely impacted by reduced activity due to the slowing economy. Equity underwriting income was driven by fees earned on the Corporation's stock issuances during 2008 for which *CMAS* was compensated on a management accounting basis with a corresponding offset in *All Other*.

Sales and trading revenue declined $3.8 billion to a loss of $5.8 billion in 2008 compared to 2007. While structured products and credit products reported losses for 2008, liquid products increased and equities compared reasonably well with 2007 despite the continuing disruptive market conditions.

- Liquid products sales and trading revenue increased $1.5 billion in 2008 compared to 2007 as *CMAS* took advantage of trending volatility in interest rate and foreign exchange markets which also drove favorable client flows.
- Credit products sales and trading revenue declined $2.1 billion to a loss of $2.3 billion in 2008 compared to 2007. During 2008, we incurred losses of $1.1 billion, net of $286 million of fees, on leveraged loans and the forward leveraged finance commitments as investor confidence faded and liquidity became largely non-existent. The few institutions that were in a position to acquire additional loans, required discount equivalent yields in excess of one-month LIBOR plus 1,000 bps in some instances, thus applying downward pressure to pricing mechanisms, especially during the fourth quarter of 2008. Losses incurred on our leveraged exposure were not concentrated in any one type (senior secured or subordinated/senior unsecured) and were generally due to wider new issuance credit spreads as compared to the negotiated spreads. Credit products also incurred losses on ARS of $898 million which included $312 million representing *CMAS*'s portion of losses on the buyback from our customers. A significant portion of these losses (i.e., $750 million) were concentrated in student loan ARS. For further discussion on our ARS exposure, see Industry Concentrations beginning on page 69 and for a discussion on *GWIM*'s portion of ARS losses on the buyback from our customers see page 70.

At December 31, 2008, we had no forward leveraged finance commitments and the carrying value of our leveraged funded positions held for distribution was $2.8 billion. At December 31, 2007, the carrying value of the Corporation's forward leveraged finance commitments and leveraged funded positions held for distribution were $11.9 billion and $5.9 billion. The elimination of our forward leveraged finance commitments was due to the funding of previously outstanding commitments, approximately 66 percent of which were distributed through syndication, and client-terminated commitments. Pre-market disruption exposure originated prior to September 30, 2007 had a carrying value of $1.5 billion at December 31, 2008 as compared to $5.9 billion at December 31, 2007. At December 31, 2008, 66 percent of the leveraged funded positions held for distribution were senior secured with an approximate carrying value of $1.9 billion of which $1.4 billion were originated prior to September 30, 2007.

- Structured products sales and trading revenue was a loss of $8.0 billion, which represented a decline in revenue of $2.7 billion compared to the prior year. The decrease was driven by $4.8 billion of losses resulting from our CDO exposure, which includes our super senior, warehouse, and sales and trading positions, and our hedging activities including counterparty credit risk valuations. See the detailed CDO exposure discussion to follow. Also, structured products was adversely impacted by $944 million of losses (net of hedges) on CMBS funded debt and the forward finance commitments for 2008, and $545 million in losses associated with equity investments we made in acquisition-related financing transactions. In addition, 2008 included losses related to other structured products including $738 million of losses for counterparty credit risk valuations related to our structured credit trading business. Other structured products, including residential mortgage-backed securities as well as other residual structured credit positions were negatively impacted by spread widening and extreme dislocations in basis correlations in both domestic and foreign markets that occurred in the fourth quarter of 2008. The results of 2007 were adversely impacted by the market disruptions that began during the third quarter of 2007.

  At December 31, 2008 and 2007, we held $6.9 billion and $13.6 billion of funded CMBS debt of which $6.0 billion and $8.9 billion were primarily floating-rate acquisition-related financings to major, well-known operating companies. In addition, at December 31, 2008 and 2007, we had forward finance commitments of $700 million and $2.2 billion. The decrease in funded CMBS debt was driven by securitizations and loan sales, while the decrease in forward finance commitments was driven by the funding of outstanding commitments and the business decision not to enter into any new floating-rate acquisition-related financings. Forward finance commitments at December 31, 2008 were comprised primarily of fixed-rate conduit product financings. The $944 million of losses recorded during 2008 associated with our CMBS exposure were concentrated in the more difficult to hedge floating-rate debt.
- Equity products sales and trading revenue decreased $512 million to $813 million in 2008 compared to 2007 primarily due to lower trading results in the institutional derivatives businesses and the sale of our equity prime brokerage business that occurred in the third quarter of 2008.

Collateralized Debt Obligation Exposure at December 31, 2008

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

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 Obligation Vehicles as part of Off- and On-Balance Sheet Arrangements beginning on page 43. 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 issued by the CDO vehicles.

During 2008, we recorded CDO-related losses of $4.8 billion compared to $5.6 billion in 2007 including losses on super senior exposure of $3.6 billion and $4.0 billion. Also included in CDO-related losses in 2008 were $707 million of losses on purchased securities from liquidated CDO vehicles. These securities were purchased from the vehicles at auction and the losses were recorded subsequent to their purchase. CDO-related losses reduced trading account profits (losses) by $1.6 billion and other income by $3.2 billion. Also included during 2008 were net gains of $893 million related to our hedging activity, $315 million of losses related to subprime sales and trading and CDO warehouse positions, and $1.1 billion of losses to cover counterparty risk on our CDO and subprime-related exposure. The losses recorded in other income noted above were other-than-temporary impairment charges related to CDOs and purchased securities classified as AFS debt securities at December 31, 2008. Also we had unrealized losses on uninsured other super senior cash positions and purchased securities from liquidated CDOs of $422 million (pre-tax) in accumulated OCI at December 31, 2008.

The CDO and related markets continued to deteriorate during 2008, experiencing significant illiquidity impacting the availability and reliability of transparent pricing. At December 31, 2008, we valued these CDO structures consistent with how we valued them at December 31, 2007. We assumed the CDO structures would terminate and looked through the structures to the underlying net asset values of the securities. We were able to obtain security values using either external pricing services or offsetting trades for approximately 94 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 as interest-only strips, based on estimated average life, exposure type and vintage of the underlying assets. We assigned a zero value to the CDO positions for which an event of default has been triggered and liquidation notice has been issued. The value of cash held by the trustee for all CDO structures was also incorporated into the resulting net asset value. In addition, we were able to obtain security values using the same methodology as the CDO exposure for approximately 65 percent of the purchased securities from liquidated CDOs. Similarly, the majority of the remaining positions where no pricing quotes were available were valued using matrix pricing and projected cash flows.

As presented in the following table, during 2008, our super senior net exposure, excluding purchased securities from liquidated CDOs, decreased $8.4 billion to $3.3 billion at December 31, 2008, driven by paydowns, liquidations and writedowns. Including purchased securities, our super senior net exposure decreased $6.3 billion to $5.3 billion at December 31, 2008. In addition, during the year we reclassified $5.6 billion of super senior liquidity commitments to other super senior exposure. This amount represents the net exposure, after insurance and write-downs, at the time of reclassification of five CDO vehicles and a CDO conduit to which we had an aggregate gross liquidity exposure of $11.5 billion at December 31, 2007. As described further within the Collateralized Debt Obligation Vehicles section beginning on page 45, we no longer have liquidity exposure to these vehicles. Instead, we now hold cash positions, including super senior securities issued by the CDOs.

The following table presents a rollforward of our super senior CDO exposure for the year ended December 31, 2008.

Super Senior Collateralized Debt Obligation Exposure Rollforward

(Dollars in millions)	December 31, 2007 Net Exposure	Reclassifications [1]	2008 Net Writedowns / Adjustments [2]	Paydowns / Liquidations / Other	December 31, 2008 Net Exposure
Super senior liquidity commitments					
High grade	$ 5,166	$ (3,917)	$ (486)	$ (287)	**$ 476**
Mezzanine	358	(337)	(21)	–	**–**
CDO-squared	2,227	(1,318)	(548)	(361)	**–**
Total super senior liquidity commitments	7,751	(5,572)	(1,055)	(648)	**476**
Other super senior exposure					
High grade	2,125	3,917	(1,328)	(2,207)	**2,507**
Mezzanine	795	337	(606)	(229)	**297**
CDO-squared	959	1,318	(1,023)	(1,254)	**–**
Total other super senior	3,879	5,572	(2,957)	(3,690)	**2,804**
Total super senior	$ 11,630	$ –	$ (4,012)	$ (4,338)	**$ 3,280**
Purchased securities from liquidated CDOs	–	–	(707)	2,737	**2,030**
Total	$ 11,630	$ –	$ (4,719)	$ (1,601)	**$ 5,310**

(1)Represents CDO exposure that was reclassified from super senior liquidity commitments to other super senior exposure as the Corporation is no longer providing liquidity.
(2)Net of insurance and includes $422 million (pre-tax) of unrealized losses recorded in accumulated OCI.

The following table presents our super senior CDO exposure at December 31, 2008 and 2007.

Super Senior Collateralized Debt Obligation Exposure

	Total CDO Exposure at December 31, 2008										
	Subprime Exposure [1]					Non-Subprime Exposure [2]					Total CDO Net Exposure
(Dollars in millions)	Gross	Insured [3]	Net of Insured Amount	Cumulative Write-downs [4,5]	Net Exposure	Gross	Insured [3]	Net of Insured Amount	Cumulative Write-downs [4,5]	Net Exposure	December 31 2008	December 31 2007
Super senior liquidity commitments												
High grade	**$ –**	**$ –**	**$ –**	**$ –**	**$ –**	**$ 542**	**$ –**	**$ 542**	**$ (66)**	**$ 476**	**$ 476**	$ 5,166
Mezzanine	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	358
CDO-squared	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	2,227
Total super senior liquidity commitments	**–**	**–**	**–**	**–**	**–**	**542**	**–**	**542**	**(66)**	**476**	**476**	7,751
Other super senior exposure												
High grade	**4,330**	**(2,519)**	**1,811**	**(1,127)**	**684**	**3,445**	**(728)**	**2,717**	**(894)**	**1,823**	**2,507**	2,125
Mezzanine	**535**	**–**	**535**	**(238)**	**297**	**–**	**–**	**–**	**–**	**–**	**297**	795
CDO-squared	**–**	**–**	**–**	**–**	**–**	**340**	**(340)**	**–**	**–**	**–**	**–**	959
Total other super senior	**4,865**	**(2,519)**	**2,346**	**(1,365)**	**981**	**3,785**	**(1,068)**	**2,717**	**(894)**	**1,823**	**2,804**	3,879
Total super senior	**$4,865**	**$ (2,519)**	**$ 2,346**	**$ (1,365)**	**$ 981**	**$4,327**	**$ (1,068)**	**$ 3,259**	**$ (960)**	**$ 2,299**	**$ 3,280**	$ 11,630
Purchased securities from liquidated CDOs	**2,737**	**–**	**2,737**	**(707)**	**2,030**	**–**	**–**	**–**	**–**	**–**	**2,030**	–
Total	**$7,602**	**$ (2,519)**	**$ 5,083**	**$ (2,072)**	**$ 3,011**	**$4,327**	**$ (1,068)**	**$ 3,259**	**$ (960)**	**$ 2,299**	**$ 5,310**	**$ 11,630**

(1)Classified as subprime when subprime consumer real estate loans make up at least 35 percent of the ultimate underlying collateral's original net exposure value.
(2)Includes highly-rated collateralized loan obligations and commercial mortgage-backed securities super senior exposure.
(3)Insured exposures are presented prior to $2.1 billion of cumulative writedowns.
(4)Net of insurance excluding losses taken on liquidated CDOs.
(5)Cumulative write-downs on subprime and non-subprime exposures include unrealized losses of $111 million and $311 million (pre-tax) and are recorded in accumulated OCI.

At December 31, 2008, we held $2.5 billion of purchased insurance on our subprime super senior CDO exposure of which 71 percent was provided by monolines in the form of CDS, total-return-swaps (TRS) or financial guarantees. In the case of default, we look to the underlying securities and then to recovery on purchased insurance. At December 31, 2008, these contracts were valued at $1.9 billion by referencing the fair value of the CDO which is valued in the same manner as the unhedged portion. We have adjusted these values downward by a total of $1.1 billion to date to reflect the counterparty credit risk to the issuers of the insurance. In addition, we held collateral in the form of cash and marketable securities of $401 million related to our purchased insurance. The underlying insured CDOs are collateralized with approximately 38 percent of subprime assets of which approximately 53 percent are of higher quality vintages from 2005 and prior.

In addition, at December 31, 2008 we held $1.1 billion of purchased insurance on our non-subprime super senior CDO exposure all of which was provided by monolines in the form of CDS, TRS or financial guarantees. At December 31, 2008, these contracts were valued at $146 million by referencing the fair value of the CDO which is valued in the same manner as the unhedged portion. We have adjusted these values downward by a total of $40 million to date to reflect counterparty credit risk to the issuers of the insurance. For more information on our credit exposure to monolines, see Industry Concentrations beginning on page 70.

At December 31, 2008, the carrying value of the super senior exposure in the form of cash positions, liquidity commitments, and derivative contracts consisted of net subprime super senior exposure of $981 million and net non-subprime super senior exposure of $2.3 billion. In addition, we had $2.0 billion of exposure in purchased securities from liquidated CDOs. For more information on our super senior liquidity exposure, see the CDO discussion beginning on page 45.

The table below presents the carrying values of our subprime net exposures including subprime collateral content and percentages of recent vintages.

At December 31, 2008, the Corporation did not have any subprime super senior liquidity commitments. Net other subprime super senior exposure was $981 million at December 31, 2008. Other subprime super senior exposure consists primarily of cash securities and CDS on CDO positions. The collateral supporting the high grade exposure consisted of about 45 percent subprime content, of which approximately 12 percent was made up of 2006 and 2007 vintages while the remaining amount was comprised of higher quality vintages from 2005 and prior. The collateral supporting the mezzanine exposure consisted of approximately 35 percent subprime content, of which approximately 66 percent is comprised of later vintages. We recorded losses associated with these exposures of $3.0 billion in 2008.

In addition, at December 31, 2008, we had $2.0 billion of exposure in purchased securities from liquidated CDOs. These purchased securities were carried at approximately 34 percent of their original net exposure amount and approximately 27 percent of the underlying assets are subprime.

We also had net non-subprime super senior exposure of $2.3 billion which primarily included CMBS super senior exposures and highly rated CLO exposures. The net non-subprime super senior exposure is comprised of $476 million of high grade super senior liquidity commitment exposure and $1.8 billion of high grade other super senior exposure. We recorded losses of $592 million associated with these exposures in 2008. These losses were primarily driven by spread widening and impairments of principal from the CMBS exposure in these super senior CDOs. These non-subprime super senior exposures experienced additional impairments of principal as credit conditions deteriorated in the corporate debt and commercial mortgage markets during the second half of 2008.

In addition to the super senior exposure including purchased securities at December 31, 2008, we also had exposure with a market value of $563 million in our CDO sales and trading portfolio, of which approximately $233 million was classified as subprime. This subprime exposure is carried at approximately 22 percent of par value and includes $137 million of secondary trading positions and $96 million of positions in legacy warehouses.

Subprime Super Senior Collateralized Debt Obligation Carrying Values [1]

December 31, 2008

(Dollars in millions)	Subprime Net Exposure	Carrying Value as a Percent of Original Net Exposure	Subprime Content of Collateral [2]	Vintage of Subprime Collateral: Percent in 2006/2007 Vintages	Vintage of Subprime Collateral: Percent in 2005/Prior Vintages
Other super senior exposure					
High grade	$ 684	38%	45%	12%	88%
Mezzanine	297	56	35	66	34
Total other super senior	**$ 981**	42			
Purchased securities from liquidated CDOs	**2,030**	34	27	26	74
Total	**$ 3,011**	36			

(1) Classified as subprime when subprime consumer real estate loans make up at least 35 percent of the ultimate underlying collateral's original net exposure value.
(2) Based on current net exposure value.

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.

Net income increased $596 million, or 28 percent, in 2008 compared to 2007 as an increase in noninterest income combined with a decrease in noninterest expense was partially offset by lower net interest income. Net interest income decreased $182 million, or five percent, due to spread compression in spite of strong average deposit growth of $28.1 billion, or 18 percent, due to organic growth as well as the LaSalle acquisition. Deposit growth was accentuated by our clients' flight-to-safety, notably seen in activity of our large corporate and hedge fund clients, and contributed to overall total deposits growth during the latter part of 2008. Noninterest income grew $862 million, or 26 percent, driven by increased service charges of $432 million which was due to organic growth, changes in our pricing structure, and the LaSalle acquisition. In addition, noninterest income benefited from the $388 million gain related to *Treasury Services'* allocation of the Visa IPO gain. Noninterest expense decreased $254 million, or seven percent, due to the impact of certain benefits associated with the Visa IPO transactions partially offset by the acquisition 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 residual amounts related to discontinued business activities.

Net income increased $721 million to $480 million in 2008 compared to 2007 mainly due to an increase in net interest income of $883 million, resulting from a higher contribution from the Corporation's ALM activities, which was due in part to investing the Corporation's deposits at profitable spreads. In addition, we sold our equity prime brokerage business to BNP Paribas which resulted in a gain of $224 million which was recorded in all other income. This increase was partially offset by the absence of a gain from the sale of our commercial insurance business that was sold in the fourth quarter of 2007. Noninterest expense decreased mainly due to the absence of this commercial insurance business.

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Global Wealth and Investment Management

(Dollars in millions)	2008 Total	U.S. Trust [1]	Columbia Management	Premier Banking and Investments	ALM/ Other
Net interest income [2]	$ 4,775	$ 1,237	$ 13	$ 2,141	$1,384
Noninterest income:					
Investment and brokerage services	4,059	1,397	1,496	1,002	164
All other income (loss)	(1,049)	16	(1,118)	58	(5)
Total noninterest income	3,010	1,413	378	1,060	159
Total revenue, net of interest expense	7,785	2,650	391	3,201	1,543
Provision for credit losses	664	103	–	561	–
Noninterest expense	4,904	1,817	1,120	1,713	254
Income (loss) before income taxes	2,217	730	(729)	927	1,289
Income tax expense (benefit) [2]	801	270	(270)	343	458
Net income (loss)	$ 1,416	$ 460	$ (459)	$ 584	$ 831
Net interest yield [2]	2.97%	2.40%	n/m	1.75%	n/m
Return on average equity [3]	12.11	9.87	(63.35)%	30.41	n/m
Efficiency ratio [2]	62.99	68.54	n/m	53.51	n/m
Period end – total assets [4]	$187,994	$ 57,166	$ 2,923	$ 136,079	n/m

(Dollars in millions)	2007 Total	U.S. Trust [1]	Columbia Management	Premier Banking and Investments	ALM/ Other
Net interest income [2]	$ 3,917	$ 1,033	$ 7	$ 2,654	$ 223
Noninterest income:					
Investment and brokerage services	3,781	1,230	1,435	950	166
All other income (loss)	(145)	57	(366)	145	19
Total noninterest income	3,636	1,287	1,069	1,095	185
Total revenue, net of interest expense	7,553	2,320	1,076	3,749	408
Provision for credit losses	14	(14)	–	27	1
Noninterest expense	4,480	1,589	1,042	1,711	138
Income before income taxes	3,059	745	34	2,011	269
Income tax expense [2]	1,099	275	13	744	67
Net income	$ 1,960	$ 470	$ 21	$ 1,267	$ 202
Net interest yield [2]	3.11%	2.68%	n/m	2.70%	n/m
Return on average equity [3]	19.83	17.36	3.91%	72.16	n/m
Efficiency ratio [2]	59.31	68.49	96.85	45.64	n/m
Period end – total assets [4]	$155,683	$ 51,043	$ 1,943	$ 113,365	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 $11.7 billion and $9.9 billion in 2008 and 2007.
[4] Total assets include asset allocations to match liabilities (i.e., deposits).
n/m= not meaningful

(Dollars in millions)	December 31 2008	December 31 2007	Average Balance 2008	Average Balance 2007
Total loans and leases	**$ 89,400**	$ 84,600	**$ 87,591**	$ 73,473
Total earning assets [1]	**178,240**	145,056	**160,699**	126,014
Total assets [1]	**187,994**	155,683	**169,986**	134,032
Total deposits	**175,107**	144,865	**159,525**	124,871

(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 needs 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 *PB&I*. In addition, *ALM/Other* primarily includes the results of ALM activities.

On January 1, 2009, we acquired Merrill Lynch in exchange for common and preferred stock with a value of $29.1 billion. The acquisition added Merrill Lynch's approximately 16,000 financial advisors and its economic ownership of approximately 50 percent (primarily preferred stock) in BlackRock, Inc., a publicly traded investment management company. For more information related to the Merrill Lynch acquisition, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

In December 2007, we completed the sale of Marsico. Prior year Marsico business results have been transferred from *GWIM* to *All Other* to better facilitate year-over-year comparisons.

Net income decreased $544 million, or 28 percent, to $1.4 billion in 2008 as increases in net interest income and investment and brokerage services income were more than offset by losses associated with the support provided to certain cash funds managed within *Columbia*, increases in provision for credit losses and noninterest expense as well as losses related to the buyback of ARS.

Net interest income increased $858 million, or 22 percent, to $4.8 billion due to higher margin on ALM activities, the acquisitions of U.S. Trust Corporation and LaSalle, and growth in average deposit and loan balances partially offset by spread compression driven by deposit mix and competitive deposit pricing. *GWIM* average deposit growth benefited from the migration of customer relationships and related balances from *GCSBB*, organic growth and the U.S. Trust Corporation and LaSalle acquisitions. A more detailed discussion regarding migrated customer relationships and related balances is provided in the *PB&I* discussion on page 41.

Noninterest income decreased $626 million, or 17 percent, to $3.0 billion driven by an additional $1.1 billion in losses during 2008 related to the support provided to certain cash funds managed within *Columbia* and losses of $181 million related to the buyback of ARS. These losses were partially offset by an increase of $278 million in investment and brokerage services resulting from the U.S. Trust Corporation acquisition partially offset by the impact of significantly lower valuations in the equity markets.

Provision for credit losses increased $650 million to $664 million as a result of higher credit costs primarily in *PB&I* due to the deterioration in the housing markets and the impacts of a slower economy.

Noninterest expense increased $424 million, or nine percent, to $4.9 billion due to the addition of U.S. Trust Corporation and LaSalle, and higher initiative spending partially offset by lower discretionary incentive compensation.

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 2008	December 31 2007
Assets under management	**$523,159**	$643,531
Client brokerage assets	**172,106**	222,661
Assets in custody	**133,726**	167,575
Less: Client brokerage assets and assets in custody included in assets under management	**(78,487)**	(87,071)
Total net client assets	**$750,504**	$946,696

AUM decreased $120.4 billion, or 19 percent, to $523.2 billion as of December 31, 2008 compared to 2007. Client brokerage assets decreased by $50.6 billion, or 23 percent, and assets in custody decreased $33.8 billion, or 20 percent. These decreases were driven by significant market declines.

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

In July 2007, the acquisition of U.S. Trust Corporation was completed for $3.3 billion in cash combining it with the *Private Bank* 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 needs 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 decreased $10 million, or two percent, to $460 million compared to 2007, as higher net interest income and noninterest income were more than offset by higher noninterest expenses and provision for credit losses. Net interest income increased $204 million, or 20 percent, due to the U.S. Trust Corporation and LaSalle acquisitions as well as organic growth in average deposits and average loans and leases. This growth was partially offset by spread compression, driven by deposit mix and competitive deposit pricing. Noninterest income increased $126 million, or 10 percent, driven by higher investment and brokerage services income due to the acquisitions which was partially offset by the impact of significantly lower valuations in the equity markets. In addition, noninterest income was impacted by $50 million in losses related to the buyback of ARS previously discussed. Provision for credit losses increased $117 million to $103 million compared to the same period in

2007 primarily due to higher credit costs in our home equity and residential mortgage portfolios reflective of deterioration in the housing markets and the impacts of a slowing economy. The absence of a prior year reserve reduction of $54 million also contributed to the increase in provision. Noninterest expense increased $228 million, or 14 percent due primarily to the acquisitions of U.S. Trust Corporation and LaSalle.

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 to institutional clients and individuals directly through *U.S. Trust, PB&I, GCIB* and nonproprietary channels including other brokerage firms.

In December 2007, we completed the sale of Marsico. Prior year Marsico business results have been transferred from *Columbia* to *All Other* to better facilitate year-over-year comparisons.

Net income decreased $480 million to a loss of $459 million due to $1.1 billion in losses related to support provided to certain cash funds as discussed below, compared to losses of $382 million in 2007. These items were partially offset by an increase of $61 million in investment and brokerage services income. The increase in investment and brokerage services income was driven by the U.S. Trust Corporation acquisition partially offset by the impact of significantly lower valuations in the equity markets. In addition, noninterest expense increased $78 million driven by the U.S. Trust Corporation acquisition.

Cash Funds Support

Beginning in the second half of 2007, we provided support to certain cash funds managed within *Columbia.* The funds for which we provided support typically invested in high quality, short-term securities with a portfolio weighted average maturity of 90 days or less, including securities issued by SIVs and senior debt holdings of financial service companies. Due to market disruptions, certain investments in SIVs and the senior debt securities were downgraded by the rating agencies and experienced a decline in fair value. We entered into capital commitments under which the Corporation provided cash to these funds in the event the net asset value per unit of a fund declined below certain thresholds. The capital commitments expire no later than the third quarter of 2010. At December 31, 2008 and 2007 we had gross (i.e., funded and unfunded) capital commitments to the funds of $1.0 billion and $565 million. During 2008 and 2007, we incurred losses of $695 million and $382 million related to these capital commitments. At December 31, 2008 and 2007, the remaining loss exposure on capital commitments was $300 million and $183 million.

Additionally, during 2008 we purchased $1.7 billion of investments and recorded losses of $366 million related to these securities and $52 million of other-than-temporary impairment losses recorded subsequent to purchase. During 2007, we purchased $585 million of certain investments from the funds and subsequently recorded other-than-temporary impairment losses in *All Other* of $394 million. At December 31, 2008 and 2007, we held AFS debt securities with a fair value of $698 million and $163 million of which $279 million and $163 million were classified as nonperforming AFS securities. At December 31, 2008, $272 million of unrealized losses on these investments were recorded in accumulated OCI. The decline in value of these securities was driven by the lack of market liquidity and the overall deterioration of the financial markets. These unrealized losses are recorded in accumulated OCI as we expect to recover the full principal amount of such investments. No such losses were recorded in accumulated OCI at December 31, 2007. For additional information on the valuation of our AFS securities, see *Note 5 – Securities* to the Consolidated Financial Statements.

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 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. In reaching this conclusion, we considered both interest rate and credit risk. The cash funds had total AUM of $185.9 billion and $189.5 billion at December 31, 2008 and 2007.

During 2008, federal government agencies initiated several actions in response to the current financial crisis and economic slowdown to provide liquidity in these markets. As of December 31, 2008 several money market funds managed within *Columbia* participate in certain programs, including the U.S. Treasury's Temporary Guarantee Program for Money Market Funds and the AMLF. For more information on these programs, see Regulatory Initiatives on page 14.

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 5,500 client facing associates to our affluent customers with a personal wealth profile of 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 change 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 2008 and 2007, a total of $20.5 billion and $11.4 billion of deposits were migrated from *GCSBB* to *PB&I*. The increase was driven by the initial migration of legacy LaSalle accounts and the migration of qualified clients into *PB&I* as part of our growth initiatives for our mass affluent and retirement customers.

Net income decreased $683 million, or 54 percent, to $584 million compared to the same period in 2007 driven by an increase in provision for credit losses, lower net interest income and $131 million in losses related to the buyback of ARS. Net interest income declined $513 million, or 19 percent, as spread compression, driven by deposit mix and competitive deposit pricing, more than offset higher average deposit balances. Provision for credit losses increased $534 million primarily driven by higher credit costs in the home equity portfolio reflective of deterioration in the housing markets and the impacts of a slowing economy.

ALM/Other

ALM/Other primarily includes the results of ALM activities.

Net income increased $629 million to $831 million compared to 2007. These increases were driven by higher net interest income of $1.2 billion primarily due to the increased contribution from ALM activities, which was due in part to investing the Corporation's deposits at profitable spreads. In addition, noninterest expense increased $116 million, or 84 percent, to $254 million compared to 2007 primarily driven by higher expenses related to growth initiatives for our mass affluent and retirement customers.

All Other

(Dollars in millions)	2008 Reported Basis (1)	2008 Securitization Offset (2)	2008 As Adjusted	2007 Reported Basis (1)	2007 Securitization Offset (2)	2007 As Adjusted
Net interest income (3)	**$ (8,610)**	**$ 8,701**	**$ 91**	$ (7,645)	$ 8,027	$ 382
Noninterest income:						
Card income	**2,164**	**(2,250)**	**(86)**	2,817	(3,356)	(539)
Equity investment income	**265**	**–**	**265**	3,745	–	3,745
Gains on sales of debt securities	**1,133**	**–**	**1,133**	180	–	180
All other income (loss)	**(545)**	**219**	**(326)**	426	288	714
Total noninterest income	**3,017**	**(2,031)**	**986**	7,168	(3,068)	4,100
Total revenue, net of interest expense	**(5,593)**	**6,670**	**1,077**	(477)	4,959	4,482
Provision for credit losses	**(3,760)**	**6,670**	**2,910**	(5,207)	4,959	(248)
Merger and restructuring charges (4)	**935**	**–**	**935**	410	–	410
All other noninterest expense	**372**	**–**	**372**	87	–	87
Income (loss) before income taxes	**(3,140)**	**–**	**(3,140)**	4,233	–	4,233
Income tax expense (benefit) (3)	**(1,512)**	**–**	**(1,512)**	1,083	–	1,083
Net income (loss)	**$ (1,628)**	**$ –**	**$ (1,628)**	$ 3,150	$ –	$ 3,150

(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 27 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 debt and equity securities and funds which are accounted for as AFS marketable equity securities. Strategic Investments includes investments of $19.7 billion in CCB, $2.5 billion in Banco Itaú, $2.1 billion in Grupo Financiero Santander, S.A. (Santander) and other investments. In 2008, under the terms of our purchase option we increased our ownership in CCB by purchasing 25.6 billion common shares for approximately $9.2 billion. These recently purchased shares are accounted for at cost in other assets and are non-transferable until August 2011. In addition, in January 2009, we sold 5.6 billion common shares of our initial investment in CCB for $2.8 billion, reducing our ownership to 16.7 percent and resulting in a pre-tax gain of approximately $1.9 billion. The remaining initial investment of 13.5 billion common shares is accounted for at fair value and recorded as AFS marketable equity securities in other assets with an offset, net-of-tax, to accumulated OCI. These shares became transferable in October 2008. The restricted shares of Banco Itaú are carried at fair value with an offset, net-of-tax, to accumulated OCI and are accounted for as AFS marketable equity securities. Prior to the second quarter of 2008, these shares were accounted for at cost. Our investment in Santander is accounted for under the equity method of accounting. Income associated with *Equity Investments* is recorded in equity investment income.

Other includes the residential mortgage portfolio associated with ALM activities, the residual impact of 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 decreased $4.8 billion to a net loss of $1.6 billion due to a decrease in total revenue combined with increases in provision for credit losses and merger and restructuring charges.

Net interest income decreased $291 million resulting largely from the reclassification to card income related to our funds transfer pricing for *Card Services'* securitizations. This reclassification is performed to present our consolidated results on a held basis.

Noninterest income declined $3.1 billion to $986 million driven by decreases in equity investment income of $3.5 billion and all other income (loss) of $1.0 billion partially offset by increases in gains on sales of debt securities of $953 million and card income of $453 million.

The following table presents the components of *All Other's* equity investment income and a reconciliation to the total consolidated equity investment income for 2008 and 2007.

Components of Equity Investment Income

(Dollars in millions)	2008	2007
Principal Investing	**$ (84)**	$2,217
Corporate Investments	**(520)**	445
Strategic and other investments	**869**	1,083
Total equity investment income included in All Other	**265**	3,745
Total equity investment income included in the business segments	**274**	319
Total consolidated equity investment income	**$ 539**	$4,064

Equity investment income decreased $3.5 billion primarily due to losses from our Principal Investing portfolio attributable to the lack of liquidity in the marketplace. In addition, we incurred other-than-temporary impairment losses on AFS marketable equity securities of $661 million which included writedowns on Fannie Mae and Freddie Mac preferred securities and a number of other equity securities where we did not believe that the declines in value would be recoverable.

All other income (loss) decreased due to the absence of the $1.5 billion gain on the sale of our Marsico business during 2007 partially offset by losses in 2007 of $394 million on securities after they were purchased at fair value from certain cash funds managed within *GWIM.* In 2008, losses on securities purchased from cash funds were recorded within *GWIM.* In addition, *All Other's* results were adversely impacted by the absence of earnings due to the sale of certain businesses and foreign operations in 2007. These decreases were partially offset by increases in card income driven by the funds transfer pricing allocations discussed in net interest income. Further, losses were partially offset by increases in gains on sales of mortgage-backed securities and collateralized mortgage obligations.

Provision for credit losses increased $3.2 billion to $2.9 billion primarily due to higher credit costs related to our ALM residential mortgage portfolio reflective of deterioration in the housing markets and the impacts of a slowing economy. Additionally, deterioration in our Countrywide discontinued real estate portfolio subsequent to the July 1, 2008 acquisition as well as the absence of 2007 reserve reductions also contributed to the increase in provision.

Merger and restructuring charges increased $525 million to $935 million due to the integration costs associated with the Countrywide and LaSalle acquisitions. For additional information on merger and restructuring charges, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

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 49. 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.

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.

Table 8 Special Purpose Entities Liquidity Exposure

	December 31, 2008			
	VIEs		QSPEs	
(Dollars in millions)	Consolidated [1]	Unconsolidated	Unconsolidated	Total
Commercial paper conduits				
Multi-seller conduits	$ 11,304	$ 41,635	$ –	$ 52,939
Asset acquisition conduits	1,121	2,622	–	3,743
Other corporate conduits	–	–	1,578	1,578
Home equity securitizations [2]	–	–	13,064	13,064
Municipal bond trusts	396	3,872	2,921	7,189
Customer-sponsored conduits	–	980	–	980
Credit card securitizations	–	–	946	946
Collateralized debt obligation vehicles [3]	–	542	–	542
Total liquidity exposure	$ 12,821	$ 49,651	$ 18,509	$ 80,981

	December 31, 2007			
	VIEs		QSPEs	
(Dollars in millions)	Consolidated [1]	Unconsolidated	Unconsolidated	Total
Commercial paper conduits				
Multi-seller conduits	$ 16,984	$ 47,335	$ –	$ 64,319
Asset acquisition conduits	1,623	6,399	–	8,022
Other corporate conduits	–	–	4,263	4,263
Municipal bond trusts	7,359	3,120	2,988	13,467
Customer-sponsored conduits	–	1,724	–	1,724
Collateralized debt obligation vehicles [3]	3,240	9,026	–	12,266
Total liquidity exposure	$ 29,206	$ 67,604	$ 7,251	$104,061

(1)We consolidate VIEs when we are the primary beneficiary and absorb the majority of the expected losses or expected residual returns of the VIEs or both.
(2)Home equity securitizations were added in connection with the Countrywide acquisition.
(3)For additional information on our CDO exposures at December 31, 2008 and 2007 and related writedowns, see the CDO discussion beginning on page 35.

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. Liquidity commitments to Corporation-sponsored VIEs and other VIEs in which the Corporation holds a variable interest are disclosed in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

At December 31, 2008 the Corporation's total liquidity exposure to SPEs was $81.0 billion, a decrease of $23.1 billion from December 31, 2007. The decrease was attributable to lower liquidity exposure in all categories, primarily CDOs and multi-seller conduits, partially offset by the addition of Countrywide's home equity securitizations.

Multi-Seller Conduits

We administer four multi-seller conduits, three of which are unconsolidated, which provide a low-cost funding alternative to our customers by facilitating their access to the commercial paper market. These conduits are discussed in more detail in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

Due to the market disruptions, the conduits experienced difficulties in issuing commercial paper during certain periods of 2008. At December 31, 2008, we held $2 million of commercial paper issued by the conduits, including $1 million issued by the unconsolidated conduits in trading account assets. We did not hold any commercial paper issued by the conduits at December 31, 2007.

Asset Acquisition Conduits

We administer three commercial paper conduits which acquire assets on behalf of the Corporation or our customers and obtain funding through the issuance of commercial paper and subordinated securities to third parties. Repayment of the commercial paper and certificates is assured by total return swap contracts between us and the conduits. With respect to two of the conduits, which are unconsolidated, we are reimbursed through total return swap contracts with our customers. These conduits are discussed in more detail in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

Due to the market disruptions, the conduits experienced difficulties in issuing commercial paper during certain periods of 2008. The Corporation held $1 million and $27 million of commercial paper and certificates issued by the conduits in trading account assets at December 31, 2008 and 2007.

Other Corporate Conduits

We administer several other corporate conduits that hold primarily high-grade, long-term municipal, corporate, and mortgage-backed securities. These conduits obtain funding by issuing commercial paper to third party investors. 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. These conduits are discussed in more detail in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

Due to the market disruptions, these conduits experienced difficulties in issuing commercial paper during certain periods of 2008 and at December 31, 2008, we held $145 million of the commercial paper in trading account assets. We did not hold any commercial paper issued by the conduits at December 31, 2007.

Home Equity Securitizations

We evaluate all of our home equity securitizations for their potential to experience a rapid amortization event by estimating the amount and timing of future losses on the underlying loans and the excess spread

available to cover such losses and by evaluating any estimated shortfalls in relation to contractually defined triggers. As of December 31, 2008, $13.1 billion of outstanding principal balances of our home equity securitization transactions were in rapid amortization. Another $2.8 billion of outstanding principal balances in our home equity securitization transactions are expected to enter rapid amortization.

The Corporation is responsible for funding additional borrower draws on home equity lines of credit underlying our securitization transactions. When transactions enter rapid amortization, principal collections on underlying loans are used to pay investor interests. This has the effect of extending the time period for which the Corporation's advances are outstanding and we may not receive reimbursement for all of the funds advanced to borrowers, as senior bondholders and monoline insurers have priority for repayment. While the available credit line for home equity securitization transactions in or expected to be in rapid amortization was approximately $1.0 billion at December 31, 2008, a maximum funding obligation attributable to rapid amortization cannot be calculated as the borrower has the ability to pay down and redraw balances. The amount in Table 8 equals the principal balance of the outstanding trust certificates that are subject to rapid amortization or $13.1 billion at December 31, 2008. This amount is significantly higher than the amount we expect to fund. The charges we will ultimately record as a result of the rapid amortization events are dependent on the performance of the loans, the amount of subsequent draws, and the timing of related cash flows. At December 31, 2008, the reserve for losses on expected future draw obligations on the home equity securitizations in or expected to be in rapid amortization was $345 million. For additional information on home equity securitizations, see *Note 8 – Securitizations* to the Consolidated Financial Statements.

Municipal Bond Trusts

We administer municipal bond trusts that hold highly rated, long-term, fixed-rate municipal bonds. The trusts obtain financing by issuing floating-rate trust certificates that reprice on a weekly basis to third party investors. We serve as remarketing agent and liquidity provider for the trusts. These trusts are discussed in more detail in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

At December 31, 2008 and 2007, we held $688 million and $125 million of floating rate certificates issued by unconsolidated municipal bond trusts in trading account assets. This increase is attributable to illiquidity in the marketplace that occurred during the second half of 2008.

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 *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements. 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.

Credit Card Securitizations

During the second half of 2008, we entered into a liquidity support agreement related to our commercial paper program that obtains financing by issuing tranches of commercial paper backed by credit card receivables to third party investors from a trust sponsored by the Corporation. If certain criteria are met, such as not being able to reissue the commercial paper due to market illiquidity, the commercial paper maturity dates can be extended to 390 days from the original issuance date. This extension would cause the outstanding commercial paper to convert to an interest bearing note and subsequent credit card receivable collections would be applied to the outstanding note balance. If any of the investor notes are still outstanding at the end of the extended maturity period, our liquidity commitment obligates us to purchase maturity notes in order to retire the investor notes. As a maturity note holder, we would be entitled to the remaining cash flows from the collateralizing credit card receivables. At December 31, 2008 there were no maturity notes outstanding and we held $5.0 billion of investment grade securities in AFS debt securities issued by the trust due to illiquidity in the marketplace. For more information on how our credit card securitizations impact our liquidity, see the Liquidity Risk and Capital Management discussion on page 49.

Collateralized Debt Obligation Vehicles

CDO vehicles hold diversified pools of fixed income securities which they fund by issuing multiple tranches of debt securities, including commercial paper, and equity securities. We provided liquidity support in the form of written put options to several CDOs totaling $542 million and $10.0 billion at December 31, 2008 and 2007. In addition, we provided other liquidity support to a CDO conduit of $2.3 billion at December 31, 2007. These CDOs are discussed in more detail in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

The decrease in liquidity support was primarily due to the termination of $7.0 billion of put options for three CDOs and the termination of a $2.3 billion liquidity commitment to the CDO conduit, all of which were liquidated during 2008. Additionally, our liquidity support was reduced by $2.2 billion as put options related to two CDOs were consolidated on our balance sheet following a change in contractual arrangements and for which we now hold all of the remaining outstanding commercial paper. At December 31, 2008, we have effectively eliminated our liquidity support for these CDOs.

At December 31, 2008, we held commercial paper of $323 million on the balance sheet that was issued by one unconsolidated CDO. At December 31, 2007, we held commercial paper of $6.6 billion that was issued by unconsolidated CDOs and the CDO conduit.

For more information on our super senior CDO exposure and related writedowns, see our CDO exposure discussion beginning on page 35. As noted in the Super Senior Collateralized Debt Obligation Exposure, on page 36, we had net liquidity exposure of $476 million at December 31, 2008, which is net of cumulative writedowns of $66 million. At December 31, 2007, we had net liquidity exposure of $7.8 billion. This amount reflects gross exposure of $12.3 billion less insurance of $1.8 billion and cumulative writedowns of $2.7 billion.

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 in Table 9 are vendor con-

tracts of $6.2 billion, commitments to purchase securities of $7.9 billion and commitments to purchase loans of $14.3 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 2008 and 2007, we contributed $1.6 billion and $243 million to the Plans, and we expect to make at least $229 million of contributions during 2009. The following table does not include UTBs of $3.5 billion associated with FIN 48 and tax-related interest and penalties of $677 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, 2008.

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.

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. For a summary of the total unfunded, or off-balance sheet, credit extension commitment amounts by expiration date, see the table in *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

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 Contingencies* to the Consolidated Financial Statements.

Fair Values of Level 3 Assets and Liabilities

Financial assets and liabilities whose values are based on prices or valuation techniques that require inputs that are both unobservable and are significant to the overall fair value measurement are classified as Level 3 under the fair value hierarchy established in SFAS 157. The Level 3 financial assets and liabilities include private equity investments, consumer MSRs, ABS, highly structured, complex or long-dated derivative contracts and certain CDOs, for which there is not an active market for identical assets from which to determine fair value or where sufficient, current market information about similar assets to use as observable, corroborated data for all significant inputs into a valuation model is not available. In these cases, the fair values of these Level 3 financial assets and liabilities are determined using pricing models, discounted cash flow methodologies, a net asset value approach for certain structured securities, or similar techniques, for which the determination of fair value requires significant management judgment or estimation.

Valuations of products using models or other techniques are sensitive to assumptions used for the significant inputs. Where market data is available, the inputs used for valuation reflect that information as of our valuation date. Inputs to valuation models are considered unobservable if they are supported by little or no market activity. In periods of extreme volatility, lessened liquidity or in illiquid markets, there may be more variability in market pricing or a lack of market data to use in the valuation process. An illiquid market is one in which little or no observable activity has occurred or one that lacks willing buyers or willing sellers. Fair value adjustments include adjustments for counterparties' credit risk as well as our own credit risk and liquidity as appropriate, to determine a fair value measurement. Judgment is then applied in formulating those inputs. Our valuation risk, however, is mitigated through valuation adjustments for particular inputs, performance of stress testing of those inputs to understand the impact that varying assumptions may have on the valuation and other review processes performed to ensure appropriate valuation.

For example, at December 31, 2008, classified within Level 3 are $2.4 billion of AFS debt securities, $887 million of trading account assets and $934 million of net derivative assets associated with our CDO exposure. Substantially all of these AFS debt securities were acquired as a result of our liquidity obligations to certain CDOs. For more information regarding our CDO exposure, the types of assets underlying these exposures (e.g., percentage of subprime assets and vintages) and related valuation techniques see our CDO exposure discussion on page 35.

Consumer MSRs are also included in Level 3 assets as valuing these MSRs requires significant management judgment and estimation. The Corporation uses an option-adjusted spread (OAS) valuation approach to determine the fair value of MSRs which factors in prepayment risk. This approach consists of projecting servicing cash flows under multiple inter-

Table 9 Long-term Debt and Other Obligations

	December 31, 2008				
(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	$ 42,882	$ 76,433	$ 49,471	$ 99,506	$268,292
Purchase obligations [1]	19,326	7,743	1,198	144	28,411
Operating lease obligations	2,316	3,829	2,701	8,320	17,166
Other long-term liabilities	395	779	516	532	2,222
Total long-term debt and other obligations	$ 64,919	$ 88,784	$ 53,886	$ 108,502	$316,091

[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.

est rate scenarios and discounting these cash flows using risk-adjusted discount rates. The key economic assumptions used in valuations of MSRs include weighted average lives of the MSRs and the OAS levels. For more information on Level 3 MSRs and their sensitivity to prepayment rates and OAS levels, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

For additional information on our Level 1, 2 and 3 fair value measurements, including the valuation techniques utilized to determine their fair values, see *Note 1 – Summary of Significant Accounting Principles* and *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements and Complex Accounting Estimates on page 87.

Valuation-related issues confronted by credit market participants, including the Corporation, in the current market include uncertainty resulting from a significant decline in market activity for certain credit products; significant increase in dependence on model-related assumptions, and/or unobservable model inputs; doubts about the quality of the market information used as inputs, often because it is not clear whether observable transactions are distressed sales; and significant downgrades of structured products by ratings agencies. For example, valuations of certain CDO securities and related written put options declined significantly in response to market concerns. Additionally, liquidity issues in the ARS sector impacted the value of such securities. It is possible that the economic value of these securities could be different as the cash flows from the underlying assets may ultimately be higher or lower than the assumptions used in current valuation models. With the exception of the changes discussed below, there have been no significant changes to the valuation methodologies used to value Level 3 assets and liabilities during the period.

The table below presents a reconciliation for all Level 3 assets and liabilities measured at fair value on a recurring basis during 2008, including realized and unrealized gains (losses) included in earnings and OCI. Level 3 assets, before the impact of counterparty netting related to our derivative positions, were $59.4 billion as of December 31, 2008 and represented approximately 10 percent of assets measured at fair value (or three percent of total assets). Level 3 liabilities, before the impact of counterparty netting related to our derivative positions, were $8.0 billion as of December 31, 2008 and represented approximately nine percent of the liabilities measured at fair value (or less than one percent of total liabilities). See Note 19 – *Fair Value Disclosures* to the Consolidated Financial Statements for a table that presents the fair value of Level 1, 2 and 3 assets and liabilities at December 31, 2008.

Countrywide Acquisition

The Countrywide acquisition on July 1, 2008 added consumer MSRs of $17.2 billion, trading account assets of $1.4 billion, LHFS of $1.4 billion, accrued expenses and other liabilities of $1.2 billion related to certain secured financings and AFS debt securities of $528 million to our Level 3 assets and liabilities. Activity subsequent to July 1, 2008 has been included in the reconciling items in the table below.

Included in Earnings and Other Comprehensive Income

During 2008, we recognized losses of $12.1 billion on Level 3 assets and liabilities which were primarily related to losses on consumer MSRs, trading account assets and AFS debt securities partially offset by gains on net derivatives. The losses on consumer MSRs were due to declines in mortgage rates which resulted in a significant increase in expected prepayments causing large decreases in the value of our consumer MSRs. These consumer MSR losses were more than offset by economic hedge gains of which approximately $750 million were classified as Level 3. The losses in our trading account assets were due to widening credit spreads on our trading account positions and losses related to CDOs and ARS. The losses on AFS debt securities were primarily driven by other-than-temporary impairment on CDO-related exposures and losses on certain investments we purchased from our *GWIM* cash funds. The gains in net derivatives were driven by positive valuation adjustments on our IRLCs, MSR hedge gains, and gains recognized on hedges of our Level 3 trading account assets. We also recorded unrealized losses of $1.7 billion (pre-tax) through OCI during 2008, due to widening credit spreads on mortgage-backed securities collateralized by first liens on residential real estate, as well as temporary impairments recognized on commercial paper and term notes. These decreases were partially offset by the unrealized gains on privately placed mortgage-backed securities that were transferred into Level 3 during 2008.

Level 3 financial instruments, such as our consumer MSRs may be economically hedged with derivatives not classified as Level 3; therefore, gains or losses associated with Level 3 financial instruments may be offset by gains or losses associated with financial instruments classified in other levels of the fair value hierarchy. The net losses recorded in earnings and OCI did not have a significant impact on our liquidity or capital resources.

Table 10 Level 3 – Fair Value Measurements

	Year Ended December 31, 2008							
(Dollars in millions)	Net Derivatives[1]	Trading Account Assets	Available-for-Sale Debt Securities	Loans and Leases[2]	Mortgage Servicing Rights	Loans Held-for-Sale[2]	Other Assets[3]	Accrued Expenses and Other Liabilities[2]
Balance, January 1, 2008	**$ (1,203)**	**$ 4,027**	**$ 5,507**	**$ 4,590**	**$ 3,053**	**$ 1,334**	**$ 3,987**	**$ (660)**
Countrywide acquisition	(185)	1,407	528	–	17,188	1,425	–	(1,212)
Included in earnings	2,531	(3,222)	(2,509)	(780)	(7,115)	(1,047)	175	(169)
Included in OCI	–	–	(1,688)	–	–	–	–	–
Purchases, issuances, and settlements	1,380	(2,055)	2,754	1,603	(393)	(542)	(550)	101
Transfers into (out of) Level 3	(253)	7,161	14,110	–	–	2,212	(40)	–
Balance, December 31, 2008	**$ 2,270**	**$ 7,318**	**$ 18,702**	**$ 5,413**	**$ 12,733**	**$ 3,382**	**$ 3,572**	**$ (1,940)**

(1)Net derivatives at December 31, 2008 included derivative assets of $8.3 billion and derivative liabilities of $6.0 billion. Net derivatives acquired in connection with Countrywide included derivative assets of $107 million and derivative liabilities of $292 million as of July 1, 2008.
(2)Amounts represent items which are accounted for at fair value in accordance with SFAS 159 including commercial loan commitments and certain secured financings recorded in accrued expenses and other liabilities.
(3)Other assets include equity investments held by Principal Investing and certain retained interests in securitization vehicles, including interest-only strips.

Purchases, Issuances and Settlements

During 2008, we had net purchases of $2.8 billion of Level 3 AFS debt securities, net settlements of $2.1 billion of Level 3 trading account assets, and net purchases of $1.4 billion in net derivatives. The net purchases in Level 3 AFS debt securities were driven by the addition of certain securities that were purchased from our *GWIM* cash funds, as well as purchases of ARS, mortgage-backed securities and collateralized mortgage obligations. These purchases were partially offset by settlements of certain CDO-related exposures. The settlements for trading account assets were primarily related to the liquidation of certain CDO vehicles, partially offset by the purchase of ARS pursuant to our agreements to purchase certain ARS from our customers. For more information on our ARS agreements see Recent Events on page 16. The net settlements of derivative liabilities were driven by the extinguishment of our liquidity exposure to certain CDO vehicles.

Transfers into or out of Level 3

Transfers into or out of Level 3 are made if the inputs used in the financial models measuring the fair values of the assets and liabilities became unobservable or observable, respectively, in the current marketplace. These transfers are effective as of the beginning of the quarter, therefore Table 10 considers any gains or losses occurring on these assets and liabilities during each quarter that they are classified as Level 3.

During 2008, several transfers were made into or out of Level 3. AFS debt securities of $14.1 billion and trading account assets of $7.2 billion were transferred into Level 3. Included in the $14.1 billion of AFS debt securities were assets of certain consolidated multi-seller conduits and securities in the form of commercial paper issued by CDOs. Included in the $7.2 billion of transfers of trading account assets were student loan ARS, certain bond positions, and asset-backed securities. These assets were transferred due to a lack of liquidity in the marketplace. In light of the illiquidity, we implemented a change to our valuation approach for these instruments, basing the valuation on assumptions about the weighted average life of the security, estimated future coupons to be paid and spreads observed in pricing of similar instruments.

Managing Risk

Overview

Our management governance structure enables us to manage all major aspects of our business through our 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 the 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, compliance 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. Compliance risk is the risk posed by the failure to manage regulatory, legal and ethical issues that could result in monetary damages, losses or harm to the bank's reputation or image. 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 49, Liquidity Risk and Capital Management beginning on page 49, Credit Risk Management beginning on page 55, Market Risk Management beginning on page 78, and Compliance and Operational Risk Management beginning on page 86, 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 our Risk Management, Compliance, Finance and Treasury, 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 and market 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 53 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 our 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 Compliance and Operational Risk Management section on page 86 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 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. Credit markets substantially deteriorated over the past 18 months and access to non-guaranteed market-based funding has diminished for financial institutions. For these reasons we have utilized various government institutions (e.g., Federal Reserve, U.S. Treasury and FDIC) funding programs to enhance our liquidity position. Many of these facilities are temporary in nature, but have provided significant market stability and have allowed many banks to maintain a healthy liquidity profile.

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.

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.

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. as of February 27, 2009 are reflected in the table below.

The cost and availability of unsecured and secured financing are impacted by changes in our credit ratings. A reduction in these ratings or the ratings of other asset-backed securitizations could have an adverse effect on our access to credit markets and the related cost of funds. Some of the primary factors in maintaining our credit ratings include a stable and diverse earnings stream, strong capital ratios, strong credit quality and risk management controls, diverse funding sources and disciplined liquidity monitoring procedures.

If the Corporation's long-term credit rating was incrementally downgraded by one level by the rating agencies, we estimate the incremental cost of funds and the potential lost funding would continue to be negligible for senior and subordinated debt and short-term bank debt. Additionally, we do not believe that funding requirements for VIEs and other third party commitments would be significantly impacted. However, if the Corporation's short-term credit rating was downgraded by one level, our incremental cost of funds and potential lost funding may be material due to the negative impacts on our commercial paper programs.

Since October 2008, Bank of America has had the ability to issue long-term senior unsecured debt through the TLGP program. This program gives us the ability to issue AAA-rated debt backed by the full faith and credit of the U.S. government regardless of our current credit rating. For further information regarding this program, see Regulatory Initiatives beginning on page 14.

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. Since deposits are taken by the bank operating subsidiaries and not by the parent company, this measure is not dependent on the bank operating subsidiaries' stable deposit balances. 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 undeclared dividends to shareholders while continuing to meet nondiscretionary uses needed to maintain 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 helps to facilitate the target range of 21 to 27 months for "Time to Required Funding" and is the primary driver of the timing and amount of the Corporation's debt issuances. After incorporating the impacts of the Corporation's acquisition of Merrill Lynch, including the $10.0 billion of Series Q Preferred Stock issued in connection with the TARP Capital Purchase Program, "Time to Required Funding" increased to 23 months at December 31, 2008, compared to 19 months at December 31, 2007. Excluding the impacts of Merrill Lynch acquisition and Series Q Preferred Stock issuance would result in a significantly higher "Time to Required Funding" as we had taken certain liquidity actions prior to December 31, 2008 in preparation for the Merrill Lynch acquisition. The bank operating subsidiaries maintain sufficient funding capacity to address large increases in funding requirements such as deposit outflows. This capacity is comprised of available wholesale market capacity, liquidity derived from a reduction in asset levels and various secured funding sources.

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.

Table 11 Credit Ratings

	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	A1	A2	P-1	P-1	Aa2
Standard & Poor's	A+	A	A-1	A-1+	AA-
Fitch Ratings	A+	A	F1+	F1+	A+

One ratio that can be used to monitor the stability of our funding composition and takes into account our deposit balances 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 118 percent at December 31, 2008 compared to 127 percent at December 31, 2007.

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.

The financial market disruptions that began in 2007 continued to impact the economy and financial services sector during 2008. The unsecured funding markets remained stressed and experienced short-term periods of illiquidity during the second half of the year as prime money market fund managers remained focused on redemptions and increased their portfolio composition to shorter and more liquid government-sponsored assets. As a result of the disruptions, the Corporation shifted to issuing FDIC guaranteed TLGP debt in the fourth quarter to generate material funding in the capital markets.

Our primary banking subsidiary, Bank of America, N.A., is maintaining historically high levels of cash with the Federal Reserve each day as well as ensuring an unused portion of high quality collateral is available to generate cash at all times. Further, Bank of America, N.A. maintains additional collateral that could utilize the Federal Reserve’s balance sheet through the Discount Window in the event of a deep and prolonged shock to funding markets.

The Corporation also utilizes overnight repo markets. During the most severe liquidity disruptions in the overnight repo markets we did not experience liquidity issues. Nonetheless, we have recently reduced overnight funding exposure at both the parent and banking subsidiary levels.

In addition, liquidity for ABS disappeared and issuance spreads rose to historic highs, negatively impacting our credit card securitization programs. If these conditions persist it could adversely affect our ability to access these markets at favorable terms in the future. Approximately $20.7 billion of debt issued through our U.S. credit card securitizations trust will mature in the upcoming 12 months. The U.S. credit card securitization trust had approximately $88.6 billion and $84.8 billion in outstanding securitized loans at December 31, 2008 and 2007 and the trust excess spread was 5.64 percent and 6.64 percent. If the 3-month average excess spread declines below 4.50 percent, the residual excess cash flows that are typically returned to the Corporation will be held by a trustee up to certain levels as additional credit enhancements to the investors. If the excess spread were to decline to zero percent, the trust would enter into early amortization, repayment of the debt issued through our credit card securitizations would be accelerated and the Corporation will have to fund all future credit card loan advances on-balance sheet. This could adversely impact the Corporation’s liquidity and capital.

As specifically permitted by the terms of the transaction documents, and in an effort to address the recent decline in the excess spread due to the performance of the underlying credit card receivables in the U.S. credit card securitization trust, an additional subordinated security totaling approximately $8.0 billion will be issued by the trust to the Corporation in the first quarter of 2009. This security will provide additional credit enhancement to the trust and its investors. In addition, upon completion of requirements set forth in transaction documents, we plan to allocate a percentage of new receivables into the trust that, when collected, will be applied to finance charges, which is expected to increase the yield in the trust. These actions are not expected to have a significant impact on the Corporation’s results of operations. If these actions had occurred on December 31, 2008, the impact would have increased our Tier 1 risk-weighted assets by approximately $75 billion or six percent.

While market conditions have been challenging, we experienced a significant increase in deposits as we benefited from a consumer and business flight-to-safety in the second half of 2008. We have also taken direct actions to enhance our liquidity position during 2008 including receiving cash proceeds of $34.7 billion on the issuance of preferred stock, $9.9 billion of common stock, net of underwriting expenses, $8.5 billion of senior notes, $1.0 billion of Eurodollar floating rate notes and $15.6 billion of debt issued under the TLGP by the parent company. Included in the $34.7 billion of cash proceeds on the issuance of preferred stock is $15.0 billion related to the Series N Preferred Stock that was issued in connection with the TARP Capital Purchase Program, which is discussed further below. Furthermore, in January 2009, the Corporation issued Series Q Preferred Stock for an additional $10.0 billion of cash proceeds in connection with the TARP Capital Purchase Program.

In addition, in January 2009, the U.S. government agreed to assist in the Merrill Lynch acquisition by making a further investment in the Corporation of $20.0 billion in preferred stock. Further, the U.S. government has agreed in principle to provide protection against the possibility of unusually large losses on $118.0 billion in selected capital markets exposure, primarily from the former Merrill Lynch portfolio. As a fee for this arrangement, we expect to issue to the U.S. Treasury and FDIC a total of $4.0 billion of a new class of preferred stock and to issue warrants to acquire 30.1 million shares of Bank of America common stock. For more information, see the Recent Events section on page 16.

Lastly, Bank of America, N.A. issued $10.0 billion of senior unsecured bank notes, of which $6.0 billion included an extendible feature, $4.3 billion of debt under the TLGP, and $43.1 billion in short term bank notes. Also, several funding programs have been made available through the Federal Reserve which are more fully described in Regulatory Initiatives on page 14.

A majority of the long-term liquidity obtained by the Corporation under the TLGP since the announcement of the Merrill Lynch acquisition was completed in preparation for the funding needs of the combined organizations. We will continue to manage the liquidity position of the combined company through our ALM activities. Merrill Lynch had long-term debt outstanding with a fair value of $189.4 billion at acquisition. As the organizations integrate, the Corporation intends to utilize the capital markets to maintain its “Time to Required Funding” within the approved ALCO guidelines.

Regulatory Capital

At December 31, 2008, the Corporation operated its banking activities primarily under three charters: Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB. Effective October 17, 2008, LaSalle Bank, N.A. merged with and into Bank of America, N.A., with Bank of America, N.A. as the surviving entity. As a regulated financial services company, we are governed by certain regulatory capital requirements. At December 31, 2008 and 2007, the Corporation, Bank of America, N.A., and FIA Card Services, N.A., were classified as “well-capitalized” for regulatory purposes, the highest classification. Effective July 1, 2008, we

acquired Countrywide Bank, FSB which is regulated by the Office of Thrift Supervision (OTS) and is, therefore, subject to OTS capital requirements. Countrywide Bank, FSB is required by OTS regulations to maintain a tangible equity ratio of at least two percent to avoid being classified as "critically undercapitalized." At December 31, 2008, Countrywide Bank, FSB's tangible equity ratio was 6.64 percent and was classified as "well-capitalized" for regulatory purposes. Management believes that the Corporation, Bank of America, N.A., FIA Card Services, N.A. and Countrywide Bank, FSB will remain "well-capitalized."

Certain corporate sponsored trust companies which issue trust preferred securities (Trust Securities) are not consolidated pursuant to FIN 46R. In accordance with FRB guidance, the FRB allows Trust Securities to qualify as Tier 1 Capital with revised quantitative limits that would be effective on March 31, 2009. As a result, we include Trust Securities in Tier 1 Capital.

Such 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, 2008, the Corporation's restricted core capital elements comprised 14.7 percent of total core capital elements. The Corporation expects to remain 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, the OCC and the OTS at December 31, 2008 and 2007.

At December 31, 2008, the Corporation's Tier 1 Capital, Total Capital and Tier 1 Leverage ratios were 9.15 percent, 13.00 percent, and 6.44 percent, respectively. See *Note 15 – Regulatory Requirements and Restrictions* to the Consolidated Financial Statements for more information on the Corporation's regulatory capital.

The Corporation calculates tangible common equity as common shareholders' equity less goodwill and intangible assets (excluding MSRs) divided by total assets less goodwill and intangible assets (excluding MSRs). Our tangible common equity ratio decreased to 2.83 percent at December 31, 2008 as compared to 3.35 percent at December 31, 2007 as the favorable impact to common equity from the issuance of common stock and net income during the year was more than offset by dividend payments and an increased loss in accumulated OCI. Management remains focused on balance sheet discipline and reducing non-core business asset levels to improve this ratio in future periods. Unlike the Tier 1 Capital ratio, the tangible common equity ratio is subject to fluctuations in accumulated OCI, including unrealized losses on AFS debt securities that we expect to return to par upon their maturity, which adversely impacted this ratio at December 31, 2008.

On January 1, 2009, we completed the acquisition of Merrill Lynch and subsequently issued an additional $10.0 billion of preferred stock in connection with the TARP Capital Purchase Program. In addition, on January 16, 2009, the U.S. government agreed to assist in the Merrill Lynch acquisition by making a further investment in the Corporation of $20.0 billion in preferred stock. Further, the U.S. government has agreed in principle to provide protection against the possibility of unusually large losses on $118.0 billion in selected capital markets exposure, primarily from the former Merrill Lynch portfolio. As a fee for this arrangement, we expect to issue to the U.S. Treasury and FDIC a total of $4.0 billion of a new class of preferred stock. On a pro forma basis the net impact of the additional capital actions and the acquisition of Merrill Lynch would result in a Tier 1 Capital ratio of approximately 10.7 percent and tangible common equity ratio of 2.6 percent at December 31, 2008.

Management continuously evaluates opportunities to build to the Corporation's capital position. During this heightened period of market stress, there is limited ability to source meaningful private-sector capital. Management therefore remains focused on managing asset-levels appropriately – ensuring we deploy TARP funds to core lending businesses and trimming other assets in non-core businesses. The Merrill Lynch balance sheet ended the year at approximately $650 billion; down from $875 billion at September 30, 2008. These reductions provided significant benefit to capital, while not forgoing meaningful earnings to the Corporation. Management is also focused on disciplined expense management to further contribute to the Corporation's capital position through earnings generation. The government actions noted above ensures the Corporation has adequate capital to manage through this earnings cycle, but we are clearly focused on evaluating opportunities to repay the U. S. government as soon as possible. Obviously the earnings environment and overall health of markets will dictate the pace in which we are able to accomplish these objectives. Further, management is engaged in holistic stress-testing of the Corporation's earnings, capital, and liquidity position. Management recognizes the interdependencies and the importance of planning under a wide range of potential scenarios in light of the historic volatility witnessed over the past 18 months.

Table 12 Reconciliation of Tier 1 and Total Capital

	December 31	
(Dollars in millions)	**2008**	2007
Tier 1 Capital		
Total shareholders' equity	**$ 177,052**	$ 146,803
Goodwill	**(81,934)**	(77,530)
Nonqualifying intangible assets [1]	**(4,195)**	(5,239)
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	**5,479**	(2,149)
Unamortized net periodic benefit costs recorded in accumulated OCI, net-of-tax	**4,642**	1,301
Trust securities	**18,105**	16,863
Other	**1,665**	3,323
Total Tier 1 Capital	**120,814**	83,372
Long-term debt qualifying as Tier 2 Capital	**31,312**	31,771
Allowance for loan and lease losses	**23,071**	11,588
Reserve for unfunded lending commitments	**421**	518
Other [2]	**(3,957)**	6,471
Total Capital	**$ 171,661**	$ 133,720

(1) Nonqualifying intangible assets of the Corporation are comprised of certain core deposit intangibles, affinity relationships and other intangibles.
(2) At December 31, 2008 and 2007, includes 45 percent of the pre-tax fair value adjustment of $3.5 billion and $6.0 billion related to the Corporation's stock investment in CCB.

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.

The Basel II Final Rule (Basel II Rules), which was published on December 7, 2007, 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 allowed U.S. financial institutions to begin parallel reporting as early as 2008, upon successful development and approval of a formal Implementation Plan, which was approved during the third quarter of 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.

With the acquisition of Countrywide during 2008 and Merrill Lynch effective January 1, 2009, the Corporation has 24 months from the date of each acquisition to fully incorporate and transition all data necessary to successfully complete the more robust Basel II calculations. We continue to work with the FRB, OCC, OTS and FDIC (collectively, the Agencies) and with our transition team to meet these timelines and expect to meet or exceed these requirements.

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 2008, while others will begin implementation in 2009 and beyond.

Common Share Issuances and Repurchases

In January of 2009, the Corporation issued common stock in connection with its acquisition of Merrill Lynch and warrants to purchase common stock in connection with preferred stock issuances to the U.S. government. For additional information regarding the Merrill Lynch acquisition, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements. For additional information regarding the issuance of warrants to purchase common stock, see *Note 25 – Subsequent Events* to the Consolidated Financial Statements.

We may repurchase shares, subject to certain restrictions including those imposed by the U.S. government, from time to time, in the open market or in private transactions through our approved repurchase programs. We did not repurchase any shares of the Corporation's common stock during 2008 and we issued 107 million shares in connection with the Countrywide acquisition and 17.8 million shares under employee stock plans. In addition, in October 2008, we issued 455 million shares of common stock at $22.00 per share with proceeds of $9.9 billion, net of underwriting expenses.

To replace the expiring stock repurchase program, in July 2008, the Board authorized a stock repurchase program of up to 75 million shares of the Corporation's common stock at an aggregate cost not to exceed $3.75 billion that is limited to a period of 12 to 18 months. This program is also subject to the repurchase restrictions.

For more information on our common share issuances and repurchases, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

Common Stock Dividends

The table below is a summary of our regular quarterly cash dividends on common stock as of February 27, 2009. In October 2008, to position our dividend to better match our earnings, we announced a 50 percent reduction in our regular quarterly cash dividend on common stock to $0.32 per share. In January 2009, we further reduced our regular quarterly dividend to $0.01 per share. The declaration of common stock dividends is subject to restrictions that are described in detail in *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

Preferred Stock Issuances

In October 2008, in connection with the TARP Capital Purchase Program, created as part of the EESA, we issued to the U.S. Treasury 600 thousand shares of Series N Preferred Stock with a par value of $0.01 per share for $15.0 billion. In addition, in January of 2009 we issued an additional $30.0 billion of preferred stock to the U.S. government. Further, the U.S. government has agreed in principle to provide protection against the possibility of unusually large losses on $118.0 billion in selected capital markets exposure, primarily from the former Merrill Lynch portfolio. As a fee for this arrangement, we expect to issue to the U.S. Treasury and FDIC a total of $4.0 billion of a new class of preferred stock. For more information on the January 2009 issuances and the U.S. government guarantee, see Recent Events beginning on page 16 and *Note 25 – Subsequent Events* to the Consolidated Financial Statements.

Under the TARP Capital Purchase Program dividend payments on, and repurchases of, our outstanding preferred stock are subject to certain restrictions. For more information on these restrictions, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

Table 13 Common Stock Dividend Summary

Declaration Date	Record Date	Payment Date	Dividend per Share
January 16, 2009	March 6, 2009	March 27, 2009	$ 0.01
October 6, 2008	December 5, 2008	December 26, 2008	0.32
July 23, 2008	September 5, 2008	September 26, 2008	0.64
April 23, 2008	June 6, 2008	June 27, 2008	0.64
January 23, 2008	March 7, 2008	March 28, 2008	0.64

In May and June 2008, we issued 117 thousand shares of Bank of America Corporation 8.20% Non-Cumulative Preferred Stock, Series H with a par value of $0.01 per share for $2.9 billion.

In April 2008, we issued 160 thousand shares of Bank of America Corporation Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M with a par value of $0.01 per share for $4.0 billion. The fixed rate is 8.125 percent through May 14, 2018 and then adjusts to three-month LIBOR plus 364 bps thereafter.

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.

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

Preferred Stock Dividends

In 2008, we declared a total of $1.3 billion in cash dividends on our various series of preferred stock, which does not include $130 million of fourth quarter 2008 Series N cumulative preferred dividends not declared as of year end. In addition, in January 2009, we declared aggregate dividends on preferred stock of $909 million, including $145 million related to preferred stock exchanged in connection with the Merrill Lynch acquisition. We estimate that the potential aggregate cash dividends on various series of our preferred stock in the first quarter of 2009, subject to the Board's future declaration and assuming no conversion of convertible shares, will be $1.4 billion. For additional information on our preferred stock, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

The following table is a summary of our cash dividends on preferred stock as of February 27, 2009.

Table 14 Preferred Stock Cash Dividend Summary

Preferred Stock	Notional Amount (in millions)	Declaration Date	Record Date	Payment Date	Per Annum Dividend Rate	Dividend per Share
Series B	$ 1	January 16, 2009	April 10, 2009	April 24, 2009	7.00%	$ 1.75
		October 6, 2008	January 9, 2009	January 23, 2009	7.00	1.75
		July 23, 2008	October 8, 2008	October 24, 2008	7.00	1.75
		April 23, 2008	July 9, 2008	July 25, 2008	7.00	1.75
		January 23, 2008	April 11, 2008	April 25, 2008	7.00	1.75
Series D [1]	$ 825	January 5, 2009	February 27, 2009	March 16, 2009	6.204%	$ 0.38775
		October 2, 2008	November 28, 2008	December 15, 2008	6.204	0.38775
		July 3, 2008	August 29, 2008	September 15, 2008	6.204	0.38775
		April 3, 2008	May 30, 2008	June 16, 2008	6.204	0.38775
		January 3, 2008	February 29, 2008	March 14, 2008	6.204	0.38775
Series E [1]	$ 2,025	January 5, 2009	January 30, 2009	February 17, 2009	Floating	$ 0.25556
		October 2, 2008	October 31, 2008	November 17, 2008	Floating	0.25556
		July 3, 2008	July 31, 2008	August 15, 2008	Floating	0.25556
		April 3, 2008	April 30, 2008	May 15, 2008	Floating	0.25
		January 3, 2008	January 31, 2008	February 15, 2008	Floating	0.33342
Series H [1]	$ 2,925	January 5, 2009	January 15, 2009	February 2, 2009	8.20%	$ 0.51250
		October 2, 2008	October 15, 2008	November 3, 2008	8.20	0.51250
		July 3, 2008[2]	July 15, 2008	August 1, 2008	8.20	0.3929
Series I [1]	$ 550	January 5, 2009	March 15, 2009	April 1, 2009	6.625%	$ 0.41406
		October 2, 2008	December 15, 2008	December 31, 2008	6.625	0.41406
		July 3, 2008	September 15, 2008	October 1, 2008	6.625	0.41406
		April 3, 2008	June 15, 2008	July 1, 2008	6.625	0.41406
		January 3, 2008	March 15, 2008	April 1, 2008	6.625	0.41406
Series J [1]	$ 1,035	January 5, 2009	January 15, 2009	February 2, 2009	7.25%	$ 0.45312
		October 2, 2008	October 15, 2008	November 3, 2008	7.25	0.45312
		July 3, 2008	July 15, 2008	August 1, 2008	7.25	0.45312
		April 3, 2008	April 15, 2008	May 1, 2008	7.25	0.45312
		January 3, 2008[2]	January 15, 2008	February 1, 2008	7.25	0.35750
Series K [3, 4]	$ 6,000	January 5, 2009	January 15, 2009	January 30, 2009	Fixed-to-Floating	$ 40.00
		July 3, 2008[2]	July 15, 2008	July 30, 2008	Fixed-to-Floating	40.00
Series L	$ 6,900	December 16, 2008	January 1, 2009	January 30, 2009	7.25%	$ 18.1250
		September 16, 2008	October 1, 2008	October 30, 2008	7.25	18.1250
		June 13, 2008	July 1, 2008	July 30, 2008	7.25	18.1250
		March 14, 2008[2]	April 1, 2008	April 30, 2008	7.25	18.3264
Series M [3, 4]	$ 4,000	October 2, 2008[2]	October 31, 2008	November 17, 2008	Fixed-to-Floating	$ 44.0104
Series N	$ 15,000	January 5, 2009[2]	January 31, 2009	February 17, 2009	5.00%	$ 371.53
Series Q	$ 10,000	January 21, 2009[2]	January 31, 2009	February 17, 2009	5.00%	$ 125
Series R	$ 20,000	January 21, 2009[2]	January 31, 2009	February 17, 2009	8.00%	$ 161.11

[1] Dividends per depositary share, each representing a 1/1000th interest in a share of preferred stock.
[2] Initial dividends
[3] Initially pays dividends semi-annually.
[4] Dividends per depository share, each representing a 1/25th interest in a share of preferred stock.

Credit Risk Management

The housing downturn and the financial market disruptions that began in the second half of 2007 have continued to affect the economy and the financial services sector in 2008. The housing downturn and the broader economic slowdown accelerated during the second half of 2008 and negatively impacted the credit quality of both our consumer and commercial portfolios. The depth and breadth of the downturn as well as the resulting impacts on the credit quality of our portfolios remain unclear. However, we expect continued market turbulence and economic uncertainty to continue well into 2009. This will result in higher credit losses and provision for credit losses in future periods.

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, deposit overdrafts, derivatives, assets held-for-sale and unfunded lending commitments that include loan commitments, letters of credit and financial guarantees. Derivative positions are recorded at fair value and assets held-for-sale are recorded at fair value or the lower of cost or fair value. Certain loans and unfunded commitments are accounted for at fair value in accordance with SFAS 159. 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 credit card 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 credit card receivables that have been securitized are subject to the same underwriting, servicing, ongoing monitoring and collection standards as held loans. In addition to the discussion of credit quality statistics of both held and managed credit card loans included in this section, refer to the *Card Services* discussion on page 29. 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.

We continue to refine our credit standards to meet the changing economic environment. We have adjusted our underwriting criteria, as well as enhanced our line management and collection strategies across the consumer businesses in an attempt to mitigate losses. We have increased our collections and customer assistance infrastructure in order to enhance customer support.

In our domestic consumer credit card business, we have implemented a number of initiatives to mitigate losses including increased use of judgmental lending, adjusted underwriting, account and line management standards, particularly in higher-risk geographies, and increased collections staffing levels. In response to the significant deterioration in our consumer real estate portfolio we have implemented initiatives including underwriting changes on newly originated consumer real estate loans which increased the minimum FICO score and reduced the maximum loan-to-value (LTVs) and combined loan-to-values (CLTVs). Additional LTV and CLTV reductions were implemented for higher risk geographies. In our home equity portfolio, we have also reduced unfunded lines on deteriorating accounts with declining equity positions.

In response to weakness in our direct/indirect portfolio, we have implemented several initiatives to mitigate losses. In our unsecured lending business we have increased the use of judgmental lending and tighter underwriting and account management standards for higher risk customers and higher-risk geographies. In our automotive and dealer-related portfolios, we have tightened underwriting criteria and improved the risk-based pricing for purchased loans.

To mitigate losses in the commercial businesses, we have increased the frequency and intensity of portfolio monitoring, hedging activity and our efforts in managing the exposure when we begin to see signs of deterioration. As part of our underwriting process we have increased scrutiny around stress analysis and required pricing and structure to reflect current market dynamics. Given the volatility of the financial markets, we increased the frequency of various tests designed to understand what the volatility could mean to our underlying credit risk. Given the single name risk associated with the problems in the financial markets, we used a real-time counterparty event management process to monitor key counterparties. A number of initiatives have also been implemented in our small business commercial – domestic portfolio including changes to underwriting thresholds, augmented by a granular decision making process by experienced underwriters including increasing minimum FICO scores and lowering initial line assignments. We have also decreased credit lines on higher risk customers in higher risk states and industries.

Further, we are increasing our customer assistance and collections infrastructure and have instituted a number of other initiatives related to our credit portfolios in an attempt to mitigate losses and enhance our support for our customers. To help homeowners avoid foreclosure, Bank of America and Countrywide modified approximately 230,000 home loans during 2008. The majority of these home retention solutions were extended as part of a broader initiative to offer modifications for approximately $100 billion in mortgage financing for up to 630,000 borrowers over the next several years. In addition to being committed to the loan modification programs the Corporation continued to focus on lending by extending more than $115 billion of new credit during the fourth quarter. For more information, see Recent Events on page 16.

On July 1, 2008, the Corporation acquired Countrywide creating one of the largest mortgage originators and servicers. We will continue our practice of not originating subprime mortgages and certain nontraditional mortgages, and as such will not offer products such as Countrywide's pay-option and payment advantage ARMs (pay option loans), which we classify as discontinued real estate in the Consumer Portfolio Credit Risk Management discussion. We have significantly curtailed the production of other nontraditional mortgages, such as certain low-documentation loans.

In addition, we will continue to offer first-lien mortgages conforming to the underwriting standards of GSEs and the government, including loans supported by the FHA and the Department of Veterans Affairs and other loans designed for low and moderate income borrowers (e.g., Community Reinvestment Act loans). We will also continue to offer first-lien non-conforming loans, interest-only fixed-rate and ARMs that are subject to a 10-year minimum interest-only period, and fixed-period ARMs.

On January 1, 2009, the Corporation acquired Merrill Lynch which contributed to both our consumer and commercial loans and commitments. Acquired consumer loans consist of residential mortgages, home equity loans and lines of credit and direct/indirect and other loans. Commercial loans were comprised of both investment and non-investment grade loans and include exposures to CMBS, monolines and leveraged finance. Consistent with other acquisitions, we will incorporate the acquired assets into our overall credit risk management processes and enhance disclosures where appropriate.

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. Statistical models are built using detailed behavioral information from external sources such as credit bureaus and/or internal historical experience. These models are a component of our consumer credit risk management process and are used in part to help determine both new and existing credit decisions, portfolio management strategies including authorizations and line management, collection practices and strategies, determination of the allowance for loan and lease 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, credit protection is purchased on certain portions of our portfolio to enhance our overall risk management position.

The merger with Merrill Lynch will increase our concentrations to certain products and loan types. These increases are primarily in the residential mortgage, home equity and direct/indirect portfolios.

Consumer Credit Portfolio

Overall, consumer credit quality indicators deteriorated during 2008 as our customers were negatively impacted by the slowing economy. Continued weakness in the housing markets, rising unemployment and underemployment, and tighter credit conditions resulted in rising credit risk across all our consumer portfolios. The deterioration in the consumer credit quality indicators accelerated during the fourth quarter.

Table 15 presents our consumer loans and leases and our managed credit card portfolio, and related credit quality information. Loans that were acquired from Countrywide that were considered impaired were written down to fair value at acquisition in accordance with SOP 03-3. Refer to the SOP 03-3 discussion beginning on page 59 for more information. In addition to being included in the "Outstandings" column below, these loans are also shown separately, net of purchase accounting adjustments, for increased transparency in the "SOP 03-3 Portfolio" column.

Table 15 Consumer Loans and Leases

	December 31						
	Outstandings		Nonperforming [1, 2, 3]		Accruing Past Due 90 Days or More [3, 4]		SOP 03-3 Portfolio [5]
(Dollars in millions)	**2008**	2007	**2008**	2007	**2008**	2007	**2008**
Held basis							
Residential mortgage	**$247,999**	$274,949	**$7,044**	$1,999	**$ 372**	$ 237	**$ 9,949**
Home equity	**152,547**	114,820	**2,670**	1,340	**–**	–	**14,163**
Discontinued real estate [6]	**19,981**	n/a	**77**	n/a	**–**	n/a	**18,097**
Credit card – domestic	**64,128**	65,774	**n/a**	n/a	**2,197**	1,855	**n/a**
Credit card – foreign	**17,146**	14,950	**n/a**	n/a	**368**	272	**n/a**
Direct/Indirect consumer [7]	**83,436**	76,538	**26**	8	**1,370**	745	**n/a**
Other consumer [8]	**3,442**	4,170	**91**	95	**4**	4	**n/a**
Total held	**$588,679**	$551,201	**$9,908**	$3,442	**$4,311**	$3,113	**$ 42,209**
Supplemental managed basis data							
Credit card – domestic	**$154,151**	$151,862	**n/a**	n/a	**$5,033**	$4,170	**n/a**
Credit card – foreign	**28,083**	31,829	**n/a**	n/a	**717**	714	**n/a**
Total credit card – managed	**$182,234**	$183,691	**n/a**	n/a	**$5,750**	$4,884	**n/a**

(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 held consumer loans and leases as a percentage of outstanding consumer loans and leases were 1.68 percent (1.81 percent excluding the SOP 03-3 portfolio) and 0.62 percent at December 31, 2008 and 2007.
(3) Balances do not include loans accounted for in accordance with SOP 03-3 even though the customer may be contractually past due. Loans accounted for in accordance with SOP 03-3 were written down to fair value upon acquisition and accrete interest income over the remaining life of the loan.
(4) Accruing held consumer loans and leases past due 90 days or more as a percentage of outstanding consumer loans and leases were 0.73 percent (0.79 percent excluding the SOP 03-3 portfolio) and 0.57 percent at December 31, 2008 and 2007.
(5) Represents acquired loans from Countrywide that were considered impaired and written down to fair value at the acquisition date in accordance with SOP 03-3. These amounts are included in the Outstandings column in this table.
(6) Discontinued real estate includes pay option loans and subprime loans obtained in connection with the acquisition of Countrywide. The Corporation no longer originates these products.
(7) Outstandings include foreign consumer loans of $1.8 billion and $3.4 billion at December 31, 2008 and 2007.
(8) Outstandings include consumer finance loans of $2.6 billion and $3.0 billion, and other foreign consumer loans of $618 million and $829 million at and December 31, 2008 and 2007.
n/a= not applicable

Table 16 Consumer Net Charge-offs/Net Losses and Related Ratios

	Net Charge-offs/Losses		Net Charge-off/Loss Ratios (1, 2)	
(Dollars in millions)	**2008**	2007	**2008**	2007
Held basis				
Residential mortgage	**$ 925**	$ 56	**0.36%**	0.02%
Home equity	**3,496**	274	**2.59**	0.28
Discontinued real estate	**16**	n/a	**0.15**	n/a
Credit card – domestic	**4,161**	3,063	**6.57**	5.29
Credit card – foreign	**551**	379	**3.34**	3.06
Direct/Indirect consumer	**3,114**	1,373	**3.77**	1.96
Other consumer	**399**	278	**10.46**	6.18
Total held	**$12,662**	$5,423	**2.21**	1.07
Supplemental managed basis data				
Credit card – domestic	**$10,054**	$6,960	**6.60**	4.91
Credit card – foreign	**1,328**	1,254	**4.17**	4.24
Total credit card – managed	**$11,382**	$8,214	**6.18**	4.79

(1) 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.
(2) Net charge-off ratios excluding the SOP 03-3 portfolio were 2.73 percent for home equity, 1.33 percent for discontinued real estate and 2.29 percent for the total held portfolio for 2008. These are the only product classifications materially impacted by SOP 03-3 for 2008. For these loan and lease categories the dollar amounts of the net charge-offs were unchanged.
n/a = not applicable

Table 16 presents net charge-offs and related ratios for our consumer loans and leases and net losses and related ratios for our managed credit card portfolio for 2008 and 2007. The reported net charge-off ratios for residential mortgage, home equity and discontinued real estate benefit from the addition of the Countrywide SOP 03-3 portfolio as the initial fair value adjustments recorded on those loans at acquisition would have already included the estimated credit losses. The reported net charge-offs for residential mortgage do not include the benefits of amounts reimbursable under cash collateralized synthetic securitizations. Adjusting for the benefit of this credit protection, the residential mortgage net charge-off ratio in 2008 would have been reduced by four bps.

In certain cases, the inclusion of the SOP 03-3 portfolio, which was written down to fair value at acquisition, may impact portfolio credit statistics and trends. We believe that the presentation of information adjusted to exclude the impacts of the SOP 03-3 portfolio is more representative of the ongoing operations and credit quality of the business. As a result, in the discussions below of the residential mortgage, home equity and discontinued real estate portfolios, we supplement certain reported statistics with information that is adjusted to exclude the impacts of the SOP 03-3 portfolio. In addition, beginning on page 59, we separately disclose information on the SOP 03-3 portfolio.

Residential Mortgage

The residential mortgage portfolio, which excludes the discontinued real estate portfolio acquired with Countrywide, makes up the largest percentage of our consumer loan portfolio at 42 percent of consumer loans and leases (44 percent excluding the SOP 03-3 portfolio) at December 31, 2008. Approximately 14 percent of the residential portfolio is in *GWIM* and represents residential mortgages that are originated for the home purchase and refinancing needs of our affluent customers. The remaining portion of the portfolio is mostly in *All Other*, and is comprised of both purchased loans, including certain loans from the Countrywide portfolio, as well as residential loans originated for our customers which are used in our overall ALM activities.

Outstanding loans and leases decreased $27.0 billion at December 31, 2008 compared to 2007 due to sales and conversions of loans into retained mortgage backed securities totaling $56.8 billion as well as paydowns partially offset by new loan originations and the addition of the Countrywide portfolio. The Countrywide acquisition added $26.8 billion of residential mortgage outstandings, of which $9.9 billion are included in the SOP 03-3 portfolio. Nonperforming balances increased $5.0 billion due to the impacts of weak housing and economic conditions and the addition of the non SOP 03-3 Countrywide portfolio due to subsequent credit deterioration after acquisition. At December 31, 2008 and 2007, loans past due 90 days or more and still accruing interest of $372 million and $237 million were related to repurchases pursuant to our servicing agreements with Government National Mortgage Association (GNMA) mortgage pools where repayments are insured by the FHA or guaranteed by the Department of Veterans Affairs.

Net charge-offs increased $869 million to $925 million for 2008, or 0.36 percent of total average residential mortgage loans compared to 0.02 percent for 2007. The increase was reflective of the impacts of the weak housing markets and the slowing economy. See page 59 for more information on the SOP 03-3 residential mortgage portfolio.

We mitigate a portion of our credit risk through synthetic securitizations which are cash collateralized and provide mezzanine risk protection which will reimburse us in the event that losses exceed 10 bps of the original pool balance. As of December 31, 2008 and 2007, $109.3 billion and $140.5 billion of mortgage loans were protected by these agreements. As of December 31, 2008, $146 million of credit and other related costs recognized in 2008 were reimbursable under these structures. In addition, we have entered into credit protection agreements with GSEs on $9.6 billion and $32.9 billion as of December 31, 2008 and 2007, providing full protection on conforming residential mortgage loans that become severely delinquent. Combined these structures provided risk mitigation for approximately 48 percent and 63 percent of our residential mortgage portfolio at December 31, 2008 and 2007. The reduction in the protection was driven by an increase in loan sales and securitizations during the period, some of which were insured, and the percentage of protection was also impacted by the addition of Countrywide mortgages resulting from the acquisition. Our regulatory risk-weighted assets are reduced as a result of these risk protection transactions because we transferred a portion of our credit risk to unaffiliated parties. At December 31, 2008 and 2007, these transactions had the cumulative effect of reducing our risk-weighted assets by

Table 17 Residential Mortgage State Concentrations

(Dollars in millions)	December 31, 2008 Outstandings Amount	Outstandings Percent of Total	Nonperforming Amount	Nonperforming Percent of Total	Year Ended December 31, 2008 Net Charge-offs Amount	Net Charge-offs Percent of Total
California	$ 84,847	35.6%	$ 2,028	28.8%	$ 411	44.4%
Florida	15,787	6.6	1,012	14.4	154	16.6
New York	15,539	6.5	255	3.6	5	0.5
Texas	10,804	4.5	315	4.5	20	2.2
Virginia	9,696	4.1	229	3.2	32	3.5
Other U.S./Foreign	101,377	42.7	3,205	45.5	303	32.8
Total residential mortgage loans (excluding SOP 03-3 loans)	**$238,050**	**100.0%**	**$ 7,044**	**100.0%**	**$ 925**	**100.0%**
Total SOP 03-3 residential mortgage loans [(1)]	**9,949**					
Total residential mortgage loans	**$247,999**					

(1) Represents acquired loans from Countrywide that were considered impaired and written down to fair value at the acquisition date in accordance with SOP 03-3. See page 59 for the discussion of the characteristics of the SOP 03-3 loans.

$34.0 billion and $49.0 billion, and strengthened our Tier 1 Capital ratio at December 31, 2008 and 2007 by 24 bps and 27 bps.

Excluding the SOP 03-3 portfolio, residential mortgage loans with greater than 90 percent refreshed LTV represented 23 percent of the portfolio and those loans with refreshed FICO lower than 620 represented eight percent of the portfolio. In addition, residential mortgage loans to borrowers in the state of California represented 36 percent and 32 percent of total residential mortgage loans at December 31, 2008 and 2007. The Los Angeles-Long Beach-Santa Ana Metropolitan Statistical Area (MSA) within California represented 13 percent and 11 percent of the total residential mortgage portfolio at December 31, 2008 and 2007. In addition, residential mortgage loans to borrowers in the state of Florida represented seven percent and six percent of the total residential mortgage portfolio at December 31, 2008 and 2007. Additionally, 56 percent and 40 percent of loans in California and Florida are in reference pools of synthetic securitizations, as described above, which provide mezzanine risk protection. Total credit risk on three percent of our mortgage loans in Florida has been mitigated through the purchase of protection from government sponsored entities. The table above presents outstandings, nonperforming loans and net charge-offs by certain state concentrations for the residential mortgage portfolio.

The Community Reinvestment Act (CRA) encourages banks to meet the credit needs of their communities for housing and other purposes, particularly in neighborhoods with low or moderate incomes. At December 31, 2008, our CRA portfolio comprised seven percent of the total ending residential mortgage loan balances but comprised 24 percent of nonperforming residential mortgage loans. This portfolio also comprised 27 percent of residential mortgage net charge-offs during 2008. While approximately 48 percent of our residential mortgage portfolio carries risk mitigation protection, only a small portion of our CRA portfolio is covered by this protection.

Home Equity

At December 31, 2008, approximately 79 percent of the home equity portfolio was included in *GCSBB*, while the remainder of the portfolio was primarily in *GWIM*. Outstanding home equity loans increased $37.7 billion, or 33 percent, at December 31, 2008 compared to December 31, 2007, primarily due to the Countrywide acquisition which added approximately $29.0 billion in home equity loans of which $14.2 billion is included in the SOP 03-3 portfolio. An additional $25.0 billion in organic growth and draws on existing lines was partially offset by paydowns and net charge-offs. See page 59 for more information on the SOP 03-3 home equity portfolio.

Home equity unused lines of credit totaled $107.4 billion at December 31, 2008 compared to $120.1 billion at December 31, 2007. The $12.7 billion decrease was driven primarily by higher account utilization due to draws on existing lines as well as line management initiatives on deteriorating accounts with declining equity positions partially offset by the addition of the Countrywide portfolio which added $4.5 billion of unused lines related to the non SOP 03-3 portfolio. The home equity utilization rate was 52 percent at December 31, 2008 compared to 44 percent at December 31, 2007. The increase was driven by the same factors as previously discussed as well as the addition of the Countrywide portfolio which had a higher utilization rate.

Nonperforming home equity loans increased $1.3 billion compared to December 31, 2007 and net charge-offs increased $3.2 billion to $3.5 billion for 2008, or 2.59 percent (2.73 percent excluding the SOP 03-3 portfolio) of total average home equity loans compared to 0.28 percent in 2007. These increases were driven by continued weakness in the housing markets, the slowing economy and seasoning of vintages originated in periods of higher growth. Additionally, the increase was driven by high refreshed CLTV loans in geographic areas that have experienced the most significant declines in home prices. Home price declines coupled with the fact that most home equity loans are secured by second lien positions have significantly reduced and in some cases resulted in no collateral value after consideration of the first lien position. This drove more severe charge-offs as borrowers defaulted.

Excluding the SOP 03-3 portfolio, home equity loans with greater than 90 percent refreshed CLTV comprised 37 percent of the home equity portfolio at December 31, 2008, and represented 85 percent of net charge-offs for 2008. In addition, loans with a refreshed FICO lower than 620 represented 10 percent of the home equity loans at December 31, 2008. The 2006 vintage loans, which represent $34.2 billion, or 25 percent of our home equity portfolio, continue to season and have a higher refreshed CLTV and accounted for approximately 49 percent of net charge-offs for 2008. The portfolio's 2007 vintages, which represent 26 percent of the portfolio, are showing similar asset quality characteristics as the 2006 vintages and accounted for 28 percent of net charge-offs in 2008. Additionally, legacy Bank of America discontinued the program of purchasing non-franchise originated loans in the second quarter of 2007. These purchased loans represented only three percent of the portfolio but accounted for 17 percent of net charge-offs for 2008.

Table 18 Home Equity State Concentrations

(Dollars in millions)	December 31, 2008 Outstandings Amount	Outstandings Percent of Total	Nonperforming Amount	Nonperforming Percent of Total	Year Ended December 31, 2008 Net Charge-offs Amount	Net Charge-offs Percent of Total
California	$ 38,015	27.5%	$ 857	32.1%	$ 1,464	41.9%
Florida	17,893	12.9	597	22.4	788	22.6
New Jersey	8,929	6.5	126	4.7	96	2.7
New York	8,602	6.2	176	6.6	96	2.7
Massachusetts	6,008	4.3	48	1.8	56	1.6
Other U.S./Foreign	58,937	42.6	866	32.4	996	28.5
Total home equity loans (excluding SOP 03-3 loans)	**$138,384**	**100.0%**	**$ 2,670**	**100.0%**	**$ 3,496**	**100.0%**
Total SOP 03-3 home equity loans (1)	**14,163**					
Total home equity loans	**$152,547**					

(1) Represents acquired loans from Countrywide that were considered impaired and written down to fair value at the acquisition date in accordance with SOP 03-3. See the SOP 03-3 Portfolio section below for the discussion of the characteristics of the SOP 03-3 loans.

Excluding the SOP 03-3 portfolio, our home equity loan portfolio in the states of California and Florida represented in aggregate 40 percent and 39 percent of outstanding home equity loans at December 31, 2008 and 2007. These states accounted for $1.5 billion, or 55 percent, of nonperforming home equity loans at December 31, 2008. In addition, these states represented 65 percent of the home equity net charge-offs for 2008. In the New York area, the New York-Northern New Jersey-Long Island MSA made up 11 percent of outstanding home equity loans at December 31, 2008 but comprised only five percent of net charge offs for 2008. The Los Angeles-Long Beach-Santa Ana MSA within California made up 11 percent of outstanding home equity loans at December 31, 2008 and 11 percent of net charge-offs for 2008. The table above presents outstandings, nonperforming loans and net charge-offs by certain state concentrations for the home equity portfolio.

Discontinued Real Estate

The discontinued real estate portfolio, totaling $20.0 billion at December 31, 2008, consisted of pay-option and subprime loans obtained in connection with the acquisition of Countrywide. At acquisition, the majority of the discontinued real estate portfolio was considered impaired and, in accordance with SOP 03-3, written down to fair value. At December 31, 2008 the SOP 03-3 portfolio comprised $18.1 billion of the $20.0 billion discontinued real estate portfolio. This portfolio is included in *All Other* and is managed as part of our overall ALM activities. See the SOP 03-3 portfolio discussion to follow for more information on the discontinued real estate portfolio.

At December 31, 2008, the non SOP 03-3 discontinued real estate portfolio was $1.9 billion. Loans with greater than 90 percent refreshed LTVs and CLTVs comprised 13 percent of this portfolio and those with refreshed FICO scores lower than 620 represented 17 percent of the portfolio. California represented 31 percent of the portfolio and 22 percent of the nonperforming loans while Florida represented 10 percent of the portfolio and 17 percent of the nonperforming loans at December 31, 2008. The Los Angeles-Long Beach-Santa Ana MSA within California made up 14 percent of outstanding discontinued real estate loans at December 31, 2008.

SOP 03-3 Portfolio

Loans acquired with evidence of credit quality deterioration since origination and for which it is probable at purchase that we will be unable to collect all contractually required payments are accounted for under SOP 03-3. Evidence of credit quality deterioration as of the purchase date may include statistics such as past due status, refreshed borrower credit scores, and refreshed LTVs, some of which were not immediately available as of the purchase date. SOP 03-3 addresses accounting for differences between contractual and expected cash flows to be collected from the Corporation's initial investment in loans if those differences are attributable, at least in part, to credit quality. SOP 03-3 requires that acquired impaired loans be recorded at fair value and prohibits "carrying over" or the creation of valuation allowances in the initial accounting for loans acquired that are within the scope of this SOP. The SOP 03-3 portfolio associated with the acquisition of LaSalle did not materially impact results during 2008 and is excluded from the following discussion.

In accordance with SOP 03-3, certain acquired loans of Countrywide that were considered impaired were written down to fair value at the acquisition date. As a result, there were no reported net charge-offs in 2008 on these loans as the initial fair value at acquisition date would have already considered the estimated credit losses on these loans. As of December 31, 2008, the carrying value was $42.2 billion, excluding the $750 million in incremental allowance, and the unpaid principal balance of these loans was $55.4 billion. SOP 03-3 does not apply to loans Countrywide previously securitized as they are not held on the Corporation's Balance Sheet. During 2008, had the acquired portfolios not been subject to SOP 03-3, we would have recorded additional net charge-offs of $3.6 billion, of which approximately 13 percent would have been due to conforming accounting adjustments. Subsequent to the July 1, 2008 acquisition of Countrywide, the SOP 03-3 portfolio experienced further credit deterioration due to weakness in the housing markets and the impacts of a slowing economy. As such, we established a $750 million allowance for loan loss through a charge to the provision for credit losses comprised of $584 million for discontinued real estate loans and $166 million for home equity loans. For further information regarding loans accounted for in accordance with SOP 03-3, see *Note 6 – Outstanding Loans and Leases* to the Consolidated Financial Statements.

In the following paragraphs we provide additional information on the residential mortgage, home equity and discontinued real estate loans that were accounted for under SOP 03-3. Since these loans were written down to fair value upon acquisition, we are reporting this information separately. In certain cases, we supplement the reported statistics on these SOP 03-3 portfolios with information that is presented as if the acquired loans had not been subject to SOP 03-3.

Table 19 SOP 03-3 Portfolio – Residential Mortgage State Concentrations

	December 31, 2008		Year Ended December 31, 2008	
	Outstandings		SOP 03-3 Net Charge-offs [1]	
(Dollars in millions)	Amount	Percent of Total	Amount	Percent of Total
California	$ 5,598	56.3%	$ 177	40.4%
Florida	771	7.7	103	23.5
Virginia	553	5.6	14	3.2
Maryland	251	2.5	6	1.4
Texas	147	1.5	5	1.1
Other U.S. / Foreign	2,629	26.4	133	30.4
Total SOP 03-3 residential mortgage loans	**$ 9,949**	**100.0%**	**$ 438**	**100.0%**

(1)Represents additional net charge-offs for 2008 had the portfolio not been subject to SOP 03-3.

Residential Mortgage

The residential mortgage SOP 03-3 portfolio outstandings were $9.9 billion at December 31, 2008 and comprised 24 percent of the total SOP 03-3 portfolio. Those loans with a refreshed FICO score lower than 620 represented 26 percent of the residential mortgage SOP 03-3 portfolio at December 31, 2008. Refreshed LTVs greater than 90 percent after consideration of purchase accounting adjustments and refreshed LTVs greater than 90 percent based on the unpaid principal balance represented 58 percent and 82 percent of the residential mortgage portfolio.

California represented approximately 56 percent of the outstanding residential mortgage SOP 03-3 portfolio and Florida represented approximately eight percent at December 31, 2008. Had the acquired portfolio not been subject to SOP 03-3 the residential mortgage portfolio would have recorded additional net charge-offs of $438 million. The table above presents outstandings net of purchase accounting adjustments and net charge-offs had the portfolio not been subject to SOP 03-3, by certain state concentrations.

Home Equity

The home equity SOP 03-3 outstandings were $14.2 billion at December 31, 2008 and comprised 34 percent of the total SOP 03-3 portfolio. Those loans with a refreshed FICO score lower than 620 represented 19 percent of the home equity SOP 03-3 portfolio at December 31, 2008. Refreshed CLTVs greater than 90 percent represented 80 percent of the home equity portfolio after consideration of purchase accounting adjustments. Refreshed CLTVs greater than 90 percent based on the unpaid principal balance represented 88 percent of the home equity portfolio at December 31, 2008.

California represented approximately 36 percent of the outstanding home equity SOP 03-3 portfolio and Florida represented approximately seven percent at December 31, 2008. Had the acquired portfolio not been subject to SOP 03-3 the home equity portfolio would have recorded additional net charge-offs of $1.5 billion. The table below presents outstandings net of purchase accounting adjustments and net charge-offs had the portfolio not been subject to SOP 03-3, by certain state concentrations.

Discontinued Real Estate

The discontinued real estate SOP 03-3 portfolio outstandings were $18.1 billion at December 31, 2008 and comprised 42 percent of the total SOP 03-3 portfolio. Those loans with a refreshed FICO score lower than 620 represented 32 percent of the discontinued real estate SOP 03-3 portfolio at December 31, 2008. Refreshed LTVs and CLTVs greater than 90 percent represented 40 percent of the discontinued real estate portfolio after consideration of purchase accounting adjustments. Refreshed LTVs and CLTVs greater than 90 percent based on the unpaid principal balance represented 73 percent of the discontinued real estate portfolio at December 31, 2008.

Table 20 SOP 03-3 Portfolio – Home Equity State Concentrations

	December 31, 2008		Year Ended December 31, 2008	
	Outstandings		SOP 03-3 Net Charge-offs [1]	
(Dollars in millions)	Amount	Percent of Total	Amount	Percent of Total
California	$ 5,133	36.2%	$ 744	49.8%
Florida	914	6.5	186	12.4
Arizona	629	4.4	79	5.3
Virginia	532	3.8	42	2.8
Colorado	404	2.9	22	1.5
Other U.S. / Foreign	6,551	46.2	421	28.2
Total SOP 03-3 home equity loans	**$ 14,163**	**100.0%**	**$ 1,494**	**100.0%**

(1)Represents additional net charge-offs for 2008 had the portfolio not been subject to SOP 03-3.

Table 21 SOP 03-3 Portfolio – Discontinued Real Estate State Concentrations

	December 31, 2008		Year Ended December 31, 2008	
	Outstandings		SOP 03-3 Net Charge-offs (1)	
(Dollars in millions)	Amount	Percent of Total	Amount	Percent of Total
California	$ 9,987	55.2%	$ 1,010	59.4%
Florida	1,831	10.1	275	16.2
Arizona	666	3.7	61	3.6
Virginia	580	3.2	48	2.8
Washington	492	2.7	8	0.5
Other U.S./ Foreign	4,541	25.1	297	17.5
Total SOP 03-3 discontinued real estate loans	**$ 18,097**	**100.0%**	**$ 1,699**	**100.0%**

(1) Represents additional net charge-offs for 2008 had the portfolio not been subject to SOP 03-3.

California represented approximately 55 percent of the outstanding discontinued real estate SOP 03-3 portfolio and Florida represented approximately 10 percent at December 31, 2008. Had the acquired portfolio not been subject to SOP 03-3 the discontinued real estate portfolio would have recorded additional net charge-offs of $1.7 billion. The table above presents outstandings net of purchase accounting adjustments and net charge-offs had the portfolio not been subject to SOP 03-3, by certain state concentrations.

Pay option ARMs have interest rates that adjust monthly and minimum required payments that adjust annually (subject to resetting of the loan if minimum payments are made and deferred interest limits are reached). Annual payment adjustments are subject to a 7.5 percent maximum change. To ensure that contractual loan payments are adequate to repay a loan, the fully amortizing loan payment amount is re-established after the initial five or 10-year period and again every five years thereafter. These payment adjustments are not subject to the 7.5 percent limit and may be substantial due to changes in interest rates and the addition of unpaid interest to the loans' balance. Payment advantage ARMs have interest rates that are fixed for an initial period of five years. Payments are subject to reset if the minimum payments are made and deferred interest limits are reached. If interest deferrals cause the loan's principal balance to reach a certain level within the first 10 years of the loans, the payment is reset to the interest-only payment; then at the 10-year point, the fully amortizing payment is required.

The difference between the frequency of changes in the loans' interest rates and payments along with a limitation on changes in the minimum monthly payments to 7.5 percent per year can result in payments that are not sufficient to pay all of the monthly interest charges (i.e., negative amortization). Unpaid interest charges are added to the loan balance until the loan's balance increases to a specified limit, which is no more than 115 percent of the original loan amount, at which time a new monthly payment amount adequate to repay the loan over its remaining contractual life is established.

At December 31, 2008 the unpaid principal balance of pay option loans was $23.2 billion, with a carrying amount of $18.2 billion, including $16.8 billion of loans that were impaired at acquisition. The total unpaid principal balance of pay option loans with accumulated negative amortization was $21.2 billion and accumulated negative amortization from the original loan balance was $1.3 billion. The percentage of borrowers electing to make only the minimum payment on option arms was 57 percent at December 31, 2008. We continue to evaluate our exposure to payment resets on the acquired negatively amortizing loans and have taken into consideration several assumptions regarding this evaluation (e.g., prepayment rates). We also continue to evaluate the potential for resets on the SOP 03-3 pay option portfolio. Based on our expectations, four percent, 31 percent and 20 percent of the pay option loan portfolio is expected to be reset in 2009, 2010, and 2011, respectively. Approximately nine percent is expected to be reset thereafter, and approximately 36 percent are expected to repay prior to being reset.

We manage these SOP 03-3 portfolios, including consideration for the home retention programs to modify troubled mortgages, consistent with our other consumer real estate practices. These programs are in line with the Corporation's original expectations upon acquisition and will not impact the Corporation's purchase accounting adjustments. For more information, see Recent Events beginning on page 16.

Credit Card – Domestic

The consumer domestic credit card portfolio is managed in *Card Services*. Outstandings in the held domestic credit card loan portfolio decreased $1.6 billion at December 31, 2008 compared to December 31, 2007 due to higher securitized balances and risk mitigation initiatives partially offset by lower payment rates. Held domestic loans past due 90 days or more and still accruing interest increased $342 million from December 31, 2007.

Net charge-offs for the held domestic portfolio increased $1.1 billion to $4.2 billion for 2008, or 6.57 percent of total average held credit card – domestic loans compared to 5.29 percent for 2007. The increase was reflective of the slowing economy including rising unemployment, underemployment and higher bankruptcies particularly in geographic areas that have experienced the most significant home price declines.

Managed domestic credit card outstandings increased $2.3 billion to $154.2 billion at December 31, 2008 compared to December 31, 2007 due in part to lower payment rates partially offset by risk mitigation initiatives. Managed net losses increased $3.1 billion to $10.1 billion for 2008, or 6.60 percent of total average managed domestic loans compared to 4.91 percent in 2007. The increase in managed net losses was driven by the same factors as described in the held discussion above.

Our managed credit card – domestic loan portfolio in the states of California and Florida represented in aggregate 24 percent of credit card – domestic outstandings at December 31, 2008. These states represented 31 percent of the credit card – domestic net losses for 2008. Table 22 presents asset quality indicators by certain state concentrations for the managed credit card – domestic portfolio.

Table 22 Credit Card – Domestic State Concentrations – Managed Basis

	December 31, 2008				Year Ended December 31, 2008	
	Outstandings		Accruing Past Due 90 Days or More		Net Losses	
(Dollars in millions)	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
California	$ 24,191	15.7%	$ 997	19.8%	$ 1,916	19.1%
Florida	13,210	8.6	642	12.8	1,223	12.2
Texas	10,262	6.7	293	5.8	634	6.3
New York	9,368	6.1	263	5.2	531	5.3
New Jersey	6,113	4.0	172	3.4	316	3.1
Other U.S.	91,007	58.9	2,666	53.0	5,434	54.0
Total credit card – domestic loans	**$154,151**	**100.0%**	**$ 5,033**	**100.0%**	**$ 10,054**	**100.0%**

Managed consumer credit card unused lines of credit, for both domestic and foreign credit card, totaled $789.1 billion at December 31, 2008 compared to $846.0 billion at December 31, 2007. The $56.9 billion decrease was driven primarily by account management initiatives on higher risk customers in higher risk states and inactive accounts.

Credit Card – Foreign

The consumer foreign credit card portfolio is managed in *Card Services*. Outstandings in the held foreign credit card loan portfolio increased $2.2 billion to $17.1 billion at December 31, 2008 compared to December 31, 2007 primarily due to a lower level of securitizations partially offset by the strengthening of the U.S. dollar against certain foreign currencies, particularly the British Pound. Net charge-offs for the held foreign portfolio increased $172 million to $551 million for 2008, or 3.34 percent of total average held credit card – foreign loans compared to 3.06 percent in 2007. The increase was driven primarily by lower levels of securitizations in 2008 as well as deterioration which primarily impacted the latter half of 2008.

Managed foreign credit card outstandings decreased $3.7 billion to $28.1 billion at December 31, 2008 compared to December 31, 2007 due primarily to the strengthening of the U.S. dollar against certain foreign currencies, particularly the British Pound. Net losses for the managed foreign portfolio increased $74 million to $1.3 billion for 2008, or 4.17 percent of total average managed credit card – foreign loans compared to 4.24 percent in 2007.

Direct/Indirect Consumer

At December 31, 2008, approximately 49 percent of the direct/indirect portfolio was included in *Business Lending* (automotive, marine, motor-cycle and recreational vehicle loans), 46 percent was included in *GCSBB* (unsecured personal loans, student and other non-real estate secured) and the remainder was included in *GWIM* (principally other non-real estate secured and unsecured personal loans).

Outstanding loans and leases increased $6.9 billion at December 31, 2008 compared to December 31, 2007 due to purchases of automobile loan portfolios, student loan disbursements and growth in the *Card Services* unsecured lending product partially offset by the securitization of automobile loans and the strengthening of the U.S. dollar against certain foreign currencies. Loans past due 90 days or more and still accruing interest increased $625 million. Net charge-offs increased $1.7 billion to $3.1 billion for 2008, or 3.77 percent of total average direct/indirect loans compared to 1.96 percent for 2007. The increase was concentrated in the *Card Services* unsecured lending portfolio, driven by portfolio deterioration reflecting the effects of a slowing economy particularly in states most impacted by the slowdown in housing, notably California and Florida as well as seasoning of vintages originated in periods of higher growth. Additionally, the slowing economy and declining collateral values resulted in higher charge-offs in the dealer financial services portfolio.

Direct/Indirect consumer loans to borrowers in the state of California represented 13 percent of total direct/indirect consumer loans at December 31, 2008. In addition, direct/indirect consumer loans to borrowers in the state of Florida represented nine percent of the total direct/ indirect consumer portfolio at December 31, 2008. In aggregate, California and Florida represented 30 percent of the net charge-offs for 2008. The table below presents asset quality indicators by certain state concentrations for the direct/indirect consumer loan portfolio.

Table 23 Direct/Indirect State Concentrations

	December 31, 2008				Year Ended December 31, 2008	
	Outstandings		Accruing Past Due 90 Days or More		Net Charge-offs	
(Dollars in millions)	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
California	$ 10,555	12.7%	$ 247	18.0%	$ 601	19.3%
Texas	7,738	9.3	88	6.4	222	7.1
Florida	7,376	8.8	145	10.6	334	10.7
New York	4,938	5.9	69	5.0	162	5.2
Georgia	3,212	3.8	48	3.5	115	3.7
Other U.S./Foreign	49,617	59.5	773	56.5	1,680	54.0
Total direct/indirect loans	**$ 83,436**	**100.0%**	**$ 1,370**	**100.0%**	**$ 3,114**	**100.0%**

Other Consumer

At December 31, 2008, approximately 76 percent of the other consumer portfolio was associated with portfolios from certain consumer finance businesses that we have previously exited and is included in *All Other*. The remainder consisted of the foreign consumer loan portfolio which is mostly included in *Card Services* and deposit overdrafts. Net charge-offs increased $121 million for 2008 from 2007 driven by deposit overdraft net charge-offs reflecting higher average balances per account and account growth.

Nonperforming Consumer Assets Activity

Table 24 presents nonperforming consumer assets activity during 2008 and 2007. Total net additions to nonperforming loans and leases in 2008 were $6.5 billion compared to $2.4 billion in 2007. The increase in 2008 was driven by the residential mortgage and home equity portfolios reflective of the weakening housing markets, the slowing economy and seasoning of vintages originated in periods of higher growth. In addition for 2008 the increase was impacted by the CRA portfolio, which represented approximately 19 percent of the net increase in nonperforming loans and the non SOP 03-3 Countrywide portfolio which added 15 percent. The increase in foreclosed properties of $1.2 billion was driven primarily by the addition of Countrywide. Nonperforming loans do not include acquired loans that were considered impaired and written down to fair value at the acquisition date in accordance with SOP 03-3 as these loans accrete interest.

Nonperforming loans also include loans that have been modified in troubled debt restructurings (TDRs) where concessions to borrowers who experienced financial difficulties have been granted. TDRs typically result from the Corporation's loss mitigation activities and could include rate reductions, payment extensions and principal forgiveness. TDRs generally exclude loans that were written down to fair value at acquisition within the scope of SOP 03-3. At December 31, 2008 we had $529 million of residential mortgages, $303 million of home equity and $71 million of discontinued real estate loans that were restructured in TDRs. These loans were also classified as impaired loans at December 31, 2008 and are disclosed as such in *Note 6 – Outstanding Loans and Leases* to the Consolidated Financial Statements. Certain TDRs are classified as nonperforming at the time of restructure and are not returned to performing status until six consecutive, on-time payments have been made by the customer. Included in the TDR balances are loans that were classified as performing and are therefore excluded from the table below. At December 31, 2008, the balances of performing TDRs were $320 million of residential mortgages, $1 million of home equity, and $66 million of discontinued real estate.

In addition, we work with customers that are experiencing financial difficulty through renegotiating credit card and direct/indirect consumer loans, while ensuring that we remain within FFIEC guidelines. These renegotiated loans are excluded from the table below as we do not classify non-real estate unsecured loans as nonperforming. For more information refer to *Note 6 – Outstanding Loans and Leases* to the Consolidated Financial Statements.

Table 24 Nonperforming Consumer Assets Activity [1]

(Dollars in millions)	2008	2007
Nonperforming loans and leases		
Balance, January 1	**$ 3,442**	$1,030
Additions to nonperforming loans and leases:		
New nonaccrual loans and leases	**13,625**	4,093
Reductions in nonperforming loans and leases:		
Paydowns and payoffs	**(704)**	(366)
Returns to performing status [2]	**(1,522)**	(855)
Charge-offs [3]	**(4,032)**	(300)
Transfers to foreclosed properties	**(895)**	(152)
Transfers to loans held-for-sale	**(6)**	(8)
Total net additions to nonperforming loans and leases	**6,466**	2,412
Total nonperforming loans and leases, December 31 [4]	**9,908**	3,442
Foreclosed properties		
Balance, January 1	**276**	59
Additions to foreclosed properties:		
LaSalle balance, October 1, 2007	**–**	70
Countrywide balance, July 1, 2008	**952**	–
New foreclosed properties [5]	**1,578**	246
Reductions in foreclosed properties:		
Sales	**(1,077)**	(82)
Writedowns	**(223)**	(17)
Total net additions to foreclosed properties	**1,230**	217
Total foreclosed properties, December 31	**1,506**	276
Nonperforming consumer assets, December 31	**$11,414**	$3,718
Nonperforming consumer loans and leases as a percentage of outstanding consumer loans and leases	**1.68%**	0.62%
Nonperforming consumer assets as a percentage of outstanding consumer loans, leases and foreclosed properties	**1.93**	0.67

(1) Balances do not include nonperforming LHFS of $436 million and $95 million in 2008 and 2007.
(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.
(4) Approximately half of the 2008 nonperforming loans and leases are greater than 180 days past due and have been written down through charge-offs to approximately 71 percent of original cost.
(5) Our policy is to record any losses in the value of foreclosed properties as a reduction in the allowance for credit losses during the first 90 days after transfer of a loan into foreclosed properties. Thereafter, all losses in value are recorded as noninterest expense. New foreclosed properties in the table above are net of $436 million and $75 million of charge-offs in 2008 and 2007 taken during the first 90 days after transfer.

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 exposures 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

Commercial 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 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 28, 30, 34, 35 and 36 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 normal markets, many of these offers to finance will not be accepted, and 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. However, as we began to experience in the latter half of 2007, where we have a binding commitment and there is a market disruption or other unexpected event, these commitments are more likely to be funded and are more difficult to distribute. As a consequence there is heightened exposure in the portfolios and a higher potential for writedown or loss. For more information regarding the Corporation's leveraged finance and CMBS exposures, see the *CMAS* discussion beginning on page 34.

We 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 our single name credit risk concentration guidelines at fair value in accordance with SFAS 159. Any fair value adjustment upon origination and subsequent changes in the fair value of these loans and unfunded commitments are 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 not used to capture credit losses inherent in these nonperforming or impaired loans and unfunded commitments. The Commercial Credit Portfolio tables exclude loans and unfunded commitments that are carried at fair value to adjust related ratios. See the Commercial Loans Measured at Fair Value section on page 68 for more information on the performance of these loans and loan commitments and see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements for additional information on our SFAS 159 elections.

The merger with Merrill Lynch will increase our concentrations to certain industries, countries and customers. These increases are primarily with diversified financial institutions active in the capital markets. There are also increased concentrations within the high-grade commercial portfolio, monoline insurers, certain leveraged finance exposures, and several large CMBS positions.

Commercial Credit Portfolio

Housing value declines, a slowdown in consumer spending and the turmoil in the global financial markets impacted our commercial portfolios where we experienced higher levels of losses, particularly in the homebuilder sector of our commercial real estate portfolio. Broader-based economic pressures have also impacted other commercial credit quality indicators. The nonperforming loan and commercial utilized reservable criticized exposure ratios were 1.93 percent and 8.90 percent at December 31, 2008 compared to 0.67 percent and 4.46 percent at December 31, 2007. Nonperforming loan increases were largely driven by deterioration in the homebuilder portfolio. Utilized reservable criticized increases were broad based across lines of business, products and industries. The loans and leases net charge-off ratio increased to 1.07 percent in 2008 from 0.40 percent a year ago. Higher net charge-offs in our small business portfolios within *GCSBB* reflected deterioration from the impacts of a slowing economy particularly in geographic areas that have experienced the most significant home price declines. Excluding small business commercial – domestic the total net charge-off ratio was 0.52 percent compared to 0.07 percent in 2007. The increase was mainly driven by higher net charge-offs in commercial real estate, principally the homebuilder loan portfolio, as well as commercial domestic and foreign net charge-offs which were diverse in terms of both borrowers and industries. The deterioration in the market accelerated during the later stages of the fourth quarter.

Table 25 presents our commercial loans and leases and related credit quality information for 2008 and 2007.

Table 25 Commercial Loans and Leases

	December 31						Year Ended December 31			
	Outstandings		Nonperforming [1]		Accruing Past Due 90 Days or More [2]		Net Charge-offs		Net Charge-off Ratios [3]	
(Dollars in millions)	**2008**	2007	**2008**	2007	**2008**	2007	**2008**	2007	**2008**	2007
Commercial loans and leases										
Commercial – domestic [4]	**$200,088**	$189,011	**$ 2,040**	$ 852	**$ 381**	$ 119	**$ 519**	$ 127	**0.26%**	0.08%
Commercial real estate	**64,701**	61,298	**3,906**	1,099	**52**	36	**887**	47	**1.41**	0.11
Commercial lease financing	**22,400**	22,582	**56**	33	**23**	25	**60**	2	**0.27**	0.01
Commercial – foreign	**31,020**	28,376	**290**	19	**7**	16	**173**	1	**0.55**	–
	318,209	301,267	**6,292**	2,003	**463**	196	**1,639**	177	**0.52**	0.07
Small business commercial – domestic [5]	**19,145**	19,286	**205**	152	**640**	427	**1,930**	880	**9.80**	5.13
Total commercial loans and leases excluding loans measured at fair value	**337,354**	320,553	**6,497**	2,155	**1,103**	623	**3,569**	1,057	**1.07**	0.40
Total measured at fair value [6]	**5,413**	4,590	**–**	–	**–**	–	**n/a**	n/a	**n/a**	n/a
Total commercial loans and leases	**$342,767**	$325,143	**$ 6,497**	$ 2,155	**$ 1,103**	$ 623	**$3,569**	$1,057	**1.07**	0.40

(1) Nonperforming commercial loans and leases as a percentage of outstanding commercial loans and leases excluding loans measured at fair value were 1.93 percent and 0.67 percent at December 31, 2008 and 2007.
(2) Accruing commercial loans and leases past due 90 days or more as a percentage of outstanding commercial loans and leases excluding loans measured at fair value were 0.33 percent and 0.19 percent at December 31, 2008 and 2007.
(3) Net charge-off ratios are calculated as net charge-offs divided by average outstanding loans and leases excluding loans measured at fair value during the year for each loan and lease category.
(4) Excludes small business commercial – domestic loans.
(5) Small business commercial – domestic is primarily card related.
(6) Certain commercial loans are measured at fair value in accordance with SFAS 159 and include commercial – domestic loans of $3.5 billion at both December 31, 2008 and 2007, commercial – foreign loans of $1.7 billion and $790 million and commercial real estate loans of $203 million and $304 million at December 31, 2008 and 2007.
n/a = not applicable

Table 26 Commercial Credit Exposure by Type

	December 31					
	Commercial Utilized [1, 2]		Commercial Unfunded [3, 4]		Total Commercial Committed	
(Dollars in millions)	2008	2007	2008	2007	2008	2007
Loans and leases	$ 342,767	$ 325,143	$ 300,856	$ 329,396	$643,623	$654,539
Standby letters of credit and financial guarantees	72,840	58,747	4,740	4,049	77,580	62,796
Derivative assets [5]	62,252	34,662	–	–	62,252	34,662
Assets held-for-sale [6]	14,206	26,475	183	1,489	14,389	27,964
Commercial letters of credit	2,974	4,413	791	140	3,765	4,553
Bankers' acceptances	3,389	2,411	13	2	3,402	2,413
Foreclosed properties	321	75	–	–	321	75
Total commercial credit exposure	$ 498,749	$ 451,926	$ 306,583	$ 335,076	$805,332	$787,002

(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, 2008 and 2007 includes loans and issued letters of credit measured at fair value in accordance with SFAS 159 and is comprised of loans outstanding of $5.4 billion and $4.6 billion and letters of credit at notional value of $1.4 billion and $1.1 billion.
(3) Total commercial unfunded exposure at December 31, 2008 and 2007 includes loan commitments measured at fair value in accordance with SFAS 159 with a notional value of $15.5 billion and $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 $34.8 billion and $12.8 billion at December 31, 2008 and 2007. In addition to cash collateral, derivative assets are also collateralized by $7.7 billion and $8.5 billion of primarily other marketable securities at December 31, 2008 and 2007 for which credit risk has not been reduced.
(6) Total commercial committed asset held-for-sale exposure consists of $12.1 billion and $23.9 billion of commercial LHFS exposure (e.g., commercial mortgage and leveraged finance) and $2.3 billion and $4.1 billion of investments held-for-sale exposure at December 31, 2008 and 2007.

Table 26 presents commercial credit exposure by type for utilized, unfunded and total binding committed credit exposure. The increase in standby letters of credit and financial guarantees of $14.8 billion was concentrated in the government, healthcare providers and education sectors. The increase in derivative assets of $27.6 billion was centered in interest rate swaps, foreign exchange contracts and credit derivatives, and was driven by interest rate shifts, especially during the latter part of the year, the strengthening of the U.S. dollar against certain foreign currencies, and widening credit spreads. The decrease of $13.6 billion in assets held-for-sale was driven primarily by distributions and sales, completed securitizations, reduced underwriting activity, and mark-to-market writedowns. For more information on our credit derivatives, see Industry Concentrations beginning on page 70 and for more information on our funded leveraged finance and CMBS exposures refer to Management of Commercial Credit Risk Concentrations on page 64.

Table 27 presents commercial utilized reservable criticized exposure by product type. Total commercial utilized reservable criticized exposure increased $19.8 billion from December 31, 2007, primarily due to increases in commercial – domestic reflecting deterioration across various lines of business and industries, and commercial real estate impacted by the housing markets weakness on the homebuilder sector of the portfolio and the effect of the slowing economy on other property types. The table below excludes utilized criticized exposure related to assets held-for-sale of $4.2 billion and $2.9 billion, other utilized criticized exposure measured at fair value in accordance with SFAS 159 of $1.3 billion and $1.1 billion, and other utilized non-reservable criticized exposure of $4.8 billion and $368 million at December 31, 2008 and 2007. See Commercial Loans Measured at Fair Value on page 68 for a discussion of the fair value portfolio. Criticized assets in the held-for-sale portfolio, are carried at fair value or the lower of cost or market, including bridge exposure of $1.5 billion and $2.3 billion at December 31, 2008 and 2007 which are 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 on page 64 for more information on bridge financing). The increase in other utilized non-reservable criticized exposure was driven by a combination of an increase in the positive mark-to-market on certain credit derivative assets, primarily related to monoline wraps, and downgrades on such positions. For more information regarding counterparty credit risk on our derivative positions, see the Industry Concentrations discussion beginning on page 70.

Table 27 Commercial Utilized Reservable Criticized Exposure [1]

	December 31			
	2008		2007	
(Dollars in millions)	Amount	Percent [2]	Amount	Percent [2]
Commercial – domestic [3]	$ 18,963	7.20%	$ 8,537	3.55%
Commercial real estate	13,830	19.73	6,750	10.25
Commercial lease financing	1,352	6.03	594	2.63
Commercial – foreign	1,459	3.65	449	1.23
	35,604	8.99	16,330	4.47
Small business commercial – domestic	1,333	6.94	846	4.37
Total commercial utilized reservable criticized exposure [4]	$ 36,937	8.90	$17,176	4.46

(1) Criticized exposure corresponds to the Special Mention, Substandard and Doubtful asset categories defined by regulatory authorities.
(2) Percentages are calculated as commercial utilized reservable criticized exposure divided by total commercial utilized reservable exposure for each exposure category.
(3) Excludes small business commercial – domestic exposure.
(4) In addition to reservable loans and leases, 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.

Commercial – Domestic

At December 31, 2008, approximately 92 percent of the commercial – domestic portfolio, excluding small business, was included in *GCIB*, primarily in *Business Lending* (business banking, middle-market and large multinational corporate loans and leases) and *CMAS* (acquisition, bridge financing and institutional investor services). The remaining eight percent was mostly in *GWIM* (business-purpose loans for wealthy individuals). Outstanding commercial – domestic loans increased $11.1 billion to $200.1 billion at December 31, 2008 compared to 2007 driven primarily by *Business Lending* and *GWIM* partially offset by *CMAS* due to the sale of the equity prime brokerage business. Nonperforming commercial – domestic loans increased by $1.2 billion to $2.0 billion. Net charge-offs were up $392 million from 2007. These increases were broad-based in terms of borrowers and industries and were up from very low loss levels in 2007. Utilized reservable criticized commercial – domestic exposure, increased $10.4 billion to $19.0 billion primarily driven by deterioration across various portfolios within *GCIB*. Additionally, commercial – domestic drove the increase in other utilized non-reservable criticized exposure, primarily mark-to-market derivative assets.

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 increased $3.4 billion to $64.7 billion at December 31, 2008 compared to 2007. The increase was primarily driven by growth in the California, Southwest and Southeast regions. The portfolio remains diversified across property types with the largest increases in multiple use, office buildings, hotels/motels and shopping centers/retail. At December 31, 2008, we had committed homebuilder-related exposure of $15.7 billion of which $11.0 billion were funded loans, primarily construction and land development, most of which was collateralized. Non-homebuilder construction and land development comprised $22.1 billion or 34 percent of the commercial real estate loans outstanding at December 31, 2008.

Nonperforming commercial real estate loans increased $2.8 billion to $3.9 billion and utilized reservable criticized exposure increased $7.1 billion to $13.8 billion attributable to the continuing impact of the housing slowdown on the homebuilder sector, most of which is included in residential in Table 28, and on other property types, particularly shopping centers/retail and land and land development. Nonperforming assets and utilized reservable criticized exposure in the homebuilder sector were $3.0 billion and $7.6 billion, respectively, at December 31, 2008 compared to $829 million and $5.4 billion at December 31, 2007. Nonperforming assets and utilized reservable criticized exposure for the non-homebuilder construction and land development sector increased to $786 million and $3.2 billion. The nonperforming assets ratio and the utilized criticized ratio for the homebuilder sector was 27.07 percent and 66.33 percent at December 31, 2008 compared to 6.11 percent and 39.31 percent at December 31, 2007. Net charge-offs were up $840 million from 2007 principally related to the homebuilder sector of the portfolio. Assets held-for-sale associated with commercial real estate decreased approximately $7.0 billion to $6.9 billion at December 31, 2008 compared to 2007, driven by distributions and sales, completed securitizations and writedowns.

Table 28 presents outstanding commercial real estate loans by geographic region and property type.

Table 28 Outstanding Commercial Real Estate Loans [1]

	December 31	
(Dollars in millions)	**2008**	2007
By Geographic Region [2]		
California	**$ 11,270**	$ 9,683
Northeast	**9,747**	8,978
Midwest	**7,447**	8,005
Southeast	**7,365**	6,490
Southwest	**6,698**	5,610
Illinois	**5,451**	6,835
Florida	**5,146**	4,908
Midsouth	**3,475**	2,912
Northwest	**3,022**	2,644
Other [3]	**1,741**	2,190
Geographically diversified [4]	**2,563**	2,282
Non-U.S.	**979**	1,065
Total outstanding commercial real estate loans [5]	**$ 64,904**	$ 61,602
By Property Type		
Office buildings	**$ 10,388**	$ 8,745
Shopping centers/retail	**9,293**	8,440
Residential	**8,534**	10,478
Apartments	**8,177**	7,615
Land and land development	**6,309**	6,286
Industrial/warehouse	**6,070**	5,419
Multiple use	**3,444**	1,689
Hotels/motels	**2,513**	1,535
Other [6]	**10,176**	11,395
Total outstanding commercial real estate loans [5]	**$ 64,904**	$ 61,602

(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)Primarily includes properties in the states of Colorado, Utah, Hawaii, Wyoming and Montana which are not defined by other property regions presented.
(4)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.
(5)Includes commercial real estate loans measured at fair value in accordance with SFAS 159 of $203 million and $304 million at December 31, 2008 and 2007.
(6)Represents loans to borrowers whose primary business is commercial real estate, but the exposure is not secured by the listed property types or is unsecured.

Commercial – Foreign

The commercial – foreign portfolio is managed primarily in *Business Lending* and *CMAS*. Outstanding loans increased $2.6 billion to $31.0 billion at December 31, 2008 compared to 2007 driven by organic growth partially offset by strengthening of the U.S. dollar against foreign currencies. Utilized reservable criticized exposure increased $1.0 billion to $1.5 billion. Net charge-offs increased $172 million from $1 million largely concentrated in a few financial services borrowers, the majority of which were Icelandic banks. The remaining net charge-offs were diverse in terms of industries and countries. For additional information on the commercial – foreign portfolio, refer to the Foreign Portfolio discussion beginning on page 73.

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 decreased $141 million to $19.1 billion at December 31, 2008 compared to 2007. Approximately 60 percent of the small business commercial – domestic outstanding loans at December 31, 2008 were credit card related products. Nonperforming small business commercial – domestic loans increased $53 million to $205 million, loans past due 90 days or more and still accruing interest increased $213 million to $640 million and utilized reservable criticized exposure increased $487 million, to $1.3 billion at December 31, 2008 compared to 2007. Net charge-offs were up $1.1 billion, to $1.9 billion, or 9.80 percent of total average small business commercial – domestic loans. Approximately 75 percent of the small business commercial – domestic net charge-offs in 2008 were credit card related products compared to 70 percent in 2007. The increases were primarily driven by the impacts of a slowing economy, particularly in geographic areas that have experienced the most significant home price declines and seasoning of vintages originated in periods of higher growth.

Commercial Loans Measured at Fair Value

The portfolio of commercial loans measured at fair value is managed in *CMAS*. Outstanding commercial loans measured at fair value increased $823 million to an aggregate fair value of $5.4 billion at December 31, 2008 compared to 2007 and were comprised of commercial – domestic loans, excluding small business, of $3.5 billion, commercial – foreign loans of $1.7 billion and commercial real estate loans of $203 million. The aggregate increase of $823 million was driven primarily by increased draws on existing and new lines of credit. We recorded net losses in other income of $775 million resulting from changes in the fair value of the loan portfolio during 2008 compared to losses of $139 million for 2007. These losses were primarily attributable to changes in instrument-specific credit risk and were predominately offset by gains from hedging activities. At December 31, 2008 none of these loans were 90 days or more past due and still accruing interest or had been placed on nonaccrual status. Utilized criticized exposure in the fair value portfolio was $1.3 billion and $1.1 billion at December 31, 2008 and 2007.

In addition, unfunded lending commitments and letters of credit had an aggregate fair value of $1.1 billion and $660 million at December 31, 2008 and 2007 and were recorded in accrued expenses and other liabilities. The associated aggregate notional amount of unfunded lending commitments and letters of credit subject to fair value treatment was $16.9 billion and $20.9 billion at December 31, 2008 and 2007. Net losses resulting from changes in fair value of commitments and letters of credit of $473 million were recorded in other income during the year ended December 31, 2008 compared to losses of $274 million in 2007. These losses were primarily attributable to changes in instrument-specific credit risk and were predominately offset by gains from hedging activities.

Nonperforming Commercial Assets Activity

Table 29 presents the additions and reductions to nonperforming assets in the commercial portfolio during 2008 and 2007. The increase in nonaccrual loans and leases for 2008 was primarily attributable to continued weakness in the homebuilder sector but also included smaller increases in other property types including commercial land development, retail and apartments.

Table 29 Nonperforming Commercial Assets Activity [1, 2, 3]

(Dollars in millions)	2008	2007
Nonperforming loans and leases		
Balance, January 1	**$ 2,155**	$ 757
Additions to nonperforming loans and leases:		
New nonaccrual loans and leases	**8,110**	2,880
Advances	**154**	85
Reductions in nonperforming loans and leases:		
Paydowns and payoffs	**(1,467)**	(781)
Sales	**(45)**	(82)
Returns to performing status [4]	**(125)**	(239)
Charge-offs [5]	**(1,900)**	(370)
Transfers to foreclosed properties	**(372)**	(75)
Transfers to loans held-for-sale	**(13)**	(20)
Total net additions to nonperforming loans and leases	**4,342**	1,398
Total nonperforming loans and leases, December 31	**6,497**	2,155
Foreclosed properties		
Balance, January 1	**75**	10
Additions to foreclosed properties:		
New foreclosed properties	**372**	91
Reductions in foreclosed properties:		
Sales	**(110)**	(22)
Writedowns	**(16)**	(4)
Total net additions to foreclosed properties	**246**	65
Total foreclosed properties, December 31	**321**	75
Nonperforming commercial assets, December 31	**$ 6,818**	$2,230
Nonperforming commercial loans and leases as a percentage of outstanding commercial loans and leases [6]	**1.93%**	0.67%
Nonperforming commercial assets as a percentage of outstanding commercial loans and leases and foreclosed properties [6]	**2.02**	0.70

(1) Balances do not include nonperforming LHFS of $852 million and $93 million at December 31, 2008 and 2007. Balances do not include nonperforming AFS debt securities of $291 million and $180 million at December 31, 2008 and 2007.
(2) Balances do not include nonperforming derivative assets of $512 million at December 31, 2008.
(3) Includes small business commercial – domestic activity.
(4) 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.
(5) 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.
(6) Outstanding commercial loans and leases exclude loans measured at fair value in accordance with SFAS 159.

Industry Concentrations

Table 30 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 $18.3 billion, or two percent, at December 31, 2008 compared to 2007 largely driven by diversified financials partially offset by a decline in commercial real estate. Total commercial utilized credit exposure increased by $46.8 billion, or 10 percent, at December 31, 2008 compared to 2007. The overall commercial credit utilization rate increased year over year, increasing from 57 percent to 62 percent due to increases in diversified financials, government and public education, and healthcare and equipment services.

Real estate remains our largest industry concentration, accounting for 13 percent of total commercial committed exposure, of which 15 percent is homebuilder exposure. A decrease of $7.9 billion, or seven percent, was driven primarily by a decline in CMBS assets held-for-sale as a result of sales and distributions, completed securitizations and writedowns.

Diversified financials grew by $17.2 billion, or 20 percent reflecting increases in capital markets exposure and consumer finance commitments. Part of the increase was driven by a $3.7 billion fully committed secured credit facility as well as a $4.0 billion FDIC guaranteed facility, both of which were with Merrill Lynch. These facilities were terminated following the completion of the acquisition. The increase in consumer finance commitments was driven primarily by liquidity support associated with the financing of credit card and auto finance related assets within the Corporation's multi-seller unconsolidated asset backed commercial paper conduits.

Healthcare equipment and services increased $5.8 billion or 14 percent due to loan growth primarily to not-for-profit healthcare providers. This was driven primarily by increased demand for liquidity and credit instruments to support variable rate demand notes (VRDNs) caused by dislocations in the ARS markets. Consumer services increased $5.3 billion, or 14 percent driven primarily by growth in the education (private colleges and universities) sector also resulting from the ARS dislocation. Food, beverage and tobacco increased $2.8 billion, or 11 percent due to growth in food products and a large underwritten transaction. Banks decreased by $8.8 billion or 25 percent, reflecting the termination of a $5.0 billion commitment to Countrywide.

Government and public education utilizations increased $7.6 billion due to new refinancings of ARS into letter-of-credit backed VRDNs and the restructuring of monoline insured VRDNs into uninsured VRDNs. Total committed exposure increased by $1.2 billion, as the increases in the utilized balance were partially offset by a reduction in certain unutilized credit lines.

Monoline exposure is reported in the insurance industry and managed under insurance portfolio industry limits. Direct loan exposure to monolines consisted of revolvers in the amount of $126 million at December 31, 2008 and $203 million at December 31, 2007. Mark-to-market counterparty derivative credit exposure was $2.6 billion at December 31, 2008 compared to $420 million at December 31, 2007. The increase in the mark-to-market exposure was due to credit deterioration related to underlying counterparties and spread widening in both wrapped CDO and structured finance related exposures. At December 31, 2008, the counterparty credit valuation adjustment related to monoline derivative exposure was $1.0 billion, which reduced our net mark-to-market exposure to $1.6 billion. We do not hold collateral against these derivative exposures. During the first quarter of 2009, one monoline counterparty restructured its business and had its credit rating downgraded. We are currently evaluating the impact this restructuring and downgrade will have on Merrill Lynch as well as our related counterparty credit valuation adjustment and the combined company's 2009 financial results.

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 35 for discussion on our CDO exposure and related credit protection.

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 monoline related exposure in our public finance business where we are the lead manager or remarketing agent for transactions that are wrapped including ARS (healthcare providers and consumer services), tender option municipal bonds (TOBs), and VRDNs. Continuing concerns about monoline downgrades or insolvency have caused disruptions in each of these markets as investor concerns have impacted overall market liquidity and bond prices. For more information on ARS, see Recent Events beginning on page 16. We no longer serve as the lead manager on municipal or student loan ARS where a high percentage of the programs are wrapped by either monolines or other financial guarantors. We are the remarketing agent on TOBs and VRDN transactions and also provide commitments on approximately $13.6 billion of VRDNs, which increased approximately $2.2 billion during the year, driven by the conversion by clients of ARS to VRDN structures, including those issued by municipalities and other organizations. These commitments obligate us to purchase the VRDNs in the event that they can not be remarketed or otherwise provide funding to the issuer, and are primarily held and reported in government and education related industry portfolios and managed under respective industry limits.

In addition, at December 31, 2008, we also held approximately $1.3 billion in ARS, $1.5 billion in VRDNs and $3.0 billion in TOBs acquired in connection with these activities which are included in trading account assets. During 2008, we recorded losses of $1.1 billion on the ARS, primarily related to student loan-backed securities, including our commitment to repurchase ARS from certain clients as part of a settlement agreement with regulatory agencies. We did not record any losses on the VRDNs and only minimal losses on the TOBs during the year. We continue to have liquidity exposure to these markets and instruments. As market conditions continue to evolve, these conditions may impact our results. For additional information on our liquidity exposure to TOBs, see the Municipal Bond Trusts discussion within the Off- and On-Balance Sheet Arrangements discussion beginning on page 43 and *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

Table 30 Commercial Credit Exposure by Industry [1, 2]

	December 31			
	Commercial Utilized		Total Commercial Committed	
(Dollars in millions)	2008	2007	2008	2007
Real estate [3]	$ 79,766	$ 81,260	$ 103,889	$ 111,742
Diversified financials	50,327	37,872	103,306	86,118
Government and public education	39,386	31,743	58,608	57,437
Capital goods	27,588	25,908	52,522	52,356
Retailing	30,736	32,401	50,102	54,037
Healthcare equipment and services	31,280	24,337	46,785	40,962
Consumer services	28,715	23,382	43,948	38,650
Materials	22,825	22,176	38,105	38,717
Commercial services and supplies	24,095	21,175	34,867	31,858
Individuals and trusts	22,752	22,323	33,045	32,425
Food, beverage and tobacco	17,257	13,919	28,521	25,701
Banks	22,134	21,261	26,493	35,323
Energy	11,885	12,772	22,732	23,510
Media	8,939	7,901	19,301	19,343
Utilities	8,230	6,438	19,272	19,281
Transportation	13,050	12,803	18,561	18,824
Insurance	11,223	7,162	17,855	16,014
Religious and social organizations	9,539	8,208	12,576	10,982
Consumer durables and apparel	6,219	5,802	10,862	10,907
Technology hardware and equipment	3,971	4,615	10,371	10,239
Pharmaceuticals and biotechnology	3,721	4,349	10,111	8,563
Software and services	4,093	4,739	9,590	10,128
Telecommunication services	3,681	3,475	8,036	8,235
Food and staples retailing	4,282	3,611	7,012	6,465
Automobiles and components	3,093	2,648	6,081	6,960
Household and personal products	1,137	889	2,817	2,776
Semiconductors and semiconductor equipment	1,105	1,140	1,822	1,734
Other	7,720	7,617	8,142	7,715
Total commercial credit exposure by industry	$498,749	$451,926	$ 805,332	$ 787,002
Net credit default protection purchased on total commitments [4]			$ (9,654)	$ (7,146)

(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 $5.4 billion and $4.6 billion and issued letters of credit at notional value of $1.4 billion and $1.1 billion at December 31, 2008 and 2007. In addition, total commercial committed exposure includes unfunded loan commitments at notional value of $15.5 billion and $19.8 billion at December 31, 2008 and 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.

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.

At December 31, 2008 and 2007, we had net notional credit default protection purchased in our credit derivatives portfolio to cover the funded and unfunded portion of certain credit exposures of $9.7 billion and $7.1 billion. The mark-to-market impacts, including the cost of net credit default protection, hedging our exposure, resulted in net gains of $993 million in 2008 compared to net gains of $160 million in 2007. The average VAR for these credit derivative hedges was $24 million and $18 million for 2008 and 2007. The increase in VAR was driven by an increase in the average amount of credit protection outstanding during the year. There is a diversification effect between the net credit default protection hedging our credit exposure and the related credit exposure such that their combined average VAR was $22 million for 2008. Refer to the Trading Risk Management discussion beginning on page 79 for a description of our VAR calculation for the market-based trading portfolio.

Tables 31 and 32 present the maturity profiles and the credit exposure debt ratings of the net credit default protection portfolio at December 31, 2008 and 2007.

Table 31 Net Credit Default Protection by Maturity Profile [1]

	December 31	
	2008	2007
Less than or equal to one year	1%	2%
Greater than one year and less than or equal to five years	92	67
Greater than five years	7	31
Total net credit default protection	100%	100%

(1) In order to mitigate the cost of purchasing credit protection, credit exposure can be added by selling credit protection. The distribution of maturities for net credit default protection purchased is shown as positive percentages and the distribution of maturities for net credit protection sold as negative percentages.

Table 32 Net Credit Default Protection by Credit Exposure Debt Rating [1]

(Dollars in millions)	December 31			
	2008		2007	
Ratings [2]	Net Notional	Percent	Net Notional	Percent
AAA	$ 30	(0.3)%	$ (13)	0.2%
AA	(103)	1.1	(92)	1.3
A	(2,800)	29.0	(2,408)	33.7
BBB	(4,856)	50.2	(3,328)	46.6
BB	(1,948)	20.2	(1,524)	21.3
B	(579)	6.0	(180)	2.5
CCC and below	(278)	2.9	(75)	1.0
NR [3]	880	(9.1)	474	(6.6)
Total net credit default protection	**$ (9,654)**	**100.0%**	$ (7,146)	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) The Corporation considers ratings of BBB- or higher to meet the definition of investment grade.
(3) In addition to names which have not been rated, "NR" includes $948 million and $550 million in net credit default swaps index positions at December 31, 2008 and 2007. While index positions are principally investment grade, credit default swaps indices include names in and across each of the ratings categories.

In addition to our net notional credit default protection purchased to cover the funded and unfunded portion of certain credit exposures, credit derivatives are used for market-making activities for clients and establishing proprietary positions intended to profit from directional or relative value changes. We execute the majority of our credit derivative positions in the over-the-counter market with large, international financial institutions, including broker/dealers and to a lesser degree with a variety of other investors. Because these transactions are executed in the over-the-counter market, we are subject to settlement risk. We are also subject to credit risk in the event that these counterparties fail to perform under the terms of these contracts. In most cases, credit derivative transactions are executed on a daily margin basis. Therefore, events such as a credit downgrade (depending on the ultimate rating level) or a breach of credit covenants would typically require an increase in the amount of collateral required of the counterparty (where applicable), and/or allow us to take additional protective measures such as early termination of all trades. Further, we enter into legally enforceable master netting agreements which reduce risk by permitting the closeout and netting of transactions with the same counterparty upon the occurrence of certain events.

The notional amounts presented in Table 33 represent the total contract/notional amount of credit derivatives outstanding and includes both purchased and written protection. The credit risk amounts are 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 on an aggregate basis have been reduced by cash collateral applied against derivative assets. The significant increase in credit spreads across nearly all major credit indices during 2008 drove the increase in counterparty credit risk for purchased protection. The $1.0 trillion decrease in the contract/notional value of credit derivatives was driven by our continued efforts to reduce aggregate positions to minimize market and operational risk. For information on the performance risk of our written protection credit derivatives, see *Note 4 – Derivatives* to the Consolidated Financial Statements.

Table 33 Credit Derivatives

	December 31			
	2008		2007	
(Dollars in millions)	Contract/Notional	Credit Risk[1]	Contract/Notional	Credit Risk[1]
Credit derivatives				
Purchased protection:				
Credit default swaps	**$ 1,025,876**	**$ 11,772**	$ 1,490,641	$ 6,822
Total return swaps	**6,575**	**1,678**	13,551	671
Total purchased protection	**1,032,451**	**13,450**	1,504,192	7,493
Written protection:				
Credit default swaps	**1,000,034**	**–**	1,517,305	–
Total return swaps	**6,203**	**–**	24,884	–
Total written protection	**1,006,237**	**–**	1,542,189	–
Total credit derivatives	**$ 2,038,688**	**$ 13,450**	$ 3,046,381	$ 7,493

(1) Does not reflect any potential benefit from offsetting exposure to non-credit derivative products with the same counterparties that may be netted upon the occurrence of certain events, thereby reducing the Corporation's overall exposure.

Counterparty Credit Risk Valuation Adjustments

We record a counterparty credit risk valuation adjustment on our expected exposure related to derivative assets and liabilities, including our credit default protection purchased, in order to properly reflect the credit quality of the counterparty in accordance with SFAS 157. In determining the expected exposure, we consider collateral held and legally enforceable master netting agreements that mitigate our credit exposure to each counterparty. The amount of counterparty credit risk valuation adjustments at any point of time is dependent on the value of the derivative contract, collateral, and credit worthiness of the counterparty.

During 2008, valuation adjustments related to derivative assets of $3.2 billion were recognized as trading account losses for counterparty credit risk, including $1.1 billion of losses related to insured super senior CDOs and $537 million of losses related to our structured credit trading business. The losses were driven by increases in the value of the derivative contracts resulting primarily from spread widening, market volatility and credit deterioration related to the underlying counterparties. At December 31, 2008, the cumulative counterparty credit risk valuation adjustment that was netted against the derivative asset balance was $4.0 billion. For information on our monoline counterparty credit risk see the discussion on page 70, CDO-related counterparty credit risk see the *CMAS* discussion on page 34 and for more information on the VAR related to our counterparty credit risk see the Trading Risk Management discussion on page 79.

In addition, the fair value of our derivative liabilities is adjusted to reflect the impact of the Corporation's credit quality. During 2008, valuation adjustments of $364 million were recognized as trading account profits for changes in the Corporation's credit risk driven by credit spread widening. At December 31, 2008, the Corporation's cumulative credit risk valuation adjustment that was netted against the derivative liabilities balance was $573 million.

In light of recent market events, banking regulators have been working with the industry to organize a central clearinghouse for credit derivative trading, similar to existing clearinghouses for interest rate derivatives. It is expected that a central clearinghouse for credit derivatives would reduce the risk of counterparty default, similar to the reduction achieved through the interest rate derivative clearinghouse, primarily through the guaranteeing of trades in the event that a member fails. We continue to participate in these industry initiatives.

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 conditions, 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, a subcommittee of the CRC.

Table 34 sets forth total foreign exposure broken out by region at December 31, 2008 and 2007. Foreign exposure includes credit exposure net of local liabilities, securities, and other investments domiciled in countries other than the U.S. Total foreign exposure can be adjusted for externally guaranteed outstandings and certain collateral types. Exposures which are assigned external guarantees are reported under the country of the guarantor. Exposures with tangible collateral are reflected in the country where the collateral is held. For securities received, other than cross-border resale agreements, outstandings are 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 requirements.

Our total foreign exposure was $131.1 billion at December 31, 2008, a decrease of $7.0 billion from December 31, 2007. Our foreign exposure remained concentrated in Europe, which accounted for $66.5 billion, or 51 percent, of total foreign exposure. The European exposure was mostly in Western Europe and was distributed across a variety of industries with approximately 58 percent concentrated in the commercial sector and approximately 17 percent in the banking sector. The decline of $8.3 billion in Europe was driven by lower cross-border derivatives assets, and securities and other investment exposures.

Asia Pacific was our second largest foreign exposure at $39.8 billion, or 30 percent. The decline in Asia Pacific was primarily driven by lower cross-border exposures in Japan and Australia offset in part by the net $3.3 billion increased equity investment in CCB and higher exposure in India. Latin America accounted for $11.4 billion, or nine percent, of total foreign exposure. For more information on our Asia Pacific and Latin America exposures, see the discussion on the foreign exposure to selected countries defined as emerging markets on page 74.

Table 34 Regional Foreign Exposure [1, 2, 3]

	December 31	
(Dollars in millions)	**2008**	2007
Europe	**$ 66,472**	$ 74,725
Asia Pacific	**39,774**	42,081
Latin America	**11,378**	10,944
Middle East and Africa	**2,456**	1,951
Other	**10,988**	8,361
Total regional foreign exposure	**$ 131,068**	$ 138,062

(1) The balances above exclude local funding or liabilities which are subtracted from local exposures as allowed by the FFIEC.
(2) Exposures have been reduced by $19.6 billion and $6.3 billion at December 31, 2008 and 2007. Such amounts represent the cash applied as collateral to derivative assets.
(3) Generally, resale agreements are presented based on the domicile of the counterparty consistent with FFIEC reporting requirements. 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.

As shown in Table 35, at December 31, 2008 and 2007, China had total cross-border exposure of $20.7 billion and $17.0 billion, representing 1.14 percent and 0.99 percent of total assets. China was the only country where the total cross-border exceeded one percent of our total assets at December 31, 2008 and 0.75 percent of total assets at December 31, 2007. At December 31, 2008 and 2007, the largest concentration of the cross-border exposure to China was in the banking sector, primarily our equity investment in CCB.

Table 35 Total Cross-border Exposure Exceeding One Percent of Total Assets [1]

(Dollars in millions)	December 31	Public Sector	Banks	Private Sector	Cross-border Exposure	Exposure as a Percentage of Total Assets
China	**2008**	**$ 44**	**$20,091**	**$ 524**	**$ 20,659**	**1.14%**
	2007	58	16,558	424	17,040	0.99
	2006	127	3,174	264	3,565	0.24

(1) Exposure includes cross-border claims by our foreign offices as follows: loans, acceptances, time deposits placed, trading account assets, securities, derivative assets, other interest-earning investments and other monetary assets. Amounts also include unused commitments, SBLCs, commercial letters of credit and formal guarantees. Sector definitions are consistent with FFIEC reporting requirements for preparing the Country Exposure Report.

As presented in Table 36, foreign exposure to borrowers or counterparties in emerging markets increased $5.4 billion to $45.8 billion at December 31, 2008, compared to $40.4 billion at December 31, 2007. The increase was primarily due to our increased equity investment in CCB as well as higher exposures in India and Bahrain. Foreign exposure to borrowers or counterparties in emerging markets represented 35 percent and 29 percent of total foreign exposure at December 31, 2008 and 2007.

Table 36 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, 2008**	Increase (Decrease) From December 31, 2007
Region/Country								
Asia Pacific								
China	$ 285	$ 48	$ 499	$ 19,827	$ 20,659	$ 46	**$ 20,705**	$ 3,665
South Korea	665	871	1,635	1,505	4,676	–	**4,676**	274
India	1,521	689	1,045	1,179	4,434	–	**4,434**	1,142
Singapore	347	73	813	336	1,569	–	**1,569**	277
Taiwan	304	26	60	29	419	423	**842**	(225)
Hong Kong	429	28	143	81	681	–	**681**	(114)
Other Asia Pacific [7]	187	97	40	281	605	–	**605**	(82)
Total Asia Pacific	3,738	1,832	4,235	23,238	33,043	469	**33,512**	4,937
Latin America								
Mexico	1,335	301	132	2,264	4,032	125	**4,157**	(281)
Brazil	350	407	50	2,544	3,351	518	**3,869**	182
Chile	294	241	30	11	576	3	**579**	(140)
Other Latin America [7]	150	273	2	67	492	155	**647**	–
Total Latin America	2,129	1,222	214	4,886	8,451	801	**9,252**	(239)
Middle East and Africa								
Bahrain	269	7	59	854	1,189	–	**1,189**	1,042
Other Middle East and Africa [7]	661	131	367	107	1,266	–	**1,266**	(528)
Total Middle East and Africa	930	138	426	961	2,455	–	**2,455**	514
Central and Eastern Europe [7]	65	114	262	188	629	–	**629**	205
Total emerging market exposure	$ 6,862	$ 3,306	$ 5,137	$ 29,273	$ 44,578	$ 1,270	**$ 45,848**	$ 5,417

(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, 2008 and 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 $152 million and $57 million at December 31, 2008 and 2007. At December 31, 2008 and 2007 there were $531 million and $2 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 requirements. 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 requirements.
(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 consistent with FFIEC reporting requirements. Total amount of available local liabilities funding local country exposure at December 31, 2008 was $12.6 billion compared to $21.6 billion at December 31, 2007. Local liabilities at December 31, 2008 in Asia Pacific and Latin America were $12.1 billion and $538 million, of which $4.9 billion were in Singapore, $2.2 billion were in Hong Kong, $1.7 billion were in South Korea, $1.0 billion were in India, and $882 million were in China. There were no other countries with available local liabilities funding local country exposure greater than $500 million.
(7) No country included in Other Asia Pacific, Other Latin America, Other Middle East and Africa, and Central and Eastern Europe had total foreign exposure of more than $500 million.

At December 31, 2008 and 2007, 73 percent and 71 percent of the emerging markets exposure was in Asia Pacific. Emerging markets exposure in Asia Pacific increased by $4.9 billion driven by higher cross-border exposure in China and India. Our exposure in China was primarily related to our equity investment in CCB which accounted for $19.7 billion and $16.4 billion at December 31, 2008 and 2007. In 2008, under the terms of our purchase option we increased our ownership in CCB by purchasing 25.6 billion common shares for approximately $9.2 billion. These recently purchased shares are accounted for at cost in other assets and are non-transferable until August 2011. In addition in January 2009, we sold 5.6 billion common shares of our initial investment in CCB for $2.8 billion, reducing our ownership to 16.7 percent and resulting in a pre-tax gain of approximately $1.9 billion. The remaining initial investment of 13.5 billion common shares is accounted for at fair value and recorded as AFS marketable equity securities in other assets with an offset, net-of-tax, to accumulated OCI. These shares became transferable in October 2008.

At December 31, 2008, 20 percent of the emerging markets exposure was in Latin America compared to 23 percent at December 31, 2007. Latin America emerging markets exposure decreased by $239 million driven by lower cross-border exposures in Mexico and Chile. The decline in Mexico is primarily driven by the decline in value of our equity investment in Santander due to the strengthening of the U.S. dollar. Our 24.9 percent investment in Santander, which is classified as securities and other investments in the preceding table, accounted for $2.1 billion and $2.6 billion of exposure in Mexico at December 31, 2008 and December 31, 2007. Our exposure in Brazil was primarily related to the carrying value of our investment in Banco Itaú, which accounted for $2.5 billion and $2.6 billion of exposure in Brazil at December 31, 2008 and December 31, 2007. Our equity investment in Banco Itaú represents eight percent and seven percent of its outstanding voting and non-voting shares at December 31, 2008 and 2007.

At both December 31, 2008 and 2007, five percent of the emerging markets exposure was in Middle East and Africa. Middle East and Africa emerging markets exposure increased by $514 million, driven by increased cross-border securities and other investments exposures in Bahrain which were primarily collateralized by mortgage-backed securities issued by U.S. government sponsored entities.

Provision for Credit Losses

The provision for credit losses increased $18.4 billion to $26.8 billion in 2008 compared to 2007.

The consumer portion of the provision for credit losses increased $15.2 billion to $21.8 billion compared to 2007. The higher provision expense was largely driven by higher net charge-offs and reserve increases in our home equity and residential mortgage portfolios reflective of deterioration in the housing markets particularly in geographic areas that have experienced the most significant declines in home prices as well as deterioration in our Countrywide SOP 03-3 portfolio subsequent to the July 1, 2008 acquisition. Furthermore, the slowing economy and portfolio deterioration resulted in higher credit costs in the unsecured lending and domestic credit card portfolios.

The commercial portion of the provision for credit losses increased $3.2 billion to $5.0 billion compared to 2007. The increase was driven by higher net charge-offs in our small business portfolios within *GCSBB* reflecting deterioration from the impacts of a slowing economy particularly in geographic areas that have experienced the most significant home price declines. Higher net charge-offs were also experienced in commercial real estate, primarily the homebuilder loan portfolio, as well as commercial domestic and foreign net charge-offs, which were broad-based in terms of both borrowers and industries and up from very low levels in 2007. Reserves were increased for deterioration in the homebuilder and non real estate commercial portfolios within *GCIB* as well as in the small business portfolio within *GCSBB*. In addition, the absence of 2007 reserve reductions in *All Other* also contributed to the increase in provision.

Allowance for Credit 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 excluding loans measured at fair value 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 excluding loans measured at fair value. 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, 2008 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, 2008 quarterly updating of the loss forecast models resulted in increases in the allowance for loan and lease losses driven by higher losses primarily in the home equity portfolio, reflective of deterioration in the housing markets, portfolio deterioration on the consumer card and unsecured lending portfolios and deterioration and reduced collateral values in the retail dealer-related loan portfolios.

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 38 was $16.7 billion at December 31, 2008, an increase of $9.9 billion from December 31, 2007. This increase was primarily driven by reserve increases related to higher losses in our home equity, unsecured lending, consumer card, and residential mortgage port-

folios, and the addition of the Countrywide portfolio. In addition, reserves were increased by $750 million associated with a reduction in the principal cash flows expected to be collected on the Countrywide SOP 03-3 portfolio, mainly the discontinued real estate portfolio.

The allowance for commercial loan and lease losses was $6.4 billion at December 31, 2008, a $1.6 billion increase from December 31, 2007. The increase in allowance levels was driven by higher losses in the small business portfolio within *GCSBB* and reserve increases on the homebuilder loan portfolio within *GCIB*. For further discussion, see Provision for Credit Losses on page 75.

The allowance for loan and lease losses as a percentage of total loans and leases outstanding was 2.49 percent at December 31, 2008, compared to 1.33 percent at December 31, 2007. The increase in the ratio was primarily driven by reserve increases for higher losses in the home equity and residential mortgage portfolios, reflective of continued weakness in the housing markets and a slowing economy. The higher ratio was also due to reserve increases in the *Card Services'* unsecured lending, domestic credit card, and small business portfolios. These reserve increases were a result of the slowing economy, particularly in geographic areas that have experienced the most significant housing declines, and with respect to several portfolios, seasoning of vintages originated in periods of higher growth. In addition, the 2008 ratio also includes the impact of SOP 03-3 portfolio. As this portfolio was initially recorded at fair value upon acquisition, the reserve related to these loans is significantly lower than other portfolios.

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 excluding commitments measured at fair value, 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, 2008 was $421 million compared to $518 million at December 31, 2007. Our reserve for unfunded commitments decreased as a result of lower exposures.

Table 37 presents a rollforward of the allowance for credit losses for 2008 and 2007.

Table 37 Allowance for Credit Losses

(Dollars in millions)	2008	2007
Allowance for loan and lease losses, January 1	**$ 11,588**	$ 9,016
Adjustment due to the adoption of SFAS 159	**–**	(32)
Loans and leases charged off		
Residential mortgage	**(964)**	(78)
Home equity	**(3,597)**	(286)
Discontinued real estate	**(19)**	n/a
Credit card – domestic	**(4,469)**	(3,410)
Credit card – foreign	**(639)**	(453)
Direct/Indirect consumer	**(3,777)**	(1,885)
Other consumer	**(461)**	(346)
Total consumer charge-offs	**(13,926)**	(6,458)
Commercial – domestic [1]	**(2,567)**	(1,135)
Commercial real estate	**(895)**	(54)
Commercial lease financing	**(79)**	(55)
Commercial – foreign	**(199)**	(28)
Total commercial charge-offs	**(3,740)**	(1,272)
Total loans and leases charged off	**(17,666)**	(7,730)
Recoveries of loans and leases previously charged off		
Residential mortgage	**39**	22
Home equity	**101**	12
Discontinued real estate	**3**	n/a
Credit card – domestic	**308**	347
Credit card – foreign	**88**	74
Direct/Indirect consumer	**663**	512
Other consumer	**62**	68
Total consumer recoveries	**1,264**	1,035
Commercial – domestic [2]	**118**	128
Commercial real estate	**8**	7
Commercial lease financing	**19**	53
Commercial – foreign	**26**	27
Total commercial recoveries	**171**	215
Total recoveries of loans and leases previously charged off	**1,435**	1,250
Net charge-offs	**(16,231)**	(6,480)
Provision for loan and lease losses	**26,922**	8,357
Other [3]	**792**	727
Allowance for loan and lease losses, December 31	**23,071**	11,588
Reserve for unfunded lending commitments, January 1	**518**	397
Adjustment due to the adoption of SFAS 159	**–**	(28)
Provision for unfunded lending commitments	**(97)**	28
Other [4]	**–**	121
Reserve for unfunded lending commitments, December 31	**421**	518
Allowance for credit losses, December 31	**$ 23,492**	$ 12,106
Loans and leases outstanding at December 31 [5]	**$926,033**	$871,754
Allowance for loan and lease losses as a percentage of total loans and leases outstanding at December 31 [5, 6]	**2.49%**	1.33%
Consumer allowance for loan and lease losses as a percentage of total consumer loans and leases outstanding at December 31 [6]	**2.83**	1.23
Commercial allowance for loan and lease losses as a percentage of total commercial loans and leases outstanding at December 31 [5]	**1.90**	1.51
Average loans and leases outstanding at December 31 [5, 6]	**$905,944**	$773,142
Net charge-offs as a percentage of average loans and leases outstanding at December 31 [5, 6]	**1.79%**	0.84%
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases at December 31 [5, 6]	**141**	207
Ratio of the allowance for loan and lease losses at December 31 to net charge-offs [6]	**1.42**	1.79

(1) Includes small business commercial – domestic charge-offs of $2.0 billion and $931 million in 2008 and 2007.
(2) Includes small business commercial – domestic recoveries of $39 million and $51 million in 2008 and 2007.
(3) The 2008 amount includes the $1.2 billion addition of the Countrywide allowance for loan losses as of July 1, 2008. The 2007 amount includes the $725 million and $25 million additions of the LaSalle and U.S. Trust Corporation allowance for loan losses as of October 1, 2007 and July 1, 2007.
(4) The 2007 amount includes the $124 million addition of the LaSalle reserve for unfunded lending commitments as of October 1, 2007.
(5) Outstanding loan and lease balances and ratios do not include loans measured at fair value in accordance with SFAS 159 at and for the year ended December 31, 2008 and 2007. Loans measured at fair value were $5.4 billion and $4.6 billion at December 31, 2008 and 2007. Average loans measured at fair value were $4.9 billion and $3.0 billion for 2008 and 2007.
(6) We account for acquired impaired loans in accordance with SOP 03-3. For more information on the impact of SOP 03-3 on asset quality, see Consumer Portfolio Credit Risk Management beginning on page 56.
n/a = not applicable

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 38 presents our allocation by product type.

Table 38 Allocation of the Allowance for Credit Losses by Product Type[1]

	December 31					
	2008			2007		
(Dollars in millions)	Amount	Percent of Total	Percent of Loans and Leases Outstanding[2]	Amount	Percent of Total	Percent of Loans and Leases Outstanding[2]
Allowance for loan and lease losses						
Residential mortgage[3]	**$ 1,382**	**5.99%**	**0.56%**	$ 207	1.79%	0.08%
Home equity	**5,385**	**23.34**	**3.53**	963	8.31	0.84
Discontinued real estate	**658**	**2.85**	**3.29**	n/a	n/a	n/a
Credit card – domestic	**3,947**	**17.11**	**6.16**	2,919	25.19	4.44
Credit card – foreign	**742**	**3.22**	**4.33**	441	3.81	2.95
Direct/Indirect consumer	**4,341**	**18.81**	**5.20**	2,077	17.92	2.71
Other consumer	**203**	**0.88**	**5.87**	151	1.30	3.61
Total consumer	**16,658**	**72.20**	**2.83**	6,758	58.32	1.23
Commercial – domestic[4]	**4,339**	**18.81**	**1.98**	3,194	27.56	1.53
Commercial real estate	**1,465**	**6.35**	**2.26**	1,083	9.35	1.77
Commercial lease financing	**223**	**0.97**	**1.00**	218	1.88	0.97
Commercial – foreign	**386**	**1.67**	**1.25**	335	2.89	1.18
Total commercial[5]	**6,413**	**27.80**	**1.90**	4,830	41.68	1.51
Allowance for loan and lease losses	**23,071**	**100.00%**	**2.49%**	11,588	100.00%	1.33%
Reserve for unfunded lending commitments	**421**			518		
Allowance for credit losses	**$ 23,492**			$ 12,106		

(1) We account for acquired impaired loans in accordance with SOP 03-3. For more information on the impact of SOP 03-3 on asset quality, see Consumer Portfolio Credit Risk beginning on page 56.
(2) Ratios are calculated as allowance for loan and lease losses as a percentage of loans and leases outstanding excluding loans measured in accordance with SFAS 159 for each loan and lease category. Loans measured at fair value include commercial – domestic loans of $3.5 billion and $3.5 billion, commercial-foreign loans of $1.7 billion and $790 million, and commercial real estate loans of $203 million and $304 million at December 31, 2008 and 2007.
(3) Allowance for loan and leases losses at December 31, 2008 includes the benefit of amounts expected to be reimbursable under cash collateralized synthetic securitizations. Excluding these benefits the allowance to ending loans would be 0.69 percent. See Residential Mortgage beginning on page 57 for more information.
(4) Includes allowance for small business commercial – domestic loans of $2.4 billion and $1.4 billion at December 31, 2008 and 2007.
(5) Includes allowance for loan and lease losses for impaired commercial loans of $691 million and $123 million at December 31, 2008 and 2007.

n/a = not applicable

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, foreign currency denominated debt 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 securities 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.

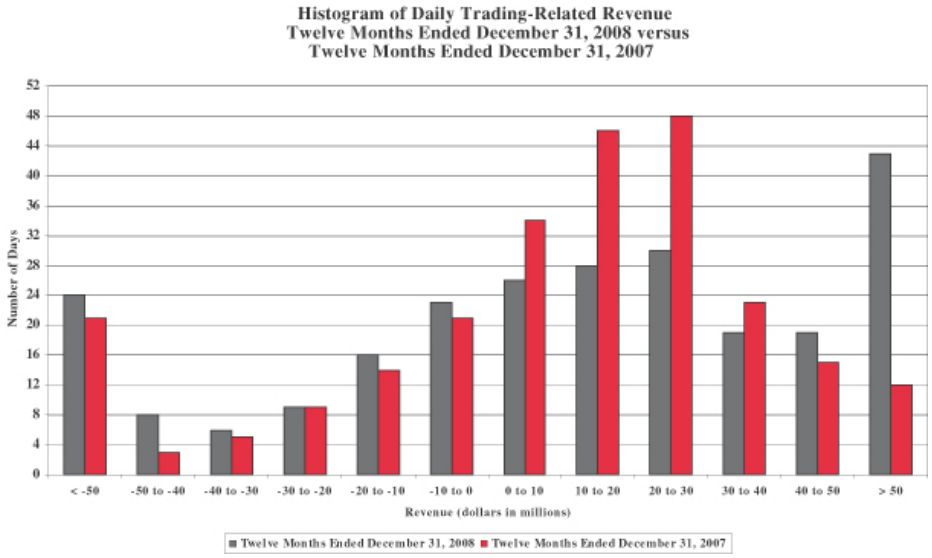
Trading Risk Management

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 87. 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 following histogram is a graphic depiction of trading volatility and illustrates the daily level of trading-related revenue for the 12 months ended December 31, 2008 as compared with the 12 months ended December 31, 2007. During the 12 months ended December 31, 2008, positive trading-related revenue was recorded for 66 percent of the trading days of which 17 percent were daily trading gains of over $50 million, 25 percent of the trading days had losses greater than $10 million, and the largest loss was $173 million. This can be compared to the 12 months ended December 31, 2007, where excluding any discrete writedowns on CDOs positive trading-related revenue was recorded for 71 percent of the trading days of which five percent were daily trading gains of over $50 million, 21 percent of the trading days had losses greater than $10 million, and the largest loss was $159 million. The increase in daily trading gains of over $50 million and losses of over $10 million in 2008 compared to 2007 was driven by the increased volatility that was experienced in the markets during the full year of 2008 while 2007 experienced increased volatility only during the second half of the year.



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 became particularly relevant during the second half of 2007 and continued throughout 2008, when markets experienced periods of extreme illiquidity resulting in losses that were far outside of the normal loss forecasts by VAR models. As such, from time to time, we update the assumptions and historical data underlying our VAR model. During the first quarter of 2008, we increased the frequency with which we update the historical data to a weekly basis. Previously, this was updated on a quarterly basis.

Due to the limitations previously mentioned, 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 below.

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 following graph shows daily trading-related revenue and VAR for the 12 months ended December 31, 2008. Actual losses exceeded daily trading VAR two times in the 12 months ended December 31, 2008 and excluding any discrete writedowns on CDOs losses exceeded daily trading VAR 14 times in the 12 months ended December 31, 2007. During the 12 months ended December 31, 2008, we continued to take writedowns on our CDO exposure, but revalued these positions on a more regular basis, and therefore no CDO-related losses were excluded from the following graph. Our increase in total trading VAR during the fourth quarter resulted from sharply increased volatility in the markets and widening credit spreads across all rating categories, despite establishing a lower risk profile, as discussed in stress testing below. Our VAR methodology for credit products produces VAR measures that increase in proportion to the level of credit spreads. The large widening in credit spreads during the fourth quarter produced commensurately large increases and fluctuations in VAR. As a result, the majority of the highs for VAR in 2008 occurred during the fourth quarter. In periods of market stress, the GRC members communicate daily to discuss losses and VAR limit excesses. 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.

Table 39 Trading Activities Market Risk VAR

	12 Months Ended December 31					
	2008			2007		
	VAR			VAR [1]		
(Dollars in millions)	Average	High [2]	Low [2]	Average	High [2]	Low [2]
Foreign exchange	$ 7.7	$ 11.7	$ 5.0	$ 7.2	$ 25.3	$ 3.8
Interest rate	28.9	68.3	12.4	13.9	31.9	6.6
Credit	84.6	185.2	44.1	39.5	69.9	23.4
Real estate/mortgage	22.7	43.1	12.8	14.1	23.5	5.7
Equities	28.0	63.9	15.5	24.6	45.8	9.6
Commodities	8.2	17.7	2.4	7.2	10.7	3.7
Portfolio diversification	(69.4)	–	–	(53.9)	–	–
Total market-based trading portfolio [3]	$ 110.7	$ 255.7	$ 64.1	$ 52.6	$ 91.5	$ 32.9

(1)Excludes our discrete writedowns on super senior CDO exposure.
(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)The table above does not include credit protection purchased to manage our counterparty credit risk.

Table 39 presents average, high and low daily trading VAR for the 12 months ended December 31, 2008 and 2007.

The increases in average VAR during 2008 as compared to 2007 were due to the rise in market volatility that started during the second half of 2007 and accelerated into the fourth quarter of 2008. As previously discussed, we updated our VAR model during the first quarter of 2008 and as the increased market volatility was incorporated into the historical price data, the level of VAR increased substantially.

Counterparty credit risk is an adjustment to the mark-to-market value of our derivative exposures reflecting the impact of the credit quality of counterparties on our derivative assets. Since counterparty credit exposure is not included in the VAR component of the regulatory capital allocation, we do not include it in our trading VAR, and it is therefore not included in the daily trading-related revenue illustrated in our histogram and used for backtesting. At December 31, 2008 and 2007, the VAR for counterparty credit risk, together with associated hedges that are marked to market, was $86 million and $13 million.

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 12 months ended December 31, 2008, the largest daily losses among the historical scenarios ranged from $21 million to $999 million. This can be compared with losses from $9 million to $529 million for the historical scenarios during the 12 months ended December 31, 2007. The increase in historical stress values are primarily associated with the introduction of a new scenario to reflect the ongoing credit crisis related to the credit market disruptions that occurred during the past 12-15 months. Hypothetical scenarios simulate the anticipated shocks from predefined market stress events. These stress events include shocks to underlying market risk variables which may be well beyond the shocks found in the historical data used to calculate the VAR. In addition to the value afforded by the results themselves this information provides senior management with a clear picture of the trend of risk being taken given the relatively static nature of the shocks applied. During the 12 months ended December 31, 2008, the largest losses among the hypothetical scenarios ranged from

$47 million to $1.1 billion. This is down from $459 million to $1.5 billion for the hypothetical scenarios for the 12 months ended December 31, 2007. The results of these stress tests point to a decrease in risk taken during the 12 months ended December 31, 2008.

The acquisition of Merrill Lynch on January 1, 2009 increased our trading-related activities and exposure. As such, during 2009 we will continue to refine the VAR calculations and develop a set of stress scenarios that will be regularly produced across the combined company for purposes of managing our overall risk profile. As of January 1, 2009, we estimate that the VAR of the combined organizations would have been $274 million as compared to $138 million for the Corporation. The combination of VAR measurements is not additive as there are both correlation and diversification effects that impact the results. For stress testing, Merrill Lynch used similar shocks for hypothetical scenarios and as of January 1, 2009, we estimate that the combined largest loss among the hypothetical scenarios would have been $774 million. Among the historical scenarios, comparable shocks were used to reflect the ongoing credit crisis related to the credit market disruptions, which had previously exhibited the largest loss among all historical scenarios at the Corporation. As of January 1, 2009, we estimate that the combined loss from the historical credit crisis scenario would have been $1.1 billion. For the Corporation, the loss from the historical credit crisis scenario would have been $579 million.

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 these 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, 2008 and 2007 are shown in Table 40.

At December 31, 2008, the spread between the three-month LIBOR rate and the Federal Funds target rate had significantly widened since December 31, 2007. We are typically asset sensitive to Federal Funds and Prime rates, and liability sensitive to LIBOR. As the Federal Funds and LIBOR dislocation widens, the benefit to net interest income from lower rates is limited. Subsequent to December 31, 2008, the spread between the three-month LIBOR rate and the Federal Funds target rate has narrowed.

Table 40 Forward Rates

	December 31					
	2008			2007		
	Federal Funds	**Three-Month LIBOR**	**10-Year Swap**	Federal Funds	Three-Month LIBOR	10-Year Swap
Spot rates	**0.25%**	**1.43%**	**2.56%**	4.25%	4.70%	4.67%
12-month forward rates	**0.75**	**1.41**	**2.80**	3.13	3.36	4.79

Table 41 Estimated Core Net Interest Income – Managed Basis at Risk

(Dollars in millions)			December 31	
Curve Change	Short Rate (bps)	Long Rate (bps)	**2008**	2007
+100 bps Parallel shift	+100	+100	**$ 144**	$ (952)
-100 bps Parallel shift	-100	-100	**(186)**	865
Flatteners				
Short end	+100	–	**(545)**	(1,127)
Long end	–	-100	**(638)**	(386)
Steepeners				
Short end	-100	–	**453**	1,255
Long end	–	+100	**698**	181

The table above reflects the pre-tax dollar impact to forecasted core net interest income – managed basis over the next 12 months from December 31, 2008 and 2007, 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 25.

The sensitivity analysis above 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 on the Consolidated Statement of 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.

Our core net interest income – managed basis was asset sensitive at December 31, 2008 and liability sensitive at December 31, 2007, with the shift being driven by the lower level of rates. Over a 12-month horizon, we would benefit from rising 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.

The acquisition of Merrill Lynch on January 1, 2009 made our core net interest income – managed basis more asset sensitive to a parallel move in interest rates. In addition, at January 1, 2009 we estimate that we would continue to benefit from rising rates or a steepening of the yield curve over a 12-month horizon, beyond what is already implied in the forward market curve.

Securities

The securities portfolio is an integral part of our ALM position and is primarily comprised of debt securities and includes mortgage-backed securities and to a lesser extent corporate, municipal and other investment grade debt securities. At December 31, 2008, AFS debt securities were $276.9 billion compared to $213.3 billion at December 31, 2007. This increase was due to the repositioning of our ALM portfolio due to market liquidity and funding conditions as we increased the level of mortgage-backed securities relative to loans and the acquisition of Countrywide. During 2008 and 2007, we purchased AFS debt securities of $184.2 billion and $28.0 billion, sold $119.8 billion and $27.9 billion, and had maturities and received paydowns of $26.1 billion and $19.2 billion. We realized $1.1 billion and $180 million in gains on sales of debt securities during 2008 and 2007. In addition, we securitized $26.1 billion and $5.5 billion of residential mortgage loans into mortgage-backed securities which we retained during 2008 and 2007. We also converted $4.9 billion of automobile loans into ABS which we retained during 2008.

The amount of pre-tax accumulated OCI loss related to AFS debt securities increased by $6.4 billion during 2008 to $9.3 billion, driven by a decrease in value of certain mortgage-backed securities attributable to changes in market yields. 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 $2.0 billion in after-tax losses at December 31, 2008, including $5.9 billion of net unrealized losses related to AFS debt securities and $3.9 billion of net unrealized gains related to AFS marketable equity securities. Total market value of the AFS debt securities was $276.9 billion at December 31, 2008 with a weighted average duration of 2.7 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 and Banco Itaú investments), the collection of cash flows including prepayment and maturity activity, and the passage of time. A portion of the Corporation's strategic investment in CCB and all of its investment in Banco Itaú are carried at fair value. The carrying values of CCB and Banco Itaú were $19.7 billion and $2.5 billion at December 31, 2008. Unrealized gains (losses) on these investments of $4.8 billion and $(77) million, net-of-tax, are subject to currency and price fluctuations, and are recorded in accumulated OCI. During 2008, under the terms of our purchase option, we increased our ownership to approximately 19 percent by purchasing approximately $9.2 billion of the common shares of CCB. These shares are restricted through August 2011 and are carried at cost. In January 2009, we sold 5.6 billion common shares of our initial investment in CCB for approximately $2.8 billion resulting in a pre-tax gain of approximately $1.9 billion and our ownership was reduced to 16.7 percent.

We recognized $3.5 billion of other-than-temporary impairment losses on AFS debt securities during 2008. These losses were primarily comprised of $3.2 billion of CDO-related writedowns. We also recognized $661 million of other-than-temporary impairment losses on AFS marketable equity securities during 2008. No such losses were recognized on AFS marketable equity securities during 2007.

The impairment of AFS debt and marketable equity securities is based on a variety of factors, including the length of time and extent to which the market value has been less than cost; the financial condition of the issuer of the security and its ability to recover market value; and the Corporation's intent and ability to hold the security to recovery. Based on the Corporation's evaluation of the above and other relevant factors, and after consideration of the losses described in the paragraph above, we do

not believe that the AFS debt and marketable equity securities that are in an unrealized loss position at December 31, 2008 are other-than-temporarily impaired.

Residential Mortgage Portfolio

At December 31, 2008, residential mortgages were $248.0 billion compared to $274.9 billion at December 31, 2007. This decrease was attributable to the repositioning of our ALM portfolio, driven by market liquidity, as we increased the level of mortgage-backed securities relative to loans, partially offset by the acquisition of Countrywide which added $26.8 billion of residential mortgages. We securitized $26.1 billion and $5.5 billion of residential mortgage loans into mortgage-backed securities which we retained during 2008 and 2007. During 2008, we purchased $405 million of residential mortgages related to ALM activities compared to purchases of $22.5 billion during 2007. We also added $27.3 billion and $66.3 billion of originated residential mortgages and we sold $30.7 billion and $34.0 billion of residential mortgages during 2008 and 2007. Of these sales, $22.9 billion and $23.7 billion were originated residential mortgages, resulting in gains of $392 million and $187 million. The remaining $7.8 billion and $10.4 billion were related to service by others loan sales, resulting in gains of $104 million and $84 million. We received paydowns of $26.3 billion and $28.2 billion in 2008 and 2007.

In addition to the residential mortgage portfolio we incorporated the discontinued real estate portfolio that was acquired in connection with the Countrywide acquisition into our ALM activities. This portfolio's balance was $20.0 billion at December 31, 2008.

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. Table 42 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, 2008 and 2007. These amounts do not include our derivative hedges on our net investments in consolidated foreign operations.

Changes to the composition of our derivatives portfolio during 2008 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. The notional amount of our option positions decreased from $140.1 billion at December 31, 2007 to $5.0 billion at December 31, 2008. Changes in the levels of the option positions was driven by maturities of $115.1 billion in purchased caps along with the termination of $20.0 billion in sold floors. Our interest rate swap positions (including foreign exchange contracts) were a net receive fixed position of $50.3 billion at December 31, 2008 compared to a net receive fixed position of $101.9 billion on December 31, 2007. Changes in the notional levels of our interest rate swap position were driven by the net termination and maturity of $54.8 billion in U.S. dollar-denominated receive fixed swaps, the termination of $11.3 billion in pay fixed swaps, and the net termination of $8.1 billion in foreign denominated receive fixed swaps. The notional amount of our foreign exchange basis swaps was $54.6 billion and $54.5 billion at December 31, 2008 and 2007.

Table 42 Asset and Liability Management Interest Rate and Foreign Exchange Contracts

December 31, 2008

(Dollars in millions, average estimated duration in years)	Fair Value	Expected Maturity Total	2009	2010	2011	2012	2013	Thereafter	Average Estimated Duration
Receive fixed interest rate swaps [1, 2]	$2,103								4.93
Notional amount		$ 27,166	$ 17	$ 4,002	$ –	$9,258	$ 773	$ 13,116	
Weighted average fixed rate		4.08%	7.35%	1.89%	–%	3.31%	4.53%	5.27%	
Pay fixed interest rate swaps [1]	–								–
Notional amount		$ –	$ –	$ –	$ –	$ –	$ –	$ –	
Weighted average fixed rate		–%	–%	–%	–%	–%	–%	–%	
Foreign exchange basis swaps [2, 3, 4]	3,196								
Notional amount		$ 54,569	$ 4,578	$ 6,192	$3,986	$8,916	$4,819	$ 26,078	
Option products [5]	–								
Notional amount		5,025	5,000	22	–	–	–	3	
Foreign exchange contracts [2, 4, 6]	1,070								
Notional amount [7]		23,063	2,313	4,021	1,116	1,535	486	13,592	
Futures and forward rate contracts	58								
Notional amount [7]		(8,793)	(8,793)	–	–	–	–	–	
Net ALM contracts	$6,427								

December 31, 2007 (Dollars in millions, average estimated duration in years)	Fair Value	Expected Maturity Total	2008	2009	2010	2011	2012	Thereafter	Average Estimated Duration
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								

(1) At December 31, 2008 there were no forward starting pay or receive fixed swap positions. At December 31, 2007, the receive fixed interest rate swap notional that represented forward starting swaps and will not be effective until their respective contractual start dates was $45.0 billion. There were no forward starting pay fixed swap positions at December 31, 2007.
(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 $5.0 billion at December 31, 2008 are comprised completely of purchased caps. Option products of $140.1 billion at December 31, 2007 were comprised of $120.1 billion in purchased caps and $20.0 billion in sold floors.
(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 $23.1 billion in foreign-denominated and cross-currency receive fixed swaps and $78 million in foreign currency forward rate contracts at December 31, 2008, and $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.
(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 $357 million from a gain of $6.1 billion at December 31, 2007 to a gain of $6.4 billion at December 31, 2008. The increase was primarily attributable to changes in the value of foreign exchange contracts of $1.6 billion and U.S. dollar-denominated receive fixed interest rate swaps of $1.1 billion, as well as changes related to the termination of pay fixed interest rate swaps of $429 million and the termination of option products of $155 million. The increase was partially offset by losses from changes in the value of foreign exchange basis swaps of $3.0 billion. The decrease in the value of foreign exchange basis swaps was mostly attributable to the strengthening of the U.S. dollar against most foreign currencies during 2008.

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 $3.5 billion at December 31, 2008. 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 implied in forward yield curves at December 31, 2008, the pre-tax net losses are expected to be reclassified into earnings as follows: $1.2 billion, or 23 percent within the next year, 66 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 $3.4 billion and $3.8 billion, net-of-tax, at December 31, 2008 and 2007. Losses on these terminated derivative contracts are reclassified into earnings in the same period or periods during which the hedged forecasted transaction affects earnings.

In addition to the derivatives disclosed in Table 42, we hedge our 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 as well as by issuing foreign-denominated debt. The Corporation recorded net derivative gains of $2.8 billion in accumulated OCI associated with net investment hedges for 2008 as compared to net derivative losses of $516 million for 2007. The gains for 2008 were driven by the strengthening of the U.S. dollar against certain foreign currencies including the British Pound, Canadian Dollar and the Euro. These gains were more than offset by losses from the changes in the value of our net investments in consolidated foreign entities resulting in $1.0 billion in unrealized losses, net-of-tax, that were recorded in accumulated OCI for 2008.

Mortgage Banking Risk Management

We originate, fund and service mortgage loans, which subject us to credit, liquidity and interest rate risks, among others. We determine whether loans will be held for investment or held for sale at the time of commitment and manage credit and liquidity risks by selling or securitizing a portion of the loans we originate.

Interest rate and market risk can be substantial in the mortgage business. Fluctuations in interest rates drive consumer demand for new mortgages and the level of refinancing activity, which in turn affects total origination and service fee income. Typically, a decline in mortgage interest rates will lead to an increase in mortgage originations and fees and a decrease in the value of the MSRs driven by higher prepayment expectations. Hedging the various sources of interest rate risk in mortgage banking is a complex process that requires complex modeling and ongoing monitoring. IRLCs and the related residential first mortgage LHFS 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 LHFS. At December 31, 2008 and December 31, 2007, the notional amount of derivatives economically hedging the IRLCs and residential first mortgage LHFS was $97.2 billion and $18.6 billion. On January 1, 2008, we adopted SAB 109 which generally has resulted in higher fair values being recorded upon initial recognition of derivative IRLCs. For more information on the adoption of SAB 109, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

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 interest rate options, interest rate swaps, forward settlement contracts, euro dollar futures, mortgage-backed and U.S. Treasury securities as economic hedges of MSRs. The notional amounts of the derivative contracts and other securities designated as economic hedges of MSRs at December 31, 2008 were $1.0 trillion and $87.5 billion, for a total notional amount of $1.1 trillion. At December 31, 2007 the notional amount of economic hedges of MSRs was $69.0 billion, all of which were derivatives. At December 31, 2008, we recorded gains in mortgage banking income of $8.6 billion related to the change in fair value of these economic hedges as compared to gains of $303 million for the same period in 2007. For additional information on MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements and for more information on mortgage banking income, see the *GCSBB* discussion on page 27.

Compliance and Operational Risk Management

Compliance risk is the risk posed by the failure to manage regulatory, legal and ethical issues that could result in monetary damages, losses or harm to the bank's reputation or image. The Seven Elements of a Compliance Program® provides the framework for the compliance programs that are consistently applied across the enterprise to manage compliance risk.

Operational risk is the risk of loss resulting from inadequate or failed internal processes, people, systems or external events. Operational risk also encompasses the failure to implement strategic objectives and initiatives in a successful, timely, and cost-effective manner. 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 compliance and operational risk management from two perspectives: corporate-wide and line of business-specific. The Compliance and Operational Risk Committee provides oversight of significant corporate-wide compliance and operational risk issues. Within Global Risk Management, Global Compliance and Operational Risk Management develops and guides the strategies, policies, practices, controls and monitoring tools for assessing and managing compliance and operational risks across the Corporation. Through training and communication efforts, compliance and operational risk awareness is driven across the Corporation.

We also mitigate compliance and operational risk through a broad-based approach to process management and process improvement. For selected risks, we use specialized support groups, such as Enterprise Information Management 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 and guide appropriate strategies, policies, practices, controls and monitoring tools for each line of business.

The lines of business are responsible for all the risks within the business line, including compliance and operational risks. Compliance and Operational Risk executives, working in conjunction with senior line of business executives, have developed key tools to help identify, measure, mitigate and monitor risk in each business line. Examples of these include processes to ensure compliance with laws and regulations, 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 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 compliance and 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.

ASF Framework

In December 2007, the American Securitization Forum (ASF) issued the Streamlined Foreclosure and Loss Avoidance Framework for Securitized Adjustable Rate Mortgage Loans (the ASF Framework). The ASF Framework was developed to address large numbers of subprime loans that are at risk of default when the loans reset from their initial fixed interest rates to variable rates. The objective of the framework is to provide uniform guidelines for evaluating large numbers of loans for refinancing in an efficient manner while complying with the relevant tax regulations and off-balance sheet accounting standards for loan securitizations. The ASF Framework targets loans that were originated between January 1, 2005 and July 31, 2007 and have an initial fixed interest rate period of 36 months or less, which are scheduled for their first interest rate reset between January 1, 2008 and July 31, 2010.

The ASF Framework categorizes the targeted loans into three segments. Segment 1 includes loans where the borrower is likely to be able to refinance into any available mortgage product. Segment 2 includes loans where the borrower is current but is unlikely to be able to refinance into any readily available mortgage product. Segment 3 includes loans where the borrower is not current. If certain criteria are met, ASF Framework loans in Segment 2 are eligible for fast-track modification under which the interest rate will be kept at the existing initial rate, generally for five years following the interest rate reset date. Upon evaluation, if targeted loans do not meet specific criteria to be eligible for one of the three segments, they are categorized as other loans, as shown in the table below. These criteria include the occupancy status of the borrower, structure and other terms of the loan. In January 2008, the SEC's Office of the Chief Accountant issued a letter addressing the accounting issues relating to the ASF Framework. The letter concluded that the SEC would not object to continuing off-balance sheet accounting treatment for Segment 2 loans modified pursuant to the ASF Framework.

For those current loans that are accounted for off-balance sheet that are modified, but not as part of the ASF Framework, the servicer must perform on an individual basis, an analysis of the borrower and the loan to demonstrate it is probable that the borrower will not meet the repayment obligation in the near term. Such analysis shall provide sufficient evidence to demonstrate that the loan is in imminent or reasonably foreseeable default. The SEC's Office of the Chief Accountant issued a letter in July 2007 stating that it would not object to continuing off-balance sheet accounting treatment for these loans.

Prior to the acquisition of Countrywide on July 1, 2008, Countrywide began making fast-track loan modifications under Segment 2 of the ASF Framework in June 2008 and the off-balance sheet accounting treatment of QSPEs that hold those loans was not affected. In addition, other workout activities relating to subprime ARMs including modifications (e.g., interest rate reductions and capitalization of interest) and repayment plans were also made. These initiatives have continued subsequent to the acquisition in an effort to work with all of our customers that are eligible and affected by loans that meet the requisite criteria. These foreclosure prevention efforts will reduce foreclosures and the related losses providing a solution for customers and protecting investors.

As of December 31, 2008, the principal balance of beneficial interests issued by the QSPEs that hold subprime ARMs totaled $56.5 billion and the fair value of beneficial interests related to those QSPEs held by the Corporation totaled $14 million. The table below presents a summary of loans in QSPEs that hold subprime ARMs as of December 31, 2008 as well as workout and payoff activity for the subprime loans by ASF categorization for the six months ended December 31, 2008. Prior to the acquisition of Countrywide on July 1, 2008, we did not originate or service significant subprime residential mortgage loans, nor did we hold a significant amount of beneficial interest in QSPEs of subprime residential mortgage loans.

In October 2008 in agreement with several state attorneys general, we announced the Countrywide National Homeownership Retention Program. Under the program, we will systematically identify and seek to offer loan modifications for eligible Countrywide subprime and pay option ARM borrowers whose loans are in delinquency or scheduled for an interest rate or payment change. For more information on our loan modification programs, see Recent Events on page 16.

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

Table 43 QSPE Loans Subject to ASF Framework Evaluation (1)

	December 31, 2008		Activity During the Six Months Ended December 31, 2008			
(Dollars in millions)	Balance	Percent	Payoffs	Fast-track Modifications	Other Workout Activities	Foreclosures
Segment 1	$ 2,568	4.5%	$ 807	$ –	$ 1,396	$ –
Segment 2	9,135	16.2	267	1,428	1,636	108
Segment 3	11,176	19.8	62	–	1,802	929
Total Subprime ARMs	22,879	40.5	1,136	1,428	4,834	1,037
Other loans	30,781	54.5	n/a	n/a	n/a	n/a
Foreclosed properties	2,794	5.0	n/a	n/a	n/a	n/a
Total	**$ 56,454**	**100.0%**	**$ 1,136**	**$ 1,428**	**$ 4,834**	**$ 1,037**

(1) Represents loans that were acquired with the acquisition of Countrywide on July 1, 2008 that meet the requirements of the ASF Framework.
n/a = not applicable

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 excluding those measured at fair value in accordance with SFAS 159. 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 55 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 collectability 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 and rated under the internal risk rating scale, except loans and leases already risk rated Doubtful as defined by regulatory authorities, the allowance for loan and lease losses would increase by approximately $2.7 billion at December 31, 2008. The allowance for loan and lease losses as a percentage of total loans and leases at December 31, 2008 was 2.49 percent and this hypothetical increase in the allowance would raise the ratio to approximately 2.78 percent. Our allowance for loan 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 covered by the allowance would increase the allowance for loan and lease losses at December 31, 2008 by approximately $2.0 billion, of which $1.6 billion would relate to consumer and $440 million to commercial.

SOP 03-3 requires acquired impaired loans to 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. However, subsequent decreases to the expected principal cash flows from the date of acquisition will result in a charge to provision for credit losses and a corresponding increase to allowance for loan and lease losses. Our SOP 03-3 portfolio is also subjected to stress scenarios to evaluate the potential impact given certain events. A one percent decrease in the expected principal cash flows could result in an impairment of the portfolio of approximately $400 million, of which approximately $250 million would be related to our discontinued real estate portfolio.

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.

Mortgage Servicing Rights

MSRs are nonfinancial assets that are created when the underlying mortgage loan is sold and we retain the right to service the loan. We account for consumer MSRs at fair value with changes in fair value recorded in the Consolidated Statement of Income in mortgage banking income. Commercial-related and residential reverse mortgage MSRs are accounted for using the amortization method (i.e., lower of cost or market) with impairment recognized as a reduction to mortgage banking income. At December 31, 2008, our total MSR balance was $13.1 billion.

We determine the fair value of our consumer MSRs using a valuation model that calculates the present value of estimated future net servicing income. The model incorporates key economic assumptions including estimates of prepayment rates and resultant weighted average lives of the MSRs and the option adjusted spread (OAS) levels. These variables can, and generally do, change from quarter to quarter as market conditions and projected interest rates change. These assumptions are subjective in nature and changes in these assumptions could materially impact our net income. For example, decreasing the prepayment rate assumption used in the valuation of our consumer MSR by 10 percent while keeping all other assumptions unchanged could have resulted in an estimated increase of $786 million in mortgage banking income at December 31, 2008.

We manage potential changes in the fair value of MSRs through a comprehensive risk management program. The intent is to mitigate the effects of changes in MSRs fair value through the use of risk management instruments. To reduce the sensitivity of earnings to interest rate and market value fluctuations, certain derivatives such as options, securities and interest rate swaps may be 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. The impact provided above does not reflect any hedge strategies that may be undertaken to mitigate such risk.

For additional information on MSRs, including the sensitivity of weighted average lives and the fair value of MSRs to changes in modeled assumptions, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

Fair Value of Financial Instruments

We determine the fair market values of 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, LHFS, 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 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

The values of assets and liabilities recorded at fair value include adjustments for market liquidity, 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 these 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. Primarily through validation controls, we utilize both broker and pricing service inputs, which can and do include both market observable and internally modeled values and/or value inputs. Our reliance on the receipt of this information is tempered by the knowledge of how the broker and/or pricing service develops its data, with a higher reliance being applied to those that are more directly observable and lesser reliance being applied on those developed through their own internal modeling. Similarly, broker quotes that are executable are given a higher level of reliance than indicative broker quotes, which are not executable. These processes and controls are performed independently of the business.

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, 2008, $7.3 billion, or five 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, 2008.

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 majority 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. The Corporation does incorporate, consistent with the requirements of SFAS 157, within its fair value measurements of over-the-counter derivatives the net credit differential between the counterparty credit risk and our own credit risk. The value of the credit differential is determined by reference to existing direct market reference costs of credit, or where direct references are not available, a proxy is applied consistent with direct references for other counterparties that are similar in credit risk. An estimate of severity of loss is also used within the determination of fair value, primarily based on historical experience, adjusted for any more recent name specific expectations.

At December 31, 2008, the Level 3 fair values of derivative assets and liabilities determined by these quantitative models were $8.3 billion and $6.0 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 both represented less than one percent of derivative assets and liabilities, before the impact of legally enforceable master netting agreements. In 2008, 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, 2008, the amount of our VAR was $138 million based on a 99 percent confidence level. For more information on VAR, see Trading Risk Management beginning on page 79.

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

Principal Investing

Principal Investing is included within *Equity Investments* in *All Other* and is discussed in more detail beginning on page 42. 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, 2008, we had nonpublic investments of $3.5 billion, or approximately 91 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, which for the Corporation is performed at June 30 or in interim periods if events or circumstances indicate a potential impairment. As reporting units are determined after an acquisition or evolve with changes in business strategy, goodwill is assigned and it no longer retains its association with a particular acquisition. All of the revenue streams and related activities of a reporting unit, whether acquired or organic, are available to support the value of the goodwill. The reporting units utilized for this test were those that are one level below the business segments identified on page 26 (e.g., *Card Services, MHEIS, CMAS* and *Columbia*).

Under applicable accounting standards, goodwill impairment analysis is a two-step test. 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 involves calculating an implied fair value of goodwill for each reporting unit for which the first step indicated possible impairment. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination, which is the excess of the fair value of the reporting unit, as determined in the first step, over the aggregate fair values of the individual assets, liabilities and identifiable intangibles as if the reporting unit was being acquired in a business combination. The adjustments to measure the assets, liabilities and intangibles at fair value are for the purpose of measuring the implied fair value of goodwill and such adjustments are not reflected in the Consolidated Balance Sheet. If the implied fair value of goodwill exceeds the goodwill assigned to the reporting unit, there is no impairment. If the goodwill assigned to a reporting unit exceeds the implied fair value of the goodwill, an impairment charge is recorded for the excess. An impairment loss recognized cannot exceed the amount of goodwill assigned to a reporting unit, and the loss establishes a new basis in the goodwill. Subsequent reversal of goodwill impairment losses is not permitted under applicable accounting standards.

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.

Estimating the fair value of reporting units is a subjective process that involves the use of estimates and judgments, particularly related to cash flows, the appropriate discount rates and an applicable control premium. 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 included the use of independent valuations. 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. Our discounted cash flow employs a capital asset pricing model in estimating the discount rate (i.e., cost of equity financing) for each reporting unit. The inputs to this model include: risk-free rate of return; beta, a measure of the level of non-diversifiable risk associated with comparable companies for each specific reporting unit; market equity risk premium; and in certain cases an unsystematic (company-specific) risk factor. The unsystematic risk factor is the input that specifically addresses uncertainty related to our projections of earnings and growth, including the uncertainty related to loss expectations. 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 2008. We utilized discount rates that we believe adequately reflected the risk and uncertainty in the financial markets generally and specifically in our internally developed forecasts. 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.

The annual impairment test as of June 30, 2008 indicated some stress in certain reporting units. Given the significant decline in our stock price and current market conditions in the financial services industry, we concluded that circumstances warranted an additional impairment analysis in the fourth quarter of 2008. We evaluated the fair value of our reporting units using a combination of the market and income approach. Due to the volatility and uncertainties in the current market environment we used a range of valuations to determine the fair value of each reporting unit. In performing our updated goodwill impairment analysis, which excludes the current increase in mortgage refinancings that we have benefited from, our *MHEIS* business failed the first step analysis (i.e., carrying value exceeded its fair value) and therefore we performed the second step analysis. In addition, given the rise in the implied control premium and the range in valuations, we believe the assumptions used in our analysis were tied to an overall inefficient market driven by uncertainty. As such, although not required, to further substantiate the value of our goodwill balance we also performed the second step analysis described above for our *Card Services'* business as this reporting unit has experienced stress due to the current economic environment. As a result of our tests, no goodwill impairment losses were recognized for 2008. If current economic conditions continue to deteriorate or other events adversely impact the business models and the related assumptions used to value these reporting units, there could be a change in the valuation of our goodwill and intangible assets when we conduct impairment tests in future periods and may possibly result in the recognition of impairment losses.

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 reevaluate 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 under current GAAP. On September 15, 2008 the FASB released exposure drafts which would amend SFAS 140 and FIN 46R. For additional information on this proposed amendment, see Recent Accounting Developments on page 17.

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

2007 Compared to 2006

The following discussion and analysis provides a comparison of our results of operations for 2007 and 2006. 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 $15.0 billion, or $3.30 per diluted common share in 2007 compared to $21.1 billion or $4.59 per diluted common share in 2006. The return on average common shareholders' equity was 11.08 percent in 2007 compared to 16.27 percent in 2006. These earnings provided sufficient cash flow to allow us to return $13.6 billion and $21.2 billion in 2007 and 2006, 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 $372 million to $36.2 billion in 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.

Noninterest Income

Noninterest income decreased $5.8 billion to $32.4 billion in 2007 compared to 2006 due primarily to decreases in trading account profits (losses) of $8.2 billion and other income of $916 million. These decreases were partially offset by increases in equity investment income of $875 million, investment and brokerage services of $691 million, service charges of $684 million, an increase in gains (losses) on sales of debt securities of $623 million and mortgage banking income of $361 million. Trading account profits (losses) were driven by losses of $4.9 billion 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. The decrease in other income was driven by losses of $752 million associated with CDO exposure, losses of $776 million associated with the support provided to certain cash funds managed within *GWIM* and writedowns related to certain SIV investments that were purchased from the funds, and the absence of a $720 million gain on the sale of our Brazilian operations recognized in 2006. These losses were partially offset by a $1.5 billion gain from the sale of Marsico that was recorded in other income. The increase in equity investment income was driven by the $600 million gain on the sale of private equity funds to Conversus Capital. Investment and brokerage services increased due primarily to organic growth in AUM, brokerage activity and the U.S. Trust Corporation acquisition. Service charges grew resulting from new account growth in deposit accounts and the beneficial impact of the LaSalle merger. The increase in gains (losses) on sales of debt securities was driven largely by losses in the prior year. Mortgage banking income increased due to the favorable performance of the MSRs partially offset by the impact of widening credit spreads on income from mortgage production.

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.

Noninterest Expense

Noninterest expense increased $1.7 billion to $37.5 billion in 2007 compared to 2006, primarily due to increases in other general operating expense of $975 million and personnel expense of $542 million, partially offset by a decrease in merger and restructuring charges of $395 million. The increase in other general operating expense was impacted by our acquisitions and various other items including litigation related costs. Personnel expense increased due to the acquisitions of LaSalle and U.S. Trust Corporation partially offset by a reduction in performance-based

incentive compensation within *GCIB*. Merger and restructuring charges decreased 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 effective tax rates 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.

Business Segment Operations

Global Consumer and Small Business Banking

Net income decreased $2.1 billion, or 18 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 $653 million, or two percent, to $28.7 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 $2.4 billion, or 14 percent, to $19.1 billion compared to the same period in 2006, mainly due to increases in card income of $823 million, service charges of $663 million and mortgage banking income of $413 million. Provision for credit losses increased $4.4 billion, or 52 percent, to $12.9 billion compared to 2006 primarily driven by higher *Card Services* managed net losses from portfolio seasoning and increases from unusually low loss levels experienced in 2006 post bankruptcy reform. In addition the 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. Noninterest expense increased $2.2 billion, or 12 percent, to $20.3 billion largely due to increases in personnel-related expenses, certain Visa-related costs, equally allocated to *Card Services* and *Treasury Services* on a management accounting basis, and technology-related costs.

Global Corporate and Investment Banking

Net income decreased $5.5 billion, or 91 percent, to $510 million and total revenue decreased $7.7 billion, or 36 percent, to $13.7 billion 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 13 percent, to $11.2 billion due to higher market-based net interest income and the FTE impact of a one-time tax benefit from restructuring our existing non-U.S. based commercial aircraft leasing business. Noninterest income decreased $9.0 billion, or 79 percent, to $2.4 billion compared to 2006, driven by the losses from our CDO exposure and other trading losses. Provision for credit losses was $658 million in 2007 compared to $6 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. Noninterest expense increased $321 million, or three percent, to $12.2 billion compared to 2006 mainly due to the addition of LaSalle and certain Visa-related 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*.

Global Wealth and Investment Management

Net income decreased $182 million, or eight percent, to $2.0 billion compared to 2006, 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 $163 million, or four 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. Noninterest income increased $306 million, or nine percent, to $3.6 billion driven by an increase in investment and brokerage services primarily due to higher AUM 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 support provided to certain cash funds. Noninterest expense increased $756 million, or 20 percent, to $4.5 billion driven by the addition of U.S. Trust Corporation, higher revenue related expenses and increased marketing costs.

All Other

Net income increased $1.6 billion, or 101 percent, to $3.2 billion compared to 2006. Excluding the securitization offset this increase was due to higher 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, or 77 percent, to $382 million compared to 2006 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. Noninterest income increased $1.7 billion, or 70 percent, to $4.1 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 on the sale of mortgage backed debt securities which occurred in the prior year. The provision for credit losses decreased $135 million to negative $248 million mainly due to reserve reductions from the sale of our Argentina portfolio during the first quarter of 2007. Merger and restructuring charges decreased $395 million, or 49 percent, to $410 million due to declining integration costs associated with the integration of the MBNA acquisition partially offset by costs associated with U.S. Trust Corporation and LaSalle. The decrease in other noninterest expense of $1.1 billion was driven by the absence of operating costs after the sale of the Latin American operations and Hong Kong-based retail and commercial banking business which were included in our 2006 results.

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Statistical Tables

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

(Dollars in millions)	2008 Average Balance	2008 Interest Income/ Expense	2008 Yield/ Rate	2007 Average Balance	2007 Interest Income/ Expense	2007 Yield/ Rate	2006 (1) Average Balance	2006 (1) Interest Income/ Expense	2006 (1) Yield/ Rate
Earning assets									
Time deposits placed and other short-term investments	**$ 10,696**	**$ 440**	**4.11%**	$ 13,152	$ 627	4.77%	$ 15,611	$ 646	4.14%
Federal funds sold and securities purchased under agreements to resell	**128,053**	**3,313**	**2.59**	155,828	7,722	4.96	175,334	7,823	4.46
Trading account assets	**193,631**	**9,259**	**4.78**	187,287	9,747	5.20	145,321	7,552	5.20
Debt securities (2)	**250,551**	**13,383**	**5.34**	186,466	10,020	5.37	225,219	11,845	5.26
Loans and leases (3):									
Residential mortgage	**260,213**	**14,671**	**5.64**	264,650	15,112	5.71	207,879	11,608	5.58
Home equity	**135,091**	**7,592**	**5.62**	98,765	7,385	7.48	78,318	5,772	7.37
Discontinued real estate	**10,898**	**858**	**7.87**	n/a	n/a	n/a	n/a	n/a	n/a
Credit card – domestic	**63,318**	**6,843**	**10.81**	57,883	7,225	12.48	63,838	8,638	13.53
Credit card – foreign	**16,527**	**2,042**	**12.36**	12,359	1,502	12.15	9,141	1,147	12.55
Direct/Indirect consumer (4)	**82,516**	**6,934**	**8.40**	70,009	6,002	8.57	53,172	4,185	7.87
Other consumer (5)	**3,816**	**321**	**8.41**	4,510	389	8.64	7,516	789	10.50
Total consumer	**572,379**	**39,261**	**6.86**	508,176	37,615	7.40	419,864	32,139	7.65
Commercial – domestic	**220,561**	**11,702**	**5.31**	180,102	12,884	7.15	151,231	10,897	7.21
Commercial real estate (6)	**63,208**	**3,057**	**4.84**	42,950	3,145	7.32	36,939	2,740	7.42
Commercial lease financing	**22,290**	**799**	**3.58**	20,435	1,212	5.93	20,862	995	4.77
Commercial – foreign	**32,440**	**1,503**	**4.63**	24,491	1,452	5.93	23,521	1,674	7.12
Total commercial	**338,499**	**17,061**	**5.04**	267,978	18,693	6.98	232,553	16,306	7.01
Total loans and leases	**910,878**	**56,322**	**6.18**	776,154	56,308	7.25	652,417	48,445	7.43
Other earning assets	**68,920**	**4,161**	**6.04**	71,305	4,629	6.49	55,242	3,498	6.33
Total earning assets (7)	**1,562,729**	**86,878**	**5.56**	1,390,144	89,053	6.41	1,269,144	79,809	6.29
Cash and cash equivalents	**45,354**			33,091			34,052		
Other assets, less allowance for loan and lease losses	**235,896**			178,790			163,485		
Total assets	**$1,843,979**			$1,602,073			$1,466,681		
Interest-bearing liabilities									
Domestic interest-bearing deposits:									
Savings	**$ 32,204**	**$ 230**	**0.71%**	$ 32,316	$ 188	0.58%	$ 34,608	$ 269	0.78%
NOW and money market deposit accounts	**267,818**	**3,781**	**1.41**	220,207	4,361	1.98	218,077	3,923	1.80
Consumer CDs and IRAs	**203,887**	**7,404**	**3.63**	167,801	7,817	4.66	144,738	6,022	4.16
Negotiable CDs, public funds and other time deposits	**32,264**	**1,076**	**3.33**	20,557	974	4.74	12,195	483	3.97
Total domestic interest-bearing deposits	**536,173**	**12,491**	**2.33**	440,881	13,340	3.03	409,618	10,697	2.61
Foreign interest-bearing deposits:									
Banks located in foreign countries	**37,657**	**1,063**	**2.82**	42,788	2,174	5.08	34,985	1,982	5.67
Governments and official institutions	**13,004**	**311**	**2.39**	16,523	812	4.91	12,674	586	4.63
Time, savings and other	**51,363**	**1,385**	**2.70**	43,443	1,767	4.07	38,544	1,215	3.15
Total foreign interest-bearing deposits	**102,024**	**2,759**	**2.70**	102,754	4,753	4.63	86,203	3,783	4.39
Total interest-bearing deposits	**638,197**	**15,250**	**2.39**	543,635	18,093	3.33	495,821	14,480	2.92
Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings	**455,710**	**12,362**	**2.71**	424,814	21,967	5.17	411,132	19,837	4.83
Trading account liabilities	**75,270**	**2,774**	**3.69**	82,721	3,444	4.16	64,689	2,640	4.08
Long-term debt	**231,235**	**9,938**	**4.30**	169,855	9,359	5.51	130,124	7,034	5.41
Total interest-bearing liabilities (7)	**1,400,412**	**40,324**	**2.88**	1,221,025	52,863	4.33	1,101,766	43,991	3.99
Noninterest-bearing sources:									
Noninterest-bearing deposits	**192,947**			173,547			177,174		
Other liabilities	**85,789**			70,839			57,278		
Shareholders' equity	**164,831**			136,662			130,463		
Total liabilities and shareholders' equity	**$1,843,979**			$1,602,073			$1,466,681		
Net interest spread			**2.68%**			2.08%			2.30%
Impact of noninterest-bearing sources			**0.30**			0.52			0.52
Net interest income/yield on earning assets		**$ 46,554**	**2.98%**		$ 36,190	2.60%		$ 35,818	2.82%

(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 two bps 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. We account for acquired impaired loans in accordance with SOP 03-3. Loans accounted for in accordance with SOP 03-3 were written down to fair value upon acquisition and accrete interest income over the remaining life of the loan.
(4) Includes foreign consumer loans of $2.7 billion, $3.8 billion and $3.4 billion in 2008, 2007 and 2006, respectively.
(5) Includes consumer finance loans of $2.8 billion, $3.2 billion and $2.9 billion in 2008, 2007 and 2006, respectively; and other foreign consumer loans of $774 million, $1.1 billion and $4.4 billion in 2008, 2007 and 2006, respectively.
(6) Includes domestic commercial real estate loans of $62.1 billion, $42.1 billion and $36.2 billion in 2008, 2007 and 2006, respectively.
(7) Interest income includes the impact of interest rate risk management contracts, which decreased interest income on the underlying assets $260 million, $542 million and $372 million in 2008, 2007 and 2006, respectively. Interest expense includes the impact of interest rate risk management contracts, which increased interest expense on the underlying liabilities $409 million, $813 million and $106 million in 2008, 2007 and 2006, respectively. For further information on interest rate contracts, see Interest Rate Risk Management for Nontrading Activities beginning on page 82.
n/a = not applicable

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

(Dollars in millions)	From 2007 to 2008 Due to Change in [1] Volume	Rate	Net Change	From 2006 to 2007 Due to Change in [1] Volume	Rate	Net Change
Increase (decrease) in interest income						
Time deposits placed and other short-term investments	**$ (117)**	**$ (70)**	**$ (187)**	$ (102)	$ 83	$ (19)
Federal funds sold and securities purchased under agreements to resell	**(1,371)**	**(3,038)**	**(4,409)**	(873)	772	(101)
Trading account assets	**322**	**(810)**	**(488)**	2,187	8	2,195
Debt securities	**3,435**	**(72)**	**3,363**	(2,037)	212	(1,825)
Loans and leases:						
Residential mortgage	**(254)**	**(187)**	**(441)**	3,159	345	3,504
Home equity	**2,720**	**(2,513)**	**207**	1,507	106	1,613
Discontinued real estate	**n/a**	**n/a**	**858**	n/a	n/a	n/a
Credit card – domestic	**677**	**(1,059)**	**(382)**	(806)	(607)	(1,413)
Credit card – foreign	**506**	**34**	**540**	404	(49)	355
Direct/Indirect consumer	**1,070**	**(138)**	**932**	1,325	492	1,817
Other consumer	**(59)**	**(9)**	**(68)**	(315)	(85)	(400)
Total consumer			**1,646**			5,476
Commercial – domestic	**2,886**	**(4,068)**	**(1,182)**	2,088	(101)	1,987
Commercial real estate	**1,482**	**(1,570)**	**(88)**	447	(42)	405
Commercial lease financing	**110**	**(523)**	**(413)**	(20)	237	217
Commercial – foreign	**472**	**(421)**	**51**	70	(292)	(222)
Total commercial			**(1,632)**			2,387
Total loans and leases			**14**			7,863
Other earning assets	**(156)**	**(312)**	**(468)**	1,016	115	1,131
Total interest income			**$ (2,175)**			$ 9,244
Increase (decrease) in interest expense						
Domestic interest-bearing deposits:						
Savings	**$ (1)**	**$ 43**	**$ 42**	$ (17)	$ (64)	$ (81)
NOW and money market deposit accounts	**942**	**(1,522)**	**(580)**	41	397	438
Consumer CDs and IRAs	**1,684**	**(2,097)**	**(413)**	959	836	1,795
Negotiable CDs, public funds and other time deposits	**555**	**(453)**	**102**	333	158	491
Total domestic interest-bearing deposits			**(849)**			2,643
Foreign interest-bearing deposits:						
Banks located in foreign countries	**(261)**	**(850)**	**(1,111)**	444	(252)	192
Governments and official institutions	**(174)**	**(327)**	**(501)**	179	47	226
Time, savings and other	**323**	**(705)**	**(382)**	153	399	552
Total foreign interest-bearing deposits			**(1,994)**			970
Total interest-bearing deposits			**(2,843)**			3,613
Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings	**1,593**	**(11,198)**	**(9,605)**	682	1,448	2,130
Trading account liabilities	**(313)**	**(357)**	**(670)**	735	69	804
Long-term debt	**3,382**	**(2,803)**	**579**	2,155	170	2,325
Total interest expense			**(12,539)**			8,872
Net increase in net interest income [2]			**$ 10,364**			$ 372

(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 2006 to 2007. 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.

n/a = not applicable

Table III Outstanding Loans and Leases

(Dollars in millions)	December 31 2008	2007	2006	2005	2004
Consumer					
Residential mortgage	**$ 247,999**	$ 274,949	$ 241,181	$ 182,596	$ 178,079
Home equity	**152,547**	114,820	87,893	70,229	57,439
Discontinued real estate [1]	**19,981**	n/a	n/a	n/a	n/a
Credit card – domestic	**64,128**	65,774	61,195	58,548	51,726
Credit card – foreign	**17,146**	14,950	10,999	–	–
Direct/Indirect consumer [2]	**83,436**	76,538	59,206	37,265	33,113
Other consumer [3]	**3,442**	4,170	5,231	6,819	7,526
Total consumer	**588,679**	551,201	465,705	355,457	327,883
Commercial					
Commercial – domestic [4]	**219,233**	208,297	161,982	140,533	122,095
Commercial real estate [5]	**64,701**	61,298	36,258	35,766	32,319
Commercial lease financing	**22,400**	22,582	21,864	20,705	21,115
Commercial – foreign	**31,020**	28,376	20,681	21,330	18,401
Total commercial loans	**337,354**	320,553	240,785	218,334	193,930
Commercial loans measured at fair value [6]	**5,413**	4,590	n/a	n/a	n/a
Total commercial	**342,767**	325,143	240,785	218,334	193,930
Total loans and leases	**$ 931,446**	$ 876,344	$ 706,490	$ 573,791	$ 521,813

(1) At December 31, 2008, includes $18.2 billion of pay option loans and $1.8 billion of subprime loans obtained as part of the acquisition of Countrywide. The Corporation no longer originates these products.
(2) Includes foreign consumer loans of $1.8 billion, $3.4 billion, $3.9 billion, $48 million, and $57 million at December 31, 2008, 2007, 2006, 2005, and 2004, respectively.
(3) Includes consumer finance loans of $2.6 billion, $3.0 billion, $2.8 billion, $2.8 billion, and $3.4 billion at December 31, 2008, 2007, 2006, 2005, and 2004, respectively; other foreign consumer loans of $618 million, $829 million, $2.3 billion, $3.8 billion, and $3.5 billion at December 31, 2008, 2007, 2006, 2005, and 2004, respectively; and consumer lease financing of $481 million at December 31, 2004.
(4) Includes small business commercial – domestic loans, primarily card related, of $19.1 billion, $19.3 billion, $15.2 billion, $7.2 billion and $5.4 billion at December 31, 2008, 2007, 2006, 2005 and 2004, respectively.
(5) Includes domestic commercial real estate loans of $63.7 billion, $60.2 billion, $35.7 billion, $35.2 billion, and $31.9 billion at December 31, 2008, 2007, 2006, 2005, and 2004, respectively; and foreign commercial real estate loans of $979 million, $1.1 billion, $578 million, $585 million, and $440 million at December 31, 2008, 2007, 2006, 2005, and 2004, respectively.
(6) Certain commercial loans are measured at fair value in accordance with SFAS 159 and include commercial – domestic loans of $3.5 billion and $3.5 billion, commercial – foreign loans of $1.7 billion and $790 million, and commercial real estate loans of $203 million and $304 million at December 31, 2008 and 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 [1, 2]

(Dollars in millions)	December 31 2008	2007	2006	2005	2004
Consumer					
Residential mortgage	**$ 7,044**	$1,999	$ 660	$ 570	$ 554
Home equity	**2,670**	1,340	289	151	94
Discontinued real estate	**77**	n/a	n/a	n/a	n/a
Direct/Indirect consumer	**26**	8	4	3	5
Other consumer	**91**	95	77	61	85
Total consumer [3]	**9,908**	3,442	1,030	785	738
Commercial					
Commercial – domestic [4]	**2,040**	852	494	550	847
Commercial real estate	**3,906**	1,099	118	49	87
Commercial lease financing	**56**	33	42	62	266
Commercial – foreign	**290**	19	13	34	267
	6,292	2,003	667	695	1,467
Small business commercial – domestic	**205**	152	90	31	8
Total commercial [5]	**6,497**	2,155	757	726	1,475
Total nonperforming loans and leases	**16,405**	5,597	1,787	1,511	2,213
Foreclosed properties	**1,827**	351	69	92	102
Total nonperforming assets	**$18,232**	$5,948	$1,856	$1,603	$2,315

(1) At December 31, 2008, balances did not include nonperforming derivatives of $512 million. At December 31, 2008 and 2007 balances did not include nonperforming AFS debt securities of $291 million and $180 million. At December 31, 2004, balances did not include $140 million of nonperforming securities primarily associated with the Fleet acquisition. In addition, balances did not include nonperforming LHFS of $1.3 billion, $188 million, $80 million, $69 million, and $151 million at December 31, 2008, 2007, 2006, 2005, and 2004, respectively.

(2) Balances do not include loans accounted for in accordance with SOP 03-3 even though the customer may be contractually past due. Loans accounted for in accordance with SOP 03-3 were written down to fair value upon acquisition and accrete interest income over the remaining life of the loan.

(3) In 2008, $512 million in interest income was estimated to be contractually due on nonperforming consumer loans and leases classified as nonperforming at December 31, 2008 provided that these loans and leases had been paid according to their terms and conditions, including troubled debt restructured loans of which $387 million were performing at December 31, 2008 and not included in the table above. Approximately $124 million of the estimated $512 million in contractual interest was received and included in net income for 2008.

(4) Excludes small business commercial – domestic loans.

(5) In 2008, $260 million in interest income was estimated to be contractually due on nonperforming commercial loans and leases classified as nonperforming at December 31, 2008, including troubled debt restructured loans of which $13 million were performing at December 31, 2008 and not included in the table above. Approximately $84 million of the estimated $260 million in contractual interest was received and included in net income for 2008.

n/a = not applicable

Table V Accruing Loans and Leases Past Due 90 Days or More[1]

(Dollars in millions)	December 31 2008	2007	2006	2005	2004
Consumer					
Residential mortgage [2]	**$ 372**	$ 237	$ 118	$ –	$ –
Credit card – domestic	**2,197**	1,855	1,991	1,197	1,075
Credit card – foreign	**368**	272	184	–	–
Direct/Indirect consumer	**1,370**	745	378	75	58
Other consumer	**4**	4	7	15	23
Total consumer	**4,311**	3,113	2,678	1,287	1,156
Commercial					
Commercial – domestic [3]	**381**	119	66	79	82
Commercial real estate	**52**	36	78	4	1
Commercial lease financing	**23**	25	26	15	14
Commercial – foreign	**7**	16	9	32	2
	463	196	179	130	99
Small business commercial – domestic	**640**	427	199	38	39
Total commercial	**1,103**	623	378	168	138
Total accruing loans and leases past due 90 days or more [4]	**$5,414**	$3,736	$3,056	$1,455	$1,294

(1) Accruing loans past due 90 days or more do not include acquired loans accounted for in accordance with SOP 03-3 that were considered impaired and written down to fair value upon acquisition and accrete interest income over the remaining life of the loan.
(2) Balances 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.
(3) Excludes small business commercial – domestic loans.
(4) Balances do not include loans measured at fair value in accordance with SFAS 159. At December 31, 2008 and 2007, there were no accruing loans or leases past due 90 days or more measured under fair value in accordance with SFAS 159.

Table VI Allowance for Credit Losses

(Dollars in millions)	2008	2007	2006	2005	2004
Allowance for loan and lease losses, January 1	**$ 11,588**	$ 9,016	$ 8,045	$ 8,626	$ 6,163
Adjustment due to the adoption of SFAS 159	**–**	(32)	–	–	–
Loans and leases charged off					
Residential mortgage	**(964)**	(78)	(74)	(58)	(62)
Home equity	**(3,597)**	(286)	(67)	(46)	(38)
Discontinued real estate	**(19)**	n/a	n/a	n/a	n/a
Credit card – domestic	**(4,469)**	(3,410)	(3,546)	(4,018)	(2,536)
Credit card – foreign	**(639)**	(453)	(292)	–	–
Direct/Indirect consumer	**(3,777)**	(1,885)	(857)	(380)	(344)
Other consumer	**(461)**	(346)	(327)	(376)	(295)
Total consumer charge-offs	**(13,926)**	(6,458)	(5,163)	(4,878)	(3,275)
Commercial – domestic [1]	**(2,567)**	(1,135)	(597)	(535)	(504)
Commercial real estate	**(895)**	(54)	(7)	(5)	(12)
Commercial lease financing	**(79)**	(55)	(28)	(315)	(39)
Commercial – foreign	**(199)**	(28)	(86)	(61)	(262)
Total commercial charge-offs	**(3,740)**	(1,272)	(718)	(916)	(817)
Total loans and leases charged off	**(17,666)**	(7,730)	(5,881)	(5,794)	(4,092)
Recoveries of loans and leases previously charged off					
Residential mortgage	**39**	22	35	31	26
Home equity	**101**	12	16	15	23
Discontinued real estate	**3**	n/a	n/a	n/a	n/a
Credit card – domestic	**308**	347	452	366	231
Credit card – foreign	**88**	74	67	–	–
Direct/Indirect consumer	**663**	512	247	132	136
Other consumer	**62**	68	110	101	102
Total consumer recoveries	**1,264**	1,035	927	645	518
Commercial – domestic [2]	**118**	128	261	365	327
Commercial real estate	**8**	7	4	5	15
Commercial lease financing	**19**	53	56	84	30
Commercial – foreign	**26**	27	94	133	89
Total commercial recoveries	**171**	215	415	587	461
Total recoveries of loans and leases previously charged off	**1,435**	1,250	1,342	1,232	979
Net charge-offs	**(16,231)**	(6,480)	(4,539)	(4,562)	(3,113)
Provision for loan and lease losses	**26,922**	8,357	5,001	4,021	2,868
Other [3]	**792**	727	509	(40)	2,708
Allowance for loan and lease losses, December 31	**23,071**	11,588	9,016	8,045	8,626
Reserve for unfunded lending commitments, January 1	**518**	397	395	402	416
Adjustment due to the adoption of SFAS 159	**–**	(28)	–	–	–
Provision for unfunded lending commitments	**(97)**	28	9	(7)	(99)
Other [4]	**–**	121	(7)	–	85
Reserve for unfunded lending commitments, December 31	**421**	518	397	395	402
Allowance for credit losses, December 31	**$ 23,492**	$ 12,106	$ 9,413	$ 8,440	$ 9,028
Loans and leases outstanding at December 31 [5]	**$926,033**	$871,754	$706,490	$573,791	$521,813
Allowance for loan and lease losses as a percentage of total loans and leases outstanding at December 31 [5, 6]	**2.49%**	1.33%	1.28%	1.40%	1.65%
Consumer allowance for loan and lease losses as a percentage of total consumer loans and leases outstanding at December 31 [6]	**2.83**	1.23	1.19	1.27	1.34
Commercial allowance for loan and lease losses as a percentage of total commercial loans and leases outstanding at December 31 [5]	**1.90**	1.51	1.44	1.62	2.19
Average loans and leases outstanding at December 31 [5, 6]	**$905,944**	$773,142	$652,417	$537,218	$472,617
Net charge-offs as a percentage of average loans and leases outstanding at December 31 [5, 6]	**1.79%**	0.84%	0.70%	0.85%	0.66%
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases at December 31 [5, 6]	**141**	207	505	532	390
Ratio of the allowance for loan and lease losses at December 31 to net charge-offs [6]	**1.42**	1.79	1.99	1.76	2.77

(1) Includes small business commercial – domestic charge-offs of $2.0 billion, $931 million and $424 million in 2008, 2007 and 2006, respectively. Small business commercial – domestic charge offs were not material in 2005 and 2004.
(2) Includes small business commercial – domestic recoveries of $39 million, $51 million and $54 million in 2008, 2007 and 2006, respectively. Small business commercial – domestic recoveries were not material in 2005 and 2004.
(3) The 2008 amount includes the $1.2 billion addition of the Countrywide allowance for loan losses as of July 1, 2008. The 2007 amount includes the $725 million and $25 million additions of the LaSalle and U.S. Trust Corporation allowance for loan losses as of October 1, 2007 and July 1, 2007. The 2006 amount includes the $577 billion addition of the MBNA allowance for loan losses as of January 1, 2006. The 2004 amount includes the $2.8 billion addition of the FleetBoston allowance for loan losses as of April 1, 2004.
(4) The 2007 amount includes the $124 million addition of the LaSalle reserve for unfunded lending commitments as of October 1, 2007. The 2004 amount includes the $85 million addition of the FleetBoston reserve for unfunded lending commitments as of April 1, 2004.
(5) Outstanding loan and lease balances and ratios do not include loans measured at fair value in accordance with SFAS 159 at and for the year ended December 31, 2008 and 2007. Loans measured at fair value were $5.4 billion and $4.6 billion at December 31, 2008 and 2007. Average loans measured at fair value were $4.9 billion and $3.0 billion for 2008 and 2007.
(6) We account for acquired impaired loans in accordance with SOP 03-3. For more information on the impact of SOP 03-3 on asset quality, see Consumer Portfolio Credit Risk Management beginning on page 56.
n/a = not applicable

Table VII Allocation of the Allowance for Credit Losses by Product Type [1]

	December 31									
	2008		2007		2006		2005		2004	
(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	**$ 1,382**	**5.99%**	$ 207	1.79%	$ 248	2.75%	$ 277	3.44%	$ 240	2.78%
Home equity	**5,385**	**23.34**	963	8.31	133	1.48	136	1.69	115	1.33
Discontinued real estate	**658**	**2.85**	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Credit card – domestic	**3,947**	**17.11**	2,919	25.19	3,176	35.23	3,301	41.03	3,148	36.49
Credit card – foreign	**742**	**3.22**	441	3.81	336	3.73	–	–	–	–
Direct/Indirect consumer	**4,341**	**18.81**	2,077	17.92	1,378	15.28	421	5.23	375	4.35
Other consumer	**203**	**0.88**	151	1.30	289	3.20	380	4.73	500	5.80
Total consumer	**16,658**	**72.20**	6,758	58.32	5,560	61.67	4,515	56.12	4,378	50.75
Commercial – domestic [2]	**4,339**	**18.81**	3,194	27.56	2,162	23.98	2,100	26.10	2,101	24.36
Commercial real estate	**1,465**	**6.35**	1,083	9.35	588	6.52	609	7.57	644	7.47
Commercial lease financing	**223**	**0.97**	218	1.88	217	2.41	232	2.89	442	5.12
Commercial – foreign	**386**	**1.67**	335	2.89	489	5.42	589	7.32	1,061	12.30
Total commercial [3]	**6,413**	**27.80**	4,830	41.68	3,456	38.33	3,530	43.88	4,248	49.25
Allowance for loan and lease losses	**23,071**	**100.00%**	11,588	100.00%	9,016	100.00%	8,045	100.00%	8,626	100.00%
Reserve for unfunded lending commitments	**421**		518		397		395		402	
Allowance for credit losses	**$ 23,492**		$ 12,106		$ 9,413		$ 8,440		$ 9,028	

(1) We account for acquired impaired loans in accordance with SOP 03-3. For more information on the impact of SOP 03-3 on asset quality, see Consumer Portfolio Credit Risk Management beginning on page 56.
(2) Includes allowance for small business commercial – domestic loans of $2.4 billion, $1.4 billion and $578 million at December 31, 2008, 2007 and 2006, respectively. The allowance for small business commercial – domestic loans was not material in 2005 and 2004.
(3) Includes allowance for loan and lease losses for impaired commercial loans of $691 million, $123 million, $43 million, $55 million and $202 million at December 31, 2008, 2007, 2006, 2005 and 2004, respectively.
n/a = not applicable

Table VIII Selected Loan Maturity Data [1, 2]

	December 31, 2008			
(Dollars in millions)	Due in One Year or Less	Due After One Year Through Five Years	Due After Five Years	Total
Commercial – domestic	$ 79,299	$101,998	$ 41,431	$222,728
Commercial real estate – domestic	29,100	30,298	4,527	63,925
Foreign and other [3]	25,268	10,581	273	36,122
Total selected loans	$133,667	$142,877	$ 46,231	$322,775
Percent of total	41.4%	44.3%	14.3%	100.0%
Sensitivity of selected loans to changes in interest rates for loans due after one year:				
Fixed interest rates		$ 11,978	$ 23,888	
Floating or adjustable interest rates		130,899	22,343	
Total		$142,877	$ 46,231	

(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

	2008		2007		2006	
(Dollars in millions)	Amount	Rate	Amount	Rate	Amount	Rate
Federal funds purchased						
At December 31	**$ 14,432**	**0.11%**	$ 14,187	4.15%	$ 12,232	5.35%
Average during year	**8,969**	**1.67**	7,595	4.84	5,292	5.11
Maximum month-end balance during year	**18,788**	**–**	14,187	–	12,232	–
Securities sold under agreements to repurchase						
At December 31	**192,166**	**0.84**	207,248	4.63	205,295	4.94
Average during year	**264,012**	**2.54**	245,886	5.21	281,611	4.66
Maximum month-end balance during year	**295,537**	**–**	277,196	–	312,955	–
Commercial paper						
At December 31	**37,986**	**1.80**	55,596	4.85	41,223	5.34
Average during year	**57,337**	**3.09**	57,712	5.03	33,942	5.15
Maximum month-end balance during year	**65,399**	**–**	69,367	–	42,511	–
Other short-term borrowings						
At December 31	**120,070**	**2.07**	135,493	4.95	100,077	5.43
Average during year	**125,392**	**2.99**	113,621	5.18	90,287	5.21
Maximum month-end balance during year	**160,150**	**–**	142,047	–	104,555	–

Table X Non-exchange Traded Commodity Contracts

(Dollars in millions)	Asset Positions	Liability Positions
Net fair value of contracts outstanding, January 1, 2008	$ 1,148	$ 1,226
Effects of legally enforceable master netting agreements	3,573	3,573
Gross fair value of contracts outstanding, January 1, 2008	4,721	4,799
Contracts realized or otherwise settled	(1,674)	(1,605)
Fair value of new contracts	2,435	2,413
Other changes in fair value	(1,442)	(1,484)
Gross fair value of contracts outstanding, December 31, 2008	4,040	4,123
Effects of legally enforceable master netting agreements	(2,869)	(2,869)
Net fair value of contracts outstanding, December 31, 2008	**$ 1,171**	**$ 1,254**

Table XI Non-exchange Traded Commodity Contract Maturities

	December 31, 2008	
(Dollars in millions)	Asset Positions	Liability Positions
Maturity of less than 1 year	$ 1,623	$ 1,503
Maturity of 1-3 years	2,134	2,331
Maturity of 4-5 years	208	202
Maturity in excess of 5 years	75	87
Gross fair value of contracts outstanding	4,040	4,123
Effects of legally enforceable master netting agreements	(2,869)	(2,869)
Net fair value of contracts outstanding	**$ 1,171**	**$ 1,254**

Table XII Selected Quarterly Financial Data

(Dollars in millions, except per share information)	2008 Quarters Fourth	Third	Second	First	2007 Quarters Fourth	Third	Second	First
Income statement								
Net interest income	**$ 13,106**	$ 11,642	$ 10,621	$ 9,991	$ 9,165	$ 8,617	$ 8,389	$ 8,270
Noninterest income	**2,574**	7,979	9,789	7,080	3,639	7,480	11,281	9,992
Total revenue, net of interest expense	**15,680**	19,621	20,410	17,071	12,804	16,097	19,670	18,262
Provision for credit losses	**8,535**	6,450	5,830	6,010	3,310	2,030	1,810	1,235
Noninterest expense, before merger and restructuring charges	**10,641**	11,413	9,447	9,093	10,269	8,627	9,125	9,093
Merger and restructuring charges	**306**	247	212	170	140	84	75	111
Income (loss) before income taxes	**(3,802)**	1,511	4,921	1,798	(915)	5,356	8,660	7,823
Income tax expense (benefit)	**(2,013)**	334	1,511	588	(1,183)	1,658	2,899	2,568
Net income (loss)	**$ (1,789)**	$ 1,177	$ 3,410	$ 1,210	$ 268	$ 3,698	$ 5,761	$ 5,255
Average common shares issued and outstanding (in thousands)	**4,957,049**	4,543,963	4,435,719	4,427,823	4,421,554	4,420,616	4,419,246	4,432,664
Average diluted common shares issued and outstanding (in thousands)	**4,957,049**	4,563,508	4,457,193	4,461,201	4,470,108	4,475,917	4,476,799	4,497,028
Performance ratios								
Return on average assets	**(0.37)%**	0.25 %	0.78 %	0.28 %	0.06 %	0.93 %	1.48 %	1.40 %
Return on average common shareholders' equity	**(6.68)**	1.97	9.25	2.90	0.60	11.02	17.55	16.16
Return on average tangible shareholders' equity [1]	**(8.28)**	6.24	18.54	7.26	1.90	25.58	39.22	36.29
Total ending equity to total ending assets	**9.74**	8.79	9.48	9.00	8.56	8.77	8.85	8.98
Total average equity to total average assets	**9.06**	8.73	9.20	8.77	8.32	8.51	8.55	8.78
Dividend payout	**n/m**	n/m	88.67	n/m	n/m	77.97	43.60	48.02
Per common share data								
Earnings (loss)	**$ (0.48)**	$ 0.15	$ 0.73	$ 0.23	$ 0.05	$ 0.83	$ 1.29	$ 1.18
Diluted earnings (loss)	**(0.48)**	0.15	0.72	0.23	0.05	0.82	1.28	1.16
Dividends paid	**0.32**	0.64	0.64	0.64	0.64	0.64	0.56	0.56
Book value	**27.77**	30.01	31.11	31.22	32.09	30.45	29.95	29.74
Market price per share of common stock								
Closing	**$ 14.08**	$ 35.00	$ 23.87	$ 37.91	$ 41.26	$ 50.27	$ 48.89	$ 51.02
High closing	**38.13**	37.48	40.86	45.03	52.71	51.87	51.82	54.05
Low closing	**11.25**	18.52	23.87	35.31	41.10	47.00	48.80	49.46
Market capitalization	**$ 70,645**	$ 159,672	$ 106,292	$ 168,806	$ 183,107	$ 223,041	$ 216,922	$ 226,481
Average balance sheet								
Total loans and leases	**$ 941,563**	$ 946,914	$ 878,639	$ 875,661	$ 868,119	$ 780,516	$ 740,199	$ 714,042
Total assets	**1,948,854**	1,905,691	1,754,613	1,764,927	1,742,467	1,580,565	1,561,649	1,521,418
Total deposits	**892,141**	857,845	786,002	787,623	781,625	702,481	697,035	686,704
Long-term debt	**255,709**	264,934	205,194	198,463	196,444	175,265	158,500	148,627
Common shareholders' equity	**142,535**	142,303	140,243	141,456	141,085	131,606	130,700	130,737
Total shareholders' equity	**176,566**	166,454	161,428	154,728	144,924	134,487	133,551	133,588
Asset quality [2]								
Allowance for credit losses [3]	**$ 23,492**	$ 20,773	$ 17,637	$ 15,398	$ 12,106	$ 9,927	$ 9,436	$ 9,106
Nonperforming assets [4]	**18,232**	13,576	9,749	7,827	5,948	3,372	2,392	2,059
Allowance for loan and lease losses as a percentage of total loans and leases outstanding [5]	**2.49 %**	2.17 %	1.98 %	1.71 %	1.33 %	1.21 %	1.20 %	1.21 %
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases [5]	**141**	173	187	203	207	300	397	443
Net charge-offs	**$ 5,541**	$ 4,356	$ 3,619	$ 2,715	$ 1,985	$ 1,573	$ 1,495	$ 1,427
Annualized net charge-offs as a percentage of average loans and leases outstanding [5]	**2.36 %**	1.84 %	1.67 %	1.25 %	0.91 %	0.80 %	0.81 %	0.81 %
Nonperforming loans and leases as a percentage of total loans and leases outstanding [5]	**1.77**	1.25	1.06	0.84	0.64	0.40	0.30	0.27
Nonperforming assets as a percentage of total loans, leases and foreclosed properties [4, 5]	**1.96**	1.45	1.13	0.90	0.68	0.43	0.32	0.29
Ratio of the allowance for loan and lease losses at period end to annualized net charge-offs	**1.05**	1.17	1.18	1.36	1.47	1.53	1.51	1.51
Capital ratios (period end)								
Risk-based capital:								
Tier 1	**9.15 %**	7.55 %	8.25 %	7.51 %	6.87 %	8.22 %	8.52 %	8.57 %
Total	**13.00**	11.54	12.60	11.71	11.02	11.86	12.11	11.94
Tier 1 Leverage	**6.44**	5.51	6.07	5.59	5.04	6.20	6.33	6.25

(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 23.
(2) We account for acquired impaired loans in accordance with SOP 03-3. For more information on the impact of SOP 03-3 on asset quality, see Consumer Portfolio Credit Risk Management beginning on page 56.
(3) Includes the allowance for loan and lease losses, and the reserve for unfunded lending commitments.
(4) Balances and ratios do not include nonperforming LHFS and nonperforming AFS debt securities.
(5) Balances and ratios do not include loans measured at fair value in accordance with SFAS 159.
n/m = not meaningful

Table XIII Quarterly Average Balances and Interest Rates – FTE Basis

(Dollars in millions)	Fourth Quarter 2008 Average Balance	Fourth Quarter 2008 Interest Income/ Expense	Fourth Quarter 2008 Yield/ Rate	Third Quarter 2008 Average Balance	Third Quarter 2008 Interest Income/ Expense	Third Quarter 2008 Yield/ Rate
Earning assets						
Time deposits placed and other short-term investments	**$ 10,511**	**$ 158**	**5.97%**	$ 11,361	$ 101	3.54%
Federal funds sold and securities purchased under agreements to resell	**104,843**	**393**	**1.50**	136,322	912	2.67
Trading account assets	**205,698**	**2,170**	**4.21**	191,757	2,390	4.98
Debt securities (1)	**280,942**	**3,913**	**5.57**	266,013	3,672	5.52
Loans and leases (2):						
Residential mortgage	**253,468**	**3,581**	**5.65**	260,748	3,712	5.69
Home equity	**152,035**	**1,969**	**5.17**	151,142	2,124	5.59
Discontinued real estate	**21,324**	**459**	**8.60**	22,031	399	7.25
Credit card – domestic	**64,906**	**1,784**	**10.94**	63,414	1,682	10.55
Credit card – foreign	**17,211**	**521**	**12.05**	17,075	535	12.47
Direct/Indirect consumer (3)	**83,331**	**1,714**	**8.18**	85,392	1,790	8.34
Other consumer (4)	**3,544**	**70**	**7.83**	3,723	80	8.78
Total consumer	**595,819**	**10,098**	**6.76**	603,525	10,322	6.82
Commercial – domestic	**226,095**	**2,890**	**5.09**	224,117	2,852	5.06
Commercial real estate (5)	**64,586**	**706**	**4.35**	63,220	727	4.57
Commercial lease financing	**22,069**	**242**	**4.40**	22,585	53	0.93
Commercial – foreign	**32,994**	**373**	**4.49**	33,467	377	4.48
Total commercial	**345,744**	**4,211**	**4.85**	343,389	4,009	4.64
Total loans and leases	**941,563**	**14,309**	**6.06**	946,914	14,331	6.03
Other earning assets	**73,116**	**959**	**5.22**	70,099	1,068	6.07
Total earning assets (6)	**1,616,673**	**21,902**	**5.40**	1,622,466	22,474	5.52
Cash and cash equivalents	**77,388**			36,030		
Other assets, less allowance for loan and lease losses	**254,793**			247,195		
Total assets	**$1,948,854**			$1,905,691		
Interest-bearing liabilities						
Domestic interest-bearing deposits:						
Savings	**$ 31,561**	**$ 58**	**0.73%**	$ 32,297	$ 58	0.72%
NOW and money market deposit accounts	**285,390**	**813**	**1.13**	278,520	973	1.39
Consumer CDs and IRAs	**229,410**	**1,835**	**3.18**	218,862	1,852	3.37
Negotiable CDs, public funds and other time deposits	**36,510**	**270**	**2.94**	36,039	291	3.21
Total domestic interest-bearing deposits	**582,871**	**2,976**	**2.03**	565,718	3,174	2.23
Foreign interest-bearing deposits:						
Banks located in foreign countries	**41,398**	**125**	**1.20**	36,230	266	2.91
Governments and official institutions	**13,738**	**30**	**0.87**	11,847	72	2.43
Time, savings and other	**48,836**	**165**	**1.34**	48,209	334	2.76
Total foreign interest-bearing deposits	**103,972**	**320**	**1.22**	96,286	672	2.78
Total interest-bearing deposits	**686,843**	**3,296**	**1.91**	662,004	3,846	2.31
Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings	**459,743**	**1,910**	**1.65**	465,511	3,223	2.76
Trading account liabilities	**70,859**	**524**	**2.94**	77,271	661	3.40
Long-term debt	**255,709**	**2,766**	**4.32**	264,934	2,824	4.26
Total interest-bearing liabilities (6)	**1,473,154**	**8,496**	**2.30**	1,469,720	10,554	2.86
Noninterest-bearing sources:						
Noninterest-bearing deposits	**205,298**			195,841		
Other liabilities	**93,836**			73,676		
Shareholders' equity	**176,566**			166,454		
Total liabilities and shareholders' equity	**$1,948,854**			$1,905,691		
Net interest spread			**3.10%**			2.66%
Impact of noninterest-bearing sources			**0.21**			0.27
Net interest income/yield on earning assets		**$ 13,406**	**3.31%**		$ 11,920	2.93%

(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. We account for acquired impaired loans in accordance with SOP 03-3. Loans accounted for in accordance with SOP 03-3 were written down to fair value upon acquisition and accrete interest income over the remaining life of the loan.
(3) Includes foreign consumer loans of $2.0 billion, $2.6 billion, $3.0 billion and $3.3 billion in the fourth, third, second and first quarters of 2008, and $3.6 billion in the fourth quarter of 2007, respectively.
(4) Includes consumer finance loans of $2.7 billion, $2.7 billion, $2.8 billion and $3.0 billion in the fourth, third, second and first quarters of 2008, and $3.1 billion in the fourth quarter of 2007, respectively; and other foreign consumer loans of $654 million, $725 million, $862 million and $857 million in the fourth, third, second and first quarters of 2008, and $845 million in the fourth quarter of 2007, respectively.
(5) Includes domestic commercial real estate loans of $63.6 billion, $62.2 billion, $61.6 billion and $61.0 billion in the fourth, third, second and first quarters of 2008, and $58.5 billion in the fourth quarter of 2007, respectively.
(6) Interest income includes the impact of interest rate risk management contracts, which decreased interest income on assets $41 million, $12 million, $104 million and $103 million in the fourth, third, second and first quarters of 2008, and $134 million in the fourth quarter of 2007, respectively. Interest expense includes the impact of interest rate risk management contracts, which increased interest expense on liabilities $237 million, $86 million, $37 million and $49 million in the fourth, third, second and first quarters of 2008, and $201 million in the fourth quarter of 2007, respectively. For further information on interest rate contracts, see Interest Rate Risk Management for Nontrading Activities beginning on page 82.

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

(Dollars in millions)	Second Quarter 2008 Average Balance	Second Quarter 2008 Interest Income/ Expense	Second Quarter 2008 Yield/ Rate	First Quarter 2008 Average Balance	First Quarter 2008 Interest Income/ Expense	First Quarter 2008 Yield/ Rate	Fourth Quarter 2007 Average Balance	Fourth Quarter 2007 Interest Income/ Expense	Fourth Quarter 2007 Yield/ Rate
Earning assets									
Time deposits placed and other short-term investments	$ 10,310	$ 87	3.40%	$ 10,596	$ 94	3.56%	$ 10,459	$ 122	4.63%
Federal funds sold and securities purchased under agreements to resell	126,169	800	2.54	145,043	1,208	3.34	151,938	1,748	4.59
Trading account assets	184,547	2,282	4.95	192,410	2,417	5.04	190,700	2,422	5.06
Debt securities [1]	235,369	2,963	5.04	219,377	2,835	5.17	206,873	2,795	5.40
Loans and leases [2]:									
Residential mortgage	256,164	3,541	5.54	270,541	3,837	5.68	277,058	3,972	5.73
Home equity	120,265	1,627	5.44	116,562	1,872	6.46	112,369	2,043	7.21
Discontinued real estate	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Credit card – domestic	61,655	1,603	10.45	63,277	1,774	11.28	60,063	1,781	11.76
Credit card – foreign	16,566	512	12.43	15,241	474	12.51	14,329	464	12.86
Direct/Indirect consumer [3]	82,593	1,731	8.43	78,705	1,699	8.68	75,138	1,658	8.75
Other consumer [4]	3,953	84	8.36	4,049	87	8.61	4,206	71	6.77
Total consumer	541,196	9,098	6.75	548,375	9,743	7.13	543,163	9,989	7.32
Commercial – domestic	219,537	2,762	5.06	212,394	3,198	6.06	213,200	3,704	6.89
Commercial real estate [5]	62,810	737	4.72	62,202	887	5.74	59,702	1,053	6.99
Commercial lease financing	22,276	243	4.37	22,227	261	4.69	22,239	574	10.33
Commercial – foreign	32,820	366	4.48	30,463	387	5.11	29,815	426	5.67
Total commercial	337,443	4,108	4.89	327,286	4,733	5.81	324,956	5,757	7.03
Total loans and leases	878,639	13,206	6.04	875,661	14,476	6.64	868,119	15,746	7.21
Other earning assets	65,200	1,005	6.19	67,208	1,129	6.75	74,909	1,296	6.89
Total earning assets [6]	1,500,234	20,343	5.44	1,510,295	22,159	5.89	1,502,998	24,129	6.39
Cash and cash equivalents	33,799			33,949			33,714		
Other assets, less allowance for loan and lease losses	220,580			220,683			205,755		
Total assets	$1,754,613			$1,764,927			$1,742,467		
Interest-bearing liabilities									
Domestic interest-bearing deposits:									
Savings	$ 33,164	$ 64	0.77%	$ 31,798	$ 50	0.63%	$ 31,961	$ 50	0.63%
NOW and money market deposit accounts	258,104	856	1.33	248,949	1,139	1.84	240,914	1,334	2.20
Consumer CDs and IRAs	178,828	1,646	3.70	188,005	2,071	4.43	183,910	2,179	4.70
Negotiable CDs, public funds and other time deposits	24,216	195	3.25	32,201	320	4.00	34,997	420	4.76
Total domestic interest-bearing deposits	494,312	2,761	2.25	500,953	3,580	2.87	491,782	3,983	3.21
Foreign interest-bearing deposits:									
Banks located in foreign countries	33,777	272	3.25	39,196	400	4.10	45,050	557	4.91
Governments and official institutions	11,789	77	2.62	14,650	132	3.62	16,506	192	4.62
Time, savings and other	55,403	410	2.97	53,064	476	3.61	51,919	521	3.98
Total foreign interest-bearing deposits	100,969	759	3.02	106,910	1,008	3.79	113,475	1,270	4.44
Total interest-bearing deposits	595,281	3,520	2.38	607,863	4,588	3.04	605,257	5,253	3.44
Federal funds purchased, securities sold under agreements to repurchase and other short-term borrowings	444,578	3,087	2.79	452,854	4,142	3.68	456,530	5,598	4.87
Trading account liabilities	70,546	749	4.27	82,432	840	4.10	81,500	825	4.02
Long-term debt	205,194	2,050	4.00	198,463	2,298	4.63	196,444	2,638	5.37
Total interest-bearing liabilities [6]	1,315,599	9,406	2.87	1,341,612	11,868	3.55	1,339,731	14,314	4.25
Noninterest-bearing sources:									
Noninterest-bearing deposits	190,721			179,760			176,368		
Other liabilities	86,865			88,827			81,444		
Shareholders' equity	161,428			154,728			144,924		
Total liabilities and shareholders' equity	$1,754,613			$1,764,927			$1,742,467		
Net interest spread			2.57%			2.34%			2.14%
Impact of noninterest-bearing sources			0.35			0.39			0.47
Net interest income/yield on earning assets		$ 10,937	2.92%		$ 10,291	2.73%		$ 9,815	2.61%

For Footnotes, see page 103.
n/a = not applicable

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.

CDO-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 – 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.

Home Equity Rapid Amortization Event – Certain events defined by the Corporation's home equity securitizations documents, including when aggregate draws on monoline insurer's policies (which protect the bondholders in the securitization) exceed a specified threshold. The existence of a rapid amortization event affects the flow of funds and may cause acceleration of payments to the holders of the notes.

Interest-only 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.

Interest Rate Lock Commitments (IRLCs) – Commitment with a loan applicant in which the loan terms, including interest rate, are guaranteed for a designated period of time subject to credit approval.

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.

Option-Adjusted Spread (OAS) – The spread that is added to the discount rate so that the sum of the discounted cash flows equals the market price, thus, it is a measure of the extra yield over the reference discount factor (i.e., the forward swap curve) that a company is expected to earn by holding the asset.

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 and intangible assets (excluding MSRs).

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.

SOP 03-3 Portfolio – Loans acquired from Countrywide which showed signs of deterioration and were considered impaired. These loans were written down to fair value at the acquisition date in accordance with SOP 03-3.

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.

Subprime Loans – Although a standard definition for subprime loans (including subprime mortgage loans) does not exist, the Corporation defines subprime loans as specific product offerings for higher risk borrowers, including individuals with one or a combination of high credit risk factors, such as low FICO scores (generally less than 620 for secured products and 660 for unsecured products), high debt to income ratios and inferior payment history.

Super Senior CDO 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.

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.

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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 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
SAB 109	Written Loan Commitments Recorded at Fair Value Through Earnings
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
ARS	Auction rate securities
CDO	Collateralized debt obligation
CLO	Collateralized loan obligation
CMBS	Commercial mortgage-backed securities
CRC	Credit Risk Committee
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/Federal Reserve	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
GRC	Global Markets Risk Committee
IPO	Initial public offering
LHFS	Loans held-for-sale
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 78 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.

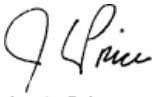
The Corporation's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United 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, 2008, 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, 2008, 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, 2008, 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

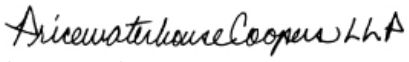
To the Board of Directors and Shareholders
of Bank of America Corporation:

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, 2008 and 2007, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2008 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, 2008, 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 108 of the 2008 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 19 – Fair Value Disclosures* to the Consolidated Financial Statements, as of the beginning of 2007 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 25, 2009

Bank of America Corporation and Subsidiaries

Consolidated Statement of Income

(Dollars in millions, except per share information)	Year Ended December 31 2008	2007	2006
Interest income			
Interest and fees on loans and leases	**$ 56,017**	$ 55,681	$ 48,274
Interest on debt securities	**13,146**	9,784	11,655
Federal funds sold and securities purchased under agreements to resell	**3,313**	7,722	7,823
Trading account assets	**9,057**	9,417	7,232
Other interest income	**4,151**	4,700	3,601
Total interest income	**85,684**	87,304	78,585
Interest expense			
Deposits	**15,250**	18,093	14,480
Short-term borrowings	**12,362**	21,967	19,837
Trading account liabilities	**2,774**	3,444	2,640
Long-term debt	**9,938**	9,359	7,034
Total interest expense	**40,324**	52,863	43,991
Net interest income	**45,360**	34,441	34,594
Noninterest income			
Card income	**13,314**	14,077	14,290
Service charges	**10,316**	8,908	8,224
Investment and brokerage services	**4,972**	5,147	4,456
Investment banking income	**2,263**	2,345	2,317
Equity investment income	**539**	4,064	3,189
Trading account profits (losses)	**(5,911)**	(4,889)	3,358
Mortgage banking income	**4,087**	902	541
Insurance premiums	**1,833**	761	437
Gains (losses) on sales of debt securities	**1,124**	180	(443)
Other income (loss)	**(5,115)**	897	1,813
Total noninterest income	**27,422**	32,392	38,182
Total revenue, net of interest expense	**72,782**	66,833	72,776
Provision for credit losses	**26,825**	8,385	5,010
Noninterest expense			
Personnel	**18,371**	18,753	18,211
Occupancy	**3,626**	3,038	2,826
Equipment	**1,655**	1,391	1,329
Marketing	**2,368**	2,356	2,336
Professional fees	**1,592**	1,174	1,078
Amortization of intangibles	**1,834**	1,676	1,755
Data processing	**2,546**	1,962	1,732
Telecommunications	**1,106**	1,013	945
Other general operating	**7,496**	5,751	4,776
Merger and restructuring charges	**935**	410	805
Total noninterest expense	**41,529**	37,524	35,793
Income before income taxes	**4,428**	20,924	31,973
Income tax expense	**420**	5,942	10,840
Net income	**$ 4,008**	$ 14,982	$ 21,133
Preferred stock dividends	**1,452**	182	22
Net income available to common shareholders	**$ 2,556**	$ 14,800	$ 21,111
Per common share information			
Earnings	**$ 0.56**	$ 3.35	$ 4.66
Diluted earnings	**0.55**	3.30	4.59
Dividends paid	**2.24**	2.40	2.12
Average common shares issued and outstanding (in thousands)	**4,592,085**	4,423,579	4,526,637
Average diluted common shares issued and outstanding (in thousands)	**4,612,491**	4,480,254	4,595,896

See accompanying Notes to Consolidated Financial Statements.

Bank of America Corporation and Subsidiaries

Consolidated Balance Sheet

(Dollars in millions)	December 31 2008	2007
Assets		
Cash and cash equivalents	**$ 32,857**	$ 42,531
Time deposits placed and other short-term investments	**9,570**	11,773
Federal funds sold and securities purchased under agreements to resell (includes **$2,330** and $2,578 measured at fair value and **$82,099** and $128,887 pledged as collateral)	**82,478**	129,552
Trading account assets (includes **$69,348** and $88,745 pledged as collateral)	**159,522**	162,064
Derivative assets	**62,252**	34,662
Debt securities:		
Available-for-sale (includes **$158,939** and $107,440 pledged as collateral)	**276,904**	213,330
Held-to-maturity, at cost (fair value – **$685** and $726)	**685**	726
Total debt securities	**277,589**	214,056
Loans and leases (includes **$5,413** and $4,590 measured at fair value and **$166,891** and $115,285 pledged as collateral)	**931,446**	876,344
Allowance for loan and lease losses	**(23,071)**	(11,588)
Loans and leases, net of allowance	**908,375**	864,756
Premises and equipment, net	**13,161**	11,240
Mortgage servicing rights (includes **$12,733** and $3,053 measured at fair value)	**13,056**	3,347
Goodwill	**81,934**	77,530
Intangible assets	**8,535**	10,296
Loans held-for-sale (includes **$18,964** and $15,765 measured at fair value)	**31,454**	34,424
Other assets (includes **$29,906** and $25,323 measured at fair value)	**137,160**	119,515
Total assets	**$ 1,817,943**	$ 1,715,746
Liabilities		
Deposits in domestic offices:		
Noninterest-bearing	**$ 213,994**	$ 188,466
Interest-bearing (includes **$1,717** and $2,000 measured at fair value)	**576,938**	501,882
Deposits in foreign offices:		
Noninterest-bearing	**4,004**	3,761
Interest-bearing	**88,061**	111,068
Total deposits	**882,997**	805,177
Federal funds purchased and securities sold under agreements to repurchase	**206,598**	221,435
Trading account liabilities	**57,287**	77,342
Derivative liabilities	**30,709**	22,423
Commercial paper and other short-term borrowings	**158,056**	191,089
Accrued expenses and other liabilities (includes **$1,978** and $660 measured at fair value and **$421** and $518 of reserve for unfunded lending commitments)	**36,952**	53,969
Long-term debt	**268,292**	197,508
Total liabilities	**1,640,891**	1,568,943
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 – **8,202,042** and 185,067 shares	**37,701**	4,409
Common stock and additional paid-in capital, $0.01 par value; authorized – **10,000,000,000** and 7,500,000,000 shares; issued and outstanding – **5,017,435,592** and 4,437,885,419 shares	**76,766**	60,328
Retained earnings	**73,823**	81,393
Accumulated other comprehensive income (loss)	**(10,825)**	1,129
Other	**(413)**	(456)
Total shareholders' equity	**177,052**	146,803
Total liabilities and shareholders' equity	**$ 1,817,943**	$ 1,715,746

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, 2005	$ 271	3,999,688	$ 41,693	$ 67,552	$ (7,556)	$ (427)	$ 101,533	
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
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 effects		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
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 effects		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
Net income				**4,008**			**4,008**	**4,008**
Net changes in available-for-sale debt and marketable equity securities					**(8,557)**		**(8,557)**	**(8,557)**
Net changes in foreign currency translation adjustments					**(1,000)**		**(1,000)**	**(1,000)**
Net changes in derivatives					**944**		**944**	**944**
Employee benefit plan adjustments					**(3,341)**		**(3,341)**	**(3,341)**
Dividends paid:								
Common				**(10,256)**			**(10,256)**	
Preferred [5]				**(1,272)**			**(1,272)**	
Issuance of preferred stock	**33,242**						**33,242**	
Stock issued in acquisition [6]		**106,776**	**4,201**				**4,201**	
Issuance of common stock		**455,000**	**9,883**				**9,883**	
Common stock issued under employee plans and related tax effects		**17,775**	**854**			**43**	**897**	
Issuance of stock warrants			**1,500**				**1,500**	
Other	**50**			**(50)**			**–**	
Balance, December 31, 2008	**$ 37,701**	**5,017,436**	**$ 76,766**	**$ 73,823**	**$ (10,825)**	**$ (413)**	**$ 177,052**	**$ (7,946)**

(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 adjustments for the fair value of outstanding MBNA Corporation (MBNA) stock-based compensation awards of 32 thousand shares and $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.
(5) Excludes $130 million of Series N Preferred Stock fourth quarter 2008 cumulative preferred dividends not declared as of year end and $50 million of accretion of discounts on preferred stock issuances.
(6) Includes adjustments for the fair value of certain Countrywide stock-based compensation awards of 507 thousand shares and $86 million.

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 2008	2007	2006
Operating activities			
Net income	**$ 4,008**	$ 14,982	$ 21,133
Reconciliation of net income to net cash provided by operating activities:			
Provision for credit losses	**26,825**	8,385	5,010
(Gains) losses on sales of debt securities	**(1,124)**	(180)	443
Depreciation and premises improvements amortization	**1,485**	1,168	1,114
Amortization of intangibles	**1,834**	1,676	1,755
Deferred income tax (benefit) expense	**(5,801)**	(753)	1,850
Net increase in trading and derivative instruments	**(21,603)**	(8,108)	(3,870)
Net (increase) decrease in other assets	**3,803**	(15,855)	(17,070)
Net increase (decrease) in accrued expenses and other liabilities	**(14,449)**	4,190	4,517
Other operating activities, net	**9,056**	5,531	(373)
Net cash provided by operating activities	**4,034**	11,036	14,509
Investing activities			
Net (increase) decrease in time deposits placed and other short-term investments	**2,203**	2,191	(3,053)
Net decrease in federal funds sold and securities purchased under agreements to resell	**53,723**	6,294	13,020
Proceeds from sales of available-for-sale debt securities	**120,972**	28,107	53,446
Proceeds from paydowns and maturities of available-for-sale debt securities	**26,068**	19,233	22,417
Purchases of available-for-sale debt securities	**(184,232)**	(28,016)	(40,905)
Proceeds from maturities of held-to-maturity debt securities	**741**	630	7
Purchases of held-to-maturity debt securities	**(840)**	(314)	–
Proceeds from sales of loans and leases	**52,455**	57,875	37,812
Other changes in loans and leases, net	**(69,574)**	(177,665)	(145,779)
Net purchases of premises and equipment	**(2,098)**	(2,143)	(748)
Proceeds from sales of foreclosed properties	**1,187**	104	93
(Acquisition) divestiture of business activities, net	**6,650**	(19,816)	(2,388)
Other investing activities, net	**(10,185)**	5,040	(2,226)
Net cash used in investing activities	**(2,930)**	(108,480)	(68,304)
Financing activities			
Net increase in deposits	**14,830**	45,368	38,340
Net decrease in federal funds purchased and securities sold under agreements to repurchase	**(34,529)**	(1,448)	(22,454)
Net increase (decrease) in commercial paper and other short-term borrowings	**(33,033)**	32,840	23,709
Proceeds from issuance of long-term debt	**43,782**	67,370	49,464
Retirement of long-term debt	**(35,072)**	(28,942)	(17,768)
Proceeds from issuance of preferred stock	**34,742**	1,558	2,850
Redemption of preferred stock	**–**	–	(270)
Proceeds from issuance of common stock	**10,127**	1,118	3,117
Common stock repurchased	**–**	(3,790)	(14,359)
Cash dividends paid	**(11,528)**	(10,878)	(9,661)
Excess tax benefits of share-based payments	**42**	254	477
Other financing activities, net	**(56)**	(38)	(312)
Net cash provided by (used in) financing activities	**(10,695)**	103,412	53,133
Effect of exchange rate changes on cash and cash equivalents	**(83)**	134	92
Net increase (decrease) in cash and cash equivalents	**(9,674)**	6,102	(570)
Cash and cash equivalents at January 1	**42,531**	36,429	36,999
Cash and cash equivalents at December 31	**$ 32,857**	$ 42,531	$ 36,429
Supplemental cash flow disclosures			
Cash paid for interest	**$ 41,951**	$ 51,829	$ 42,355
Cash paid for income taxes	**4,700**	9,196	7,210

During 2008, the Corporation reclassified $10.9 billion of net transfers of AFS debt securities to trading account assets.

The Corporation securitized $26.1 billion of residential mortgage loans into mortgage-backed securities and $4.9 billion of automobile loans into asset-backed securities which were retained by the Corporation during 2008.

The fair values of noncash assets acquired and liabilities assumed in the Countrywide acquisition were $157.4 billion and $157.8 billion.

Approximately 107 million shares of common stock, valued at approximately $4.2 billion were issued in connection with the Countrywide acquisition.

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 July 1, 2008, Bank of America Corporation and its subsidiaries (the Corporation) acquired all of the outstanding shares of Countrywide Financial Corporation (Countrywide) through its merger with a subsidiary of the Corporation in exchange for stock with a value of $4.2 billion. On October 1, 2007, 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. These mergers were accounted for under the purchase method of accounting. Consequently, Countrywide, LaSalle and U.S. Trust Corporation's results of operations were included in the Corporation's results from their dates of acquisition.

On January 1, 2009, the Corporation acquired Merrill Lynch & Co., Inc. (Merrill Lynch) through its merger with a subsidiary of the Corporation. For more information related to the Merrill Lynch acquisition, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

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, 2008, 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 Countrywide Bank, FSB. Effective October 2008, LaSalle Bank, N.A. merged with and into Bank of America, N.A., with Bank of America, N.A. as the surviving entity. This merger had no impact on the Consolidated Financial Statements of the Corporation.

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 are subject to impairment testing. 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.

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

Recently Proposed and Issued Accounting Pronouncements

On January 12, 2009, the Financial Accounting Standards Board (FASB) issued FASB Staff Position (FSP) No. Emerging Issues Task Force (EITF) 99-20-1, "Amendments to the Impairment and Interest Income Measurement Guidance of EITF Issue No. 99-20" (FSP EITF 99-20-1). FSP EITF 99-20-1 changed the guidance for the determination of whether an impairment of certain non-investment grade, beneficial interests in securitized financial assets is considered other-than-temporary. The adoption of FSP EITF 99-20-1, effective December 31, 2008, did not have a material impact on the Corporation's financial condition and results of operations.

On December 11, 2008, the FASB issued FSP No. FAS 140-4 and FIN 46(R)-8, "Disclosures by Public Entities (Enterprises) about Transfers of Financial Assets and Interests in Variable Interest Entities" (FSP FAS 140-4 and FIN 46(R)-8). FSP FAS 140-4 and FIN 46(R)-8 amends Statement of Financial Accounting Standards (SFAS) No. 140 "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities – a replacement of FASB Statement No. 125" (SFAS 140) to require public entities to provide additional disclosures about transferors' continuing involvements with transferred financial assets. It also amends FASB Interpretation (FIN) No. 46 (revised December 2003) "Consolidation of Variable Interest Entities – an interpretation of ARB No. 51" (FIN 46R) to require public enterprises, including sponsors that have a variable interest in a VIE, to provide additional disclosures about their involvement with VIEs. The expanded disclosure requirements for FSP FAS 140-4 and FIN 46(R)-8 are effective for the Corporation's financial statements for the year ending December 31, 2008 and are included in *Note 8 – Securitizations* and *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements. The adoption of FSP FAS 140-4 and FIN 46(R)-8 did not impact the Corporation's financial condition and results of operations.

On October 10, 2008, the FASB issued FSP No. 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active" (FSP 157-3). FSP 157-3 clarifies how SFAS No. 157 "Fair Value Measurements" (SFAS 157) should be applied when valuing securities in markets that are not active. The adoption of FSP 157-3, effective September 30, 2008, did not have a material impact on the Corporation's financial condition and results of operations.

On September 15, 2008, the FASB released exposure drafts which would amend SFAS 140 and FIN 46R. As written, the proposed amendments would, among other things, eliminate the concept of a qualifying special purpose entity (QSPE) and change the standards for consolidation of VIEs. The changes would be effective for both existing and newly created entities as of January 1, 2010. If adopted as written, the amendments would likely result in the consolidation of certain QSPEs and VIEs that are not currently recorded on the Consolidated Balance Sheet of the Corporation (e.g., credit card securitization trusts). Management is currently evaluating the impact the exposure drafts would have on the Corporation's financial condition and results of operations if adopted as written.

On September 12, 2008, the FASB issued FSP No. 133-1 and FIN 45-4, "Disclosures about Credit Derivatives and Certain Guarantees: An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45; and Clarification of the Effective Date of FASB Statement No. 161" (FSP 133-1). FSP 133-1 requires expanded disclosures about credit derivatives and guarantees. The expanded disclosure requirements for FSP 133-1 were effective for the Corporation's financial statements for the year ending December 31, 2008 and are included in *Note 4 – Derivatives* to the Consolidated Financial Statements. The adoption of FSP 133-1 did not impact the Corporation's financial condition and results of operations.

On June 16, 2008, the FASB issued FSP EITF 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities" (FSP 03-6-1). FSP 03-6-1 defines unvested share-based payment awards that contain nonforfeitable rights to dividends as participating securities that should be included in computing earnings per share (EPS) using the two-class method under SFAS No. 128, "Earnings per Share." FSP 03-6-1 is effective for the Corporation's financial statements for the year beginning on January 1, 2009. Additionally, all prior-period EPS data shall be adjusted retrospectively. The adoption of FSP 03-6-1 will not have a material impact on the Corporation's financial condition and results of operations.

On March 19, 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities" (SFAS 161) which requires expanded qualitative, quantitative and credit-risk disclosures about derivatives and hedging activities and their effects on the Corporation's financial position, financial performance and cash flows. SFAS 161 is effective for the Corporation's financial statements for the year beginning on January 1, 2009. The adoption of SFAS 161 will not impact the Corporation's financial condition and results of operations.

On February 20, 2008, the FASB issued FSP No. FAS 140-3, "Accounting for Transfers of Financial Assets and Repurchase Financing Transactions" (FSP 140-3). FSP 140-3 requires that an initial transfer of a financial asset and a repurchase financing that was entered into contemporaneously with, or in contemplation of, the initial transfer be evaluated together as a linked transaction under SFAS 140, unless certain criteria are met. FSP 140-3 is effective for the Corporation's financial statements for the year beginning on January 1, 2009. The adoption of FSP 140-3 is not expected to have a material impact on the Corporation's financial condition and results of operations.

On January 1, 2008, the Corporation adopted the Securities and Exchange Commission's (SEC) Staff Accounting Bulletin (SAB) No. 109, "Written Loan Commitments Recorded at Fair Value Through Earnings" (SAB 109) for loan commitments measured at fair value through earnings which were issued or modified since adoption on a prospective basis. 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 generally has resulted in higher fair values being recorded upon initial recognition of derivative interest rate lock commitments (IRLCs).

On January 1, 2008, the Corporation adopted EITF consensus on Issue No. 06-11, "Accounting for Income Tax Benefits of Dividends on Share-Based Payment Awards" (EITF 06-11). 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. The adoption of EITF 06-11 did not have a material impact on the Corporation's financial condition and results of operations.

On December 4, 2007, the FASB issued 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. The Corporation applied SFAS 141R to its January 1, 2009 acquisition of Merrill Lynch.

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. The adoption of SFAS 160 is not expected to have a material impact on the Corporation's financial condition and results of operations.

On January 1, 2007, the Corporation adopted 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.

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, 2008, the fair value of this collateral was approximately $144.5 billion of which $117.6 billion was sold or repledged. At December 31, 2007, the fair value of this collateral was approximately $210.7 billion of which $156.3 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, U.S. Treasury Department (U.S. 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), IRLCs and first mortgage loans held-for-sale (LHFS) 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 (loss). Credit derivatives used by the Corporation do not qualify for hedge accounting under SFAS 133 despite being effective economic hedges and changes in the fair value of these derivatives are included in other income (loss).

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 Corpo-

ration 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 27 years, with a substantial portion of the hedged transactions being less than 10 years. For open or future cash flow hedges, the maximum length of time over which forecasted transactions are or will be 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.

Effective January 1, 2008, the Corporation adopted SAB 109 for its derivative loan commitments issued or modified after the adoption date which supersedes SEC SAB No. 105, "Application of Accounting Principles to Loan Commitments," (SAB 105). 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. 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 are excluded from the valuation of the IRLCs. Prior to January 1, 2008, 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, as SAB 105 did not allow expected net future cash flows related to servicing of a loan to be included in the measurement of all written loan commitments that are accounted for at fair value through earnings.

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 debt 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 an after-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 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. The carrying value of private equity investments reflects expected exit values based upon market prices or other valuation methodologies including expected cash flows and market comparables of similar companies. Additionally, certain private equity investments that are not accounted for under the AICPA Investment Company Audit Guide may be carried at fair value in accordance with SFAS No. 159 "Fair Value Option for Financial Assets and Liabilities" (SFAS 159). Gains and losses on these equity investments, both unrealized and realized, are recorded in equity investment income.

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.

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). Evidence of credit quality deterioration as of the purchase date may include statistics such as past due status, refreshed borrower credit scores and refreshed loan-to-value (LTV), some of which are not immediately available as of the purchase date. The Corporation continues to evaluate this information and other credit-related information as it becomes available. SOP 03-3 addresses accounting for differences between contractual cash flows and cash flows expected to be collected from the Corporation's initial investment in loans if those differences are attributable, at least in part, to credit quality.

The initial fair values for loans within the scope of SOP 03-3 are determined by discounting both principal and interest cash flows expected to be collected using an observable discount rate for similar instruments with adjustments that management believes a market participant would consider in determining fair value. The Corporation estimates the cash flows expected to be collected at acquisition using internal credit risk, interest rate and prepayment risk models that incorporate management's best estimate of current key assumptions, such as default rates, loss severity and payment speeds.

Subsequent decreases to expected principal cash flows will result in a charge to provision for credit losses and a corresponding increase to allowance for loan and lease losses. Subsequent increases in expected principal cash flows will result in recovery of any previously recorded allowance for loan losses, to the extent applicable, and a reclassification from nonaccretable difference to accretable yield for any remaining increase. All changes in expected interest cash flows will result in reclassifications to/from nonaccretable differences.

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. The allowance for loan and lease losses and the reserve for unfunded lending commitments exclude 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. The allowance for loan and lease losses represents the estimated probable credit losses in funded consumer and commercial loans and leases 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. 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 collectability of those portfolios. The allowance on certain homogeneous loan portfolios, which generally consist of consumer loans (e.g., consumer real estate and credit card loans) 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 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. 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, and 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.

SOP 03-3 requires acquired 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. For more information on the SOP 03-3 portfolio associated with the acquisition of Countrywide, see *Note 6 – Outstanding Loans and Leases* to the Consolidated Financial Statements.

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 that are either nonperforming or impaired. The second component covers consumer loans and leases, and performing commercial loans and leases. 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 the 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 charged off for credit card and certain open-end unsecured accounts 60 days after bankruptcy notification. For secured products, accounts in bankruptcy are written down to the collateral value, less cost to sell, by the end of the month 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. Consumer loans whose contractual terms have been restructured in a manner which grants a concession to a borrower experiencing financial difficulties where the Corporation does not receive adequate compensation are considered troubled debt restructurings.

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 collectability 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.

SOP 03-3 requires impaired loans be recorded at fair value at the acquisition date. Although the customer may be contractually delinquent or nonperforming the Corporation does not disclose these loans as delinquent or nonperforming as the loans were written down to fair value upon acquisition and accrete interest income over the remaining life of the loan. In addition, reported net charge-offs are lower as the initial fair value at acquisition date would have already considered the estimated credit losses in the fair valuing of these loans.

Loans Held-for-Sale

LHFS 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 LHFS, including first mortgage LHFS, at fair value in accordance with SFAS 159. Fair values for LHFS 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 LHFS for which the Corporation elected the fair value option are recognized in noninterest expense when incurred. Mortgage loan origination costs for LHFS 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.

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

The Corporation accounts for consumer-related MSRs at fair value with changes in fair value recorded in mortgage banking income in accordance with SFAS No. 156 "Accounting for Servicing of Financial Assets" (SFAS 156), 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. To reduce the volatility of earnings to interest rate and market value fluctuations, certain securities and derivatives such as options and interest rate swaps may be used as economic hedges of the MSRs, but are not designated as hedges under SFAS 133. These economic hedges are marked to market and recognized through mortgage banking income.

The Corporation determines the fair value of our consumer-related MSRs using a valuation model that calculates the present value of estimated future net servicing income. This is accomplished through an option-adjusted spread (OAS) valuation approach which factors in prepayment risk. This approach consists of projecting servicing cash flows under multiple interest rate scenarios and discounting these cash flows using risk-adjusted discount rates. The key economic assumptions used in valuations of MSRs include weighted average lives of the MSRs and the OAS levels. The OAS represents the spread that is added to the discount rate so that the sum of the discounted cash flows equals the market price, therefore it is a measure of the extra yield over the reference discount factor (i.e., the forward swap curve) that the Corporation is expected to earn by holding the asset. These variables can, and generally do, change from quarter to quarter as market conditions and projected interest rates change, and could have an adverse impact on the value of our MSRs and could result in a corresponding reduction to mortgage banking income.

Goodwill and Intangible Assets

Goodwill is calculated as the purchase premium after adjusting for the fair value of net assets acquired. 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 2008, 2007 and 2006, 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, 2008, 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.

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 140. The securitization vehicles are typically 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 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, overcollateralization and cash reserve accounts, all of which are generally considered retained 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 primarily 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, AFS debt securities, or trading account assets 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 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. As certain events occur, the Corporation reevaluates which parties will absorb variability and whether the Corporation has become or is 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 the Corporation acquires new or additional interests in a VIE. For additional information on other SPEs, see *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements.

Fair Value

The Corporation measures the fair market values of its financial instruments in accordance with SFAS 157, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs to determine the exit price. Also in accordance with SFAS 157, the Corporation categorizes its financial instruments, based on the priority of inputs to the valuation technique, into a three-level hierarchy, as discussed below. Trading account assets and liabilities, derivative assets and liabilities, AFS debt and marketable equity securities, MSRs, and certain other assets are carried at fair value in accordance with various accounting literature, including SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities (SFAS 115), SFAS 133, SFAS 156 and broker dealer or investment company guidance. The Corporation has also elected to carry certain assets and liabilities at fair value in accordance with SFAS 159 including certain corporate loans and loan commitments, LHFS, structured reverse repurchase agreements, and long-term deposits. 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.

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 certain LHFS.

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, complex or long-dated derivative contracts, certain LHFS, IRLCs and certain collateralized debt obligations (CDOs) 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 FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109" (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 (SERPS) for selected officers of the Corporation and its subsidiaries 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," SFAS No. 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions," and 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), as applicable.

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 net income when the hedged transaction affects earnings. Gains and losses on AFS debt and marketable equity securities are reclassified to earnings as the gains or losses are realized upon sale of the securities. Other-than-temporary impairment charges are reclassified to earnings at the time of the charge. Translation gains or losses on foreign currency translation adjustments are reclassified to earnings 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. Net income available to common shareholders represents net income adjusted for preferred stock dividends including dividends declared, accretions of discounts on preferred stock issuances and cumulative dividends related to the current dividend period that have not been declared as of year end. In addition, for diluted earnings per common share, net income available to common shareholders can be affected by the conversion of the registrant's convertible preferred stock. Where the effect of this conversion would have been dilutive, net income available to common shareholders is adjusted by the associated preferred dividends. This adjusted net income 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, restricted stock units, outstanding warrants, and the dilution resulting from the conversion of the registrant's convertible preferred stock, if applicable. The effects of convertible preferred stock, restricted stock, restricted stock units, outstanding warrants 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 an after-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 earnings.

Credit Card and Deposit Arrangements

Endorsing Organization Agreements

The Corporation contracts with other organizations to obtain their endorsement of the Corporation's loan and deposit 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 and deposit products and provide the Corporation with their mailing lists and marketing activities. These agreements generally have terms that range from two to five

years. The Corporation typically pays royalties in exchange for their endorsement. Compensation costs related to the credit card agreements 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.

Insurance Premiums & Insurance Expense

Property and casualty and credit life and disability premiums are recognized over the term of the policies on a pro-rata basis for all policies except for certain of the lender-placed auto insurance and the guaranteed auto protection (GAP) policies. For GAP insurance, revenue recognition is correlated to the exposure and accelerated over the life of the contract. For lender-placed auto insurance, premiums are recognized when collections become probable due to high cancellation rates experienced early in the life of the policy. Mortgage reinsurance premiums are recognized as earned. Insurance expense consists of insurance claims and commissions, both of which are recorded in other general operating expense in the Consolidated Statement of Income.

Note 2 – Merger and Restructuring Activity

Merrill Lynch

On January 1, 2009, the Corporation acquired Merrill Lynch through its merger with a subsidiary of the Corporation in exchange for common and preferred stock with a value of $29.1 billion, creating a premier financial services franchise with significantly enhanced wealth management, investment banking and international capabilities. Under the terms of the merger agreement, Merrill Lynch common shareholders received 0.8595 of a share of Bank of America Corporation common stock in exchange for each share of Merrill Lynch common stock. In addition, Merrill Lynch non-convertible preferred shareholders received Bank of America Corporation preferred stock having substantially identical terms. Merrill Lynch convertible preferred stock remains outstanding and is convertible into Bank of America common stock at an equivalent exchange ratio. With the acquisition, the Corporation has one of the largest wealth management businesses in the world with more than 18,000 financial advisors and more than $1.8 trillion in client assets. Global investment management capabilities will include an economic ownership of approximately 50 percent (primarily preferred stock) in BlackRock, Inc., a publicly traded investment management company. In addition, the acquisition adds strengths in debt and equity underwriting, sales and trading, and merger and acquisition advice, creating significant opportunities to deepen relationships with corporate and institutional clients around the globe. Merrill Lynch's results of operations will be included in the Corporation's results beginning January 1, 2009.

The Merrill Lynch merger is being accounted for under the acquisition method of accounting in accordance with SFAS 141R. Accordingly, the purchase price was preliminarily allocated to the acquired assets and liabilities based on their estimated fair values at the Merrill Lynch acquisition date as summarized in the following table. Preliminary goodwill of $5.4 billion is calculated as the purchase premium after adjusting for the fair value of net assets acquired and represents the value expected from the synergies created from combining the Merrill Lynch wealth management and corporate and investment banking businesses with the Corporation's capabilities in consumer and commercial banking as well as the economies of scale expected from combining the operations of the two companies. The allocation of the purchase price will be finalized upon completion of the analysis of the fair values of Merrill Lynch's assets and liabilities.

Merrill Lynch Preliminary Purchase Price Allocation

(Dollars in billions, except per share amounts)	
Purchase price	
Merrill Lynch common shares exchanged (in millions)	**1,600**
Exchange ratio	0.8595
The Corporation's common stock issued (in millions)	1,375
Purchase price per share of the Corporation's common stock [1]	$ 14.08
Total value of the Corporation's common stock and cash exchanged for fractional shares	$ 19.4
Merrill Lynch preferred stock [2]	8.6
Fair value of outstanding employee stock awards	1.1
Total purchase price	**29.1**
Preliminary allocation of the purchase price	
Merrill Lynch stockholders' equity	19.9
Merrill Lynch goodwill and intangible assets	(2.6)
Pre-tax adjustments to reflect acquired assets and liabilities at fair value:	
Securities	(0.9)
Loans	(5.0)
Intangible assets [3]	5.8
Other assets	(3.6)
Other liabilities	(1.2)
Long-term debt	15.5
Pre-tax total adjustments	10.6
Deferred income taxes	(4.2)
After-tax total adjustments	6.4
Fair value of net assets acquired	23.7
Preliminary goodwill resulting from the Merrill Lynch merger [4]	**$ 5.4**

(1) The value of the shares of common stock exchanged with Merrill Lynch shareholders was based upon the closing price of the Corporation's common stock at December 31, 2008, the last traded day prior to the date of acquisition.
(2) Represents Merrill Lynch's preferred stock exchanged for Bank of America preferred stock having substantially identical terms and also includes $1.5 billion of convertible preferred stock.
(3) Consists of trade name of $1.3 billion and customer relationship and core deposit intangibles of $4.5 billion. The amortization life is 10 years for the customer relationship and core deposit intangibles which will be primarily amortized on a straight-line basis.
(4) No goodwill is expected to be deductible for federal income tax purposes. The goodwill will be primarily allocated to *Global Corporate and Investment Banking* and *Global Wealth and Investment Management*.

Preliminary Condensed Statement of Net Assets Acquired

The following condensed statement of net assets acquired reflects the preliminary value assigned to Merrill Lynch's net assets as of the acquisition date.

(Dollars in billions)	January 1, 2009
Assets	
Federal funds sold and securities purchased under agreement to resell/securities borrowed	$ 138.8
Trading account assets	87.9
Derivative assets	97.7
Investment securities	74.4
Loans and leases	52.7
Intangible assets	5.8
Other assets	194.3
Total assets	**$ 651.6**
Liabilities	
Deposits	$ 98.1
Federal funds purchased and securities sold under agreements to repurchase/securities loaned	111.6
Trading account liabilities	18.1
Derivative liabilities	72.0
Commercial paper and other short-term borrowings	37.9
Accrued expenses and other liabilities	100.8
Long-term debt	189.4
Total liabilities	**627.9**
Fair value of net assets acquired [1]	**$ 23.7**

(1) The fair value of net assets acquired excludes preliminary goodwill resulting from the Merrill Lynch merger of $5.4 billion.

The fair value of net assets acquired includes preliminary fair value adjustments to certain receivables that were not considered impaired as of the acquisition date. These fair value adjustments were determined using incremental spread impacts for credit and liquidity risk which are part of the rate used to discount contractual cash flows. However, the Corporation believes that all contractual cash flows related to these financial instruments will be collected. As such, these receivables were not considered impaired at the acquisition date and were not subject to the requirements of SOP 03-3. Receivables acquired that were not subject to the requirements of SOP 03-3 include non-impaired loans and customer receivables with a preliminary fair value and gross contractual amounts receivable of $150.7 billion and $156.1 billion at the time of acquisition.

Contingencies

The fair value of net assets acquired includes certain contingent liabilities that were recorded as of the acquisition date. Merrill Lynch has been named as a defendant in various pending legal actions and proceedings arising in connection with its activities as a global diversified financial services institution. Some of these legal actions and proceedings include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages. Merrill Lynch is also involved in investigations and/or proceedings by governmental and self-regulatory agencies. Due to the number of variables and assumptions involved in assessing the possible outcome of these legal actions, sufficient information does not exist to reasonably estimate the fair value of these contingent liabilities. As such, these contingencies have been measured in accordance with SFAS No. 5, "Accounting for Contingencies" (SFAS 5). For further information, see *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

In connection with the Merrill Lynch acquisition, the Corporation recorded certain guarantees, primarily standby liquidity facilities and letters of credit, with a fair value of approximately $1.0 billion. At January 1, 2009, the maximum payout that could arise from these guarantees ranged from $0 to approximately $20.0 billion.

Countrywide

On July 1, 2008, the Corporation acquired Countrywide through its merger with a subsidiary of the Corporation. Under the terms of the agreement, Countrywide shareholders received 0.1822 of a share of Bank of America Corporation common stock in exchange for each share of Countrywide common stock. The acquisition of Countrywide significantly improved the Corporation's mortgage originating and servicing capabilities, while making us a leading mortgage originator and servicer.

As provided by the merger agreement, 583 million shares of Countrywide common stock were exchanged for 107 million shares of the Corporation's common stock. The $2.0 billion of Countrywide's Series B convertible preferred shares that were previously held by the Corporation were cancelled.

The merger is being accounted for as a purchase in accordance with SFAS 141. Accordingly, the purchase price was preliminarily allocated to the assets acquired and liabilities assumed based on their estimated fair values at the merger date as summarized below. The final allocation of the purchase price will be finalized upon completing the analysis of the fair values of Countrywide's assets and liabilities.

Countrywide Preliminary Purchase Price Allocation

(Dollars in billions)	
Purchase price [1]	**$ 4.2**
Preliminary allocation of the purchase price	
Countrywide stockholders' equity [2]	8.4
Pre-tax adjustments to reflect assets acquired and liabilities assumed at fair value:	
Loans	(9.8)
Investments in other financial instruments	(0.3)
Mortgage servicing rights	(1.5)
Other assets	(0.8)
Deposits	(0.2)
Notes payable and other liabilities	(0.9)
Pre-tax total adjustments	(13.5)
Deferred income taxes	4.9
After-tax total adjustments	(8.6)
Fair value of net assets acquired	(0.2)
Preliminary goodwill resulting from the Countrywide merger [3]	**$ 4.4**

(1) The value of the shares of common stock exchanged with Countrywide 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 January 11, 2008, the date of the Countrywide merger agreement.

(2) Represents the remaining Countrywide shareholders' equity as of the acquisition date after the cancellation of the $2.0 billion of Series B convertible preferred shares owned by the Corporation, as part of the merger.

(3) No goodwill is expected to be deductible for federal income tax purposes. All the 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. For more information, see the Countrywide SOP 03-3 discussion in *Note 6 – Outstanding Loans and Leases* to the Consolidated Financial Statements.

LaSalle

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 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 141. The 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 Purchase Price Allocation

(Dollars in billions)	
Purchase price	**$21.0**
Allocation of the purchase price	
LaSalle stockholders' equity	12.5
LaSalle goodwill and other intangible assets	(2.7)
Adjustments, net-of-tax, to reflect assets acquired and liabilities assumed at fair value:	
Loans and leases	(0.1)
Premises and equipment	(0.2)
Identified intangibles [1]	1.0
Other assets	(0.3)
Exit and termination liabilities	(0.4)
Fair value of net assets acquired	9.8
Goodwill resulting from the LaSalle merger [2]	**$11.2**

(1) Includes core deposit intangibles of $0.7 billion, and other intangibles of $0.3 billion. 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 deductible for federal income 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. At December 31, 2008, the outstanding contractual balance and the recorded fair value of these loans were not material.

U.S. Trust Corporation

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 $1.7 billion to goodwill and $1.2 billion to intangible assets as part of the 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

On January 1, 2006, the Corporation acquired all of the outstanding shares of MBNA Corporation (MBNA) and as a result, 1,260 million shares of MBNA common stock were exchanged for 631 million shares of the Corporation's common stock. MBNA shareholders also received cash of $5.2 billion. MBNA's results of operations were included in the Corporation's results beginning January 1, 2006.

Unaudited Pro Forma Condensed Combined Financial Information

If the Merrill Lynch and Countrywide mergers had been completed on January 1, 2008 and 2007, total revenue, net of interest expense would have been $58.5 billion and $83.9 billion for 2008 and 2007, and net income (loss) from continuing operations would have been $(30.3) billion and $4.4 billion. These results include the impact of amortizing certain purchase accounting adjustments such as intangible assets as well as fair value adjustments to loans, securities and issued debt. Pro forma results of operations also include the impact of conforming certain acquiree accounting policies to the Corporation's policies. The pro forma financial information does not indicate the impact of possible business model changes nor does it consider any potential impacts of current market conditions or revenues, expense efficiencies, asset dispositions, share repurchases, or other factors.

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, Countrywide, LaSalle, U.S. Trust Corporation and MBNA. 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)	**2008** [1]	2007 [2]	2006
Severance and employee-related charges	**$ 138**	$ 106	$ 85
Systems integrations and related charges	**640**	240	552
Other	**157**	64	168
Total merger and restructuring charges	**$ 935**	$ 410	$805

(1) Included for 2008 are merger-related charges of $623 million, $205 million and $107 million related to the LaSalle, Countrywide and U.S. Trust Corporation mergers, respectively.
(2) 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.

Merger-related Exit Cost and Restructuring Reserves

The following table presents the changes in exit cost and restructuring reserves for 2008 and 2007.

	Exit Cost Reserves [1]		**Restructuring Reserves** [2]	
(Dollars in millions)	**2008**	2007	**2008**	2007
Balance, January 1	**$ 377**	$ 125	**$ 108**	$ 67
Exit costs and restructuring charges:				
Countrywide	**588**	–	**71**	–
LaSalle	**31**	339	**25**	47
U.S. Trust Corporation	**(3)**	52	**40**	38
MBNA	**(6)**	–	**(3)**	17
Cash payments	**(464)**	(139)	**(155)**	(61)
Balance, December 31	**$ 523**	$ 377	**$ 86**	$ 108

(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, 2007, there were $377 million of exit cost reserves related to the MBNA, U.S. Trust Corporation, and LaSalle mergers, including $187 million for severance, relocation and other employee-related costs and $190 million for contract terminations. During 2008, the net amount of $610 million was added to the exit cost reserves, primarily related to the Countrywide acquisition, including $536 million for severance, relocation and other employee-related costs, and $74 million for contract terminations. The $31 million exit costs and restructuring charges for 2008 was net of $56 million in exit cost reserve adjustments related to the LaSalle acquisition primarily due to lower than expected lease terminations with the offset being recorded as a reduction to goodwill. Cash payments of $464 million during 2008 consisted of $376 million in severance, relocation and other employee-related costs and $88 million for contract terminations. As of December 31, 2008, exit cost reserves of $523 million included $383 million for Countrywide, $135 million for LaSalle and $5 million for U.S. Trust Corporation. As of December 31, 2008, there were no exit cost reserves related to the MBNA acquisition.

As of December 31, 2007, there were $108 million of restructuring reserves related to the MBNA, U.S. Trust Corporation and LaSalle mergers, including $104 million related to severance and other employee-related costs and $4 million related to contract terminations. During 2008, $133 million was added to the restructuring reserves related to severance and other employee-related costs primarily associated with the Countrywide acquisition. Cash payments of $155 million during 2008 consisted of $153 million in severance and other employee-related costs and $2 million in contract terminations. As of December 31, 2008, restructuring reserves of $86 million included $37 million for Countrywide, $30 million for LaSalle and $19 million for U.S. Trust Corporation. As of December 31, 2008, there were no restructuring reserves related to the MBNA acquisition.

Payments under exit cost and restructuring reserves associated with the MBNA acquisition were substantially completed in 2007 while payments associated with the U.S. Trust Corporation, LaSalle and Countrywide acquisitions 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, 2008 and 2007.

	December 31	
(Dollars in millions)	**2008**	2007
Trading account assets		
U.S. government and agency securities [1]	**$ 84,660**	$ 48,240
Corporate securities, trading loans and other	**34,056**	55,360
Equity securities	**20,258**	22,910
Foreign sovereign debt	**13,614**	17,161
Mortgage trading loans and asset-backed securities	**6,934**	18,393
Total trading account assets	**$ 159,522**	$ 162,064
Trading account liabilities		
U.S. government and agency securities	**$ 32,850**	$ 35,375
Equity securities	**12,128**	25,926
Foreign sovereign debt	**7,252**	9,292
Corporate securities and other	**5,057**	6,749
Total trading account liabilities	**$ 57,287**	$ 77,342

(1)Includes $52.6 billion and $21.5 billion at December 31, 2008 and 2007 of government-sponsored enterprise obligations.

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.

The following table presents the contract/notional amounts and credit risk amounts at December 31, 2008 and 2007 of all the Corporation's derivative positions.

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, 2008 and 2007, the cash collateral applied against derivative assets was $34.8 billion and $12.8 billion. In addition, at December 31, 2008 and 2007, the cash collateral applied against derivative liabilities was $30.3 billion and $10.0 billion. The average fair value of derivative assets, less cash collateral, for 2008 and 2007 was $48.1 billion and $29.7 billion. The average fair value of derivative liabilities, less cash collateral, for 2008 and 2007 was $27.0 billion and $20.6 billion. The Corporation held $48.8 billion of collateral on derivative positions, of which $42.5 billion could be applied against credit risk at December 31, 2008.

	December 31, 2008		December 31, 2007	
(Dollars in millions)	**Contract/ Notional [1]**	**Credit Risk**	Contract/ Notional [1]	Credit Risk
Interest rate contracts				
Swaps	**$ 26,577,385**	**$ 48,225**	$ 22,472,949	$ 15,368
Futures and forwards	**4,432,102**	**1,008**	2,596,146	10
Written options	**1,731,055**	**–**	1,402,626	–
Purchased options	**1,656,641**	**5,188**	1,479,985	2,508
Foreign exchange contracts				
Swaps	**438,932**	**6,040**	505,878	7,350
Spot, futures and forwards	**1,376,483**	**10,888**	1,600,683	4,124
Written options	**199,846**	**–**	341,148	–
Purchased options	**175,678**	**2,002**	339,101	1,033
Equity contracts				
Swaps	**34,685**	**1,338**	56,300	2,026
Futures and forwards	**14,145**	**198**	12,174	10
Written options	**214,125**	**–**	166,736	–
Purchased options	**217,461**	**7,284**	195,240	6,337
Commodity contracts				
Swaps	**2,110**	**1,000**	13,627	770
Futures and forwards	**9,633**	**222**	14,391	12
Written options	**17,574**	**–**	14,206	–
Purchased options	**15,570**	**249**	13,093	372
Credit derivatives				
Purchased protection:				
Credit default swaps	**1,025,876**	**11,772**	1,490,641	6,822
Total return swaps	**6,575**	**1,678**	13,551	671
Written protection:				
Credit default swaps	**1,000,034**	**–**	1,517,305	–
Total return swaps	**6,203**	**–**	24,884	–
Credit risk before cash collateral		**97,092**		47,413
Less: Cash collateral applied		**34,840**		12,751
Total derivative assets		**$ 62,252**		$ 34,662

(1)Represents the total contract/notional amount of the derivatives outstanding and includes both written and purchased protection.

The Corporation executes the majority of its derivative positions in the over-the-counter market with large, international financial institutions, including broker/dealers and, to a lesser degree with a variety of other investors. The Corporation is subject to counterparty credit risk in the event that these counterparties fail to perform under the terms of their contracts and records valuation adjustments against the derivative assets to reflect counterparty credit risk. Substantially all of the derivative transactions are executed on a daily margin basis. Therefore, events such as a credit downgrade (depending on the ultimate rating level) or a breach of credit covenants would typically require an increase in the amount of collateral required of the counterparty (where applicable), and/or allow the Corporation to take additional protective measures such as early termination of all trades. Further, as discussed above, 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 the occurrence of certain events. During 2008, valuation adjustments of $3.2 billion were recognized as trading account losses for counterparty credit risk. At December 31, 2008, the cumulative counterparty credit risk valuation adjustment that was netted against the derivative asset balance was $4.0 billion.

In addition, the fair value of the Corporation's derivative liabilities is adjusted to reflect the impact of the Corporation's credit quality. During 2008, valuation adjustments of $364 million were recognized as trading account profits for changes in the Corporation's credit risk. At December 31, 2008, the Corporation's cumulative credit risk valuation adjustment that was netted against the derivative liabilities balance was $573 million.

Credit Derivatives

The Corporation enters into credit derivatives primarily to facilitate client transactions and to manage credit risk exposures. Credit derivatives derive value based on an underlying third party-referenced obligation or a portfolio of referenced obligations and generally require the Corporation as the seller of credit protection to make payments to a buyer upon the occurrence of a predefined credit event. Such credit events generally include bankruptcy of the referenced credit entity and failure to pay under the obligation, as well as acceleration of indebtedness and payment repudiation or moratorium. For credit derivatives based on a portfolio of referenced credits or credit indices, the Corporation may not be required to make payment until a specified amount of loss has occurred and/or may only be required to make payment up to a specified amount.

Credit derivative instruments in which the Corporation is the seller of credit protection and their expiration at December 31, 2008 are summarized in the table below. These instruments have been classified as investment and non-investment grade based on the credit quality of the underlying reference name within the credit derivative.

For most credit derivatives, the notional value represents the maximum amount payable by the Corporation. However, the Corporation does not exclusively monitor its exposure to credit derivatives based on notional value because this measure does not take into consideration the probability of occurrence. As such, the notional value is not a reliable indicator of the Corporation's exposure to these contracts. Instead, a risk framework is used to define risk tolerances and establish limits to help to ensure that certain credit risk-related losses occur within acceptable, predefined limits.

The Corporation may economically hedge its exposure to credit derivatives by entering into a variety of offsetting derivative contracts and security positions. For example, in certain instances, the Corporation may purchase credit protection with identical underlying referenced names to offset its exposure. At December 31, 2008, the carrying value and notional value of credit protection sold in which the Corporation held purchased protection with identical underlying referenced names was $92.4 billion and $819.4 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.

(Dollars in millions)	Maximum Payout/Notional [1]	Less than One Year	One to Three Years	Three to Five Years	Over Five Years	Carrying Value
Investment grade [2]	$ 801,886	$ 1,039	$ 13,062	$ 32,594	$ 29,153	$ 75,848
Non-investment grade [3]	198,148	1,483	9,222	19,243	13,012	42,960
Total	$ 1,000,034	$ 2,522	$ 22,284	$ 51,837	$ 42,165	$ 118,808

(1) Excludes total return swaps as they are not specifically linked to a credit index or credit event.
(2) The Corporation considers ratings of BBB- or higher to meet the definition of investment grade.
(3) Includes non-rated credit derivative instruments.

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 $1.2 billion ($786 million after-tax) are expected to be reclassified into earnings. These net losses reclassified into earnings are expected to reduce 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 2008, 2007 and 2006.

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 as well as by issuing foreign-denominated debt. The Corporation recorded a net derivative gain of $2.8 billion in accumulated OCI associated with net investment hedges for 2008 as compared to net derivative losses of $516 million and $475 million for 2007 and 2006.

(Dollars in millions)	**2008**	2007	2006
Fair value hedges			
Hedge ineffectiveness recognized in net interest income	**$ 28**	$ 55	$ 23
Cash flow hedges			
Hedge ineffectiveness recognized in net interest income	**(7)**	4	18
Net gains on transactions which are probable of not occurring recognized in other income	**–**	18	–

Note 5 – Securities

The amortized cost, gross unrealized gains and losses in accumulated OCI, and fair value of AFS debt and marketable equity securities at December 31, 2008 and 2007 were:

(Dollars in millions)	**Amortized Cost**	**Gross Unrealized Gains**	**Gross Unrealized Losses**	**Fair Value**
Available-for-sale debt securities, December 31, 2008				
U.S. Treasury securities and agency debentures	**$ 4,540**	**$ 121**	**$ (14)**	**$ 4,647**
Mortgage-backed securities [1]	**235,137**	**3,924**	**(9,483)**	**229,578**
Foreign securities	**5,675**	**6**	**(678)**	**5,003**
Corporate/Agency bonds	**5,560**	**31**	**(1,022)**	**4,569**
Other taxable securities [2]	**24,832**	**11**	**(1,300)**	**23,543**
Total taxable securities	**275,744**	**4,093**	**(12,497)**	**267,340**
Tax-exempt securities	**10,501**	**44**	**(981)**	**9,564**
Total available-for-sale debt securities	**$ 286,245**	**$ 4,137**	**$ (13,478)**	**$276,904**
Available-for-sale marketable equity securities [3]	**$ 18,892**	**$ 7,717**	**$ (1,537)**	**$ 25,072**
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

(1) The majority of 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, 2008 and 2007, approximately $19.7 billion and $16.2 billion of the fair value balance, including $7.7 billion and $13.4 billion of unrealized gain, represents China Construction Bank (CCB) shares.

At December 31, 2008 and 2007, both the amortized cost and fair value of held-to-maturity debt securities was $685 million and $726 million and the accumulated net unrealized gains (losses) on AFS debt and marketable equity securities included in accumulated OCI were $(2.0) billion and $6.6 billion, net of the related income tax expense (benefit) of $(1.1) billion and $3.7 billion.

During 2008 and 2007, the Corporation recognized $4.1 billion and $398 million of other-than-temporary impairment losses on AFS debt and marketable equity securities. These other-than-temporary impairment losses were comprised of $3.5 billion and $398 million on AFS debt securities during 2008 and 2007 and $661 million on AFS marketable equity securities during 2008. No such losses on AFS marketable equity securities were recognized during 2007. At December 31, 2008 and 2007, the Corporation had nonperforming AFS debt securities of $291 million and $180 million.

During 2008, the Corporation reclassified $12.6 billion of AFS debt securities to trading account assets in connection with the Countrywide acquisition as the Corporation realigned its AFS portfolio. Further, the

(Dollars in millions)	Less than twelve months		Twelve months or longer		Total	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
Available-for-sale debt securities as of December 31, 2008						
U.S. Treasury securities and agency debentures	**$ 306**	**$ (14)**	**$ –**	**$ –**	**$ 306**	**$ (14)**
Mortgage-backed securities	**22,350**	**(6,788)**	**11,649**	**(2,695)**	**33,999**	**(9,483)**
Foreign securities	**3,491**	**(562)**	**1,126**	**(116)**	**4,617**	**(678)**
Corporate/Agency bonds	**2,573**	**(934)**	**666**	**(88)**	**3,239**	**(1,022)**
Other taxable securities	**12,870**	**(1,077)**	**501**	**(223)**	**13,371**	**(1,300)**
Total taxable securities	**41,590**	**(9,375)**	**13,942**	**(3,122)**	**55,532**	**(12,497)**
Tax-exempt securities	**6,386**	**(682)**	**1,540**	**(299)**	**7,926**	**(981)**
Total temporarily-impaired available-for-sale debt securities	**47,976**	**(10,057)**	**15,482**	**(3,421)**	**63,458**	**(13,478)**
Temporarily-impaired available-for-sale marketable equity securities	**3,431**	**(499)**	**1,555**	**(1,038)**	**4,986**	**(1,537)**
Total temporarily-impaired available-for-sale securities	**$ 51,407**	**$ (10,556)**	**$ 17,037**	**$ (4,459)**	**$ 68,444**	**$ (15,015)**
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)

Corporation transferred approximately $1.7 billion of leveraged lending bonds from trading account assets to AFS debt securities due to the Corporation's decision to hold these bonds for the foreseeable future.

The table above presents the current fair value and the associated gross unrealized losses only on investments in securities with gross unrealized losses at December 31, 2008 and 2007. The table also discloses whether these securities have had gross unrealized losses for less than twelve months, or for twelve months or longer.

The impairment of AFS debt and marketable equity securities is based on a variety of factors, including the length of time and extent to which the market value has been less than cost, the financial condition of the issuer of the security, and the Corporation's intent and ability to hold the security to recovery.

At December 31, 2008, the amortized cost of approximately 12,000 AFS securities exceeded their fair value by $15.0 billion. Included in the $15.0 billion of gross unrealized losses on AFS securities at December 31, 2008, was $10.6 billion of gross unrealized losses that have existed for less than twelve months and $4.5 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 more, $2.7 billion, or 60 percent, of the gross unrealized loss is related to approximately 400 mortgage-backed securities primarily due to continued deterioration in collateralized mortgage obligation values driven by a lack of market liquidity. In addition, of the gross unrealized losses existing for twelve months or more, $1.0 billion, or 23 percent, of the gross unrealized loss is related to approximately 300 AFS marketable equity securities primarily due to the overall decline in the market during 2008. The Corporation has the ability and intent to hold these securities for a period of time sufficient to recover all gross unrealized losses.

The Corporation had investments in AFS debt securities from Fannie Mae, Freddie Mac and Ginnie Mae that exceeded 10 percent of consolidated shareholders' equity as of December 31, 2008. These investments had market values of $104.1 billion, $46.9 billion and $44.6 billion at December 31, 2008 and total amortized costs of $102.9 billion, $46.1 billion and $43.7 billion, respectively. The Corporation had investments in AFS debt securities from Fannie Mae and Freddie Mac that exceeded 10 percent of consolidated shareholders' equity as of December 31, 2007. These investments had market values of $100.8 billion and $43.2 billion at December 31, 2007 and total amortized costs of $102.9 billion and $43.9 billion. The Corporation's investments in AFS debt securities from Ginnie Mae did not exceed 10 percent of consolidated shareholders' equity as of December 31, 2007.

Securities are pledged or assigned to secure borrowed funds, government and trust deposits and for other purposes. The carrying value of pledged securities was $158.9 billion and $107.4 billion at December 31, 2008 and 2007.

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 the Corporation's AFS debt securities portfolio at December 31, 2008 are summarized in the following table. Actual maturities may differ from the contractual or expected maturities since borrowers may have the right to prepay obligations with or without prepayment penalties.

	December 31, 2008									
	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	
(Dollars in millions)	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	$ 167	2.45%	$ 1,077	4.89%	$ 2,366	5.14%	$ 1,037	5.40%	$ 4,647	5.04%
Mortgage-backed securities	3,029	4.71	25,953	7.99	116,770	5.21	83,826	5.55	229,578	5.68
Foreign securities	543	4.89	2,582	5.96	17	4.56	1,861	6.37	5,003	6.02
Corporate/Agency bonds	197	4.48	1,369	5.03	2,818	10.44	185	6.23	4,569	8.65
Other taxable securities	17,909	2.47	5,158	4.87	193	5.09	283	6.76	23,543	3.11
Total taxable securities	21,845	2.90	36,139	7.24	122,164	5.36	87,192	5.58	267,340	5.50
Tax-exempt securities [2]	142	5.41	836	5.91	1,761	6.37	6,825	6.87	9,564	6.69
Total available-for-sale debt securities	**$ 21,987**	**2.92**	**$ 36,975**	**7.22**	**$ 123,925**	**5.38**	**$ 94,017**	**5.68**	**$ 276,904**	**5.55**
Amortized cost of available-for-sale debt securities	**$ 23,150**		**$ 41,879**		**$ 125,537**		**$ 95,679**		**$ 286,245**	

[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 2008, 2007 and 2006 were:

(Dollars in millions)	2008	2007	2006
Gross gains	**$ 1,367**	$ 197	$ 87
Gross losses	**(243)**	(17)	(530)
Net gains (losses) on sales of debt securities	**$ 1,124**	$ 180	$ (443)

The income tax expense (benefit) attributable to realized net gains (losses) on debt securities sales was $416 million, $67 million and $(163) million in 2008, 2007 and 2006, respectively.

Certain Corporate and Strategic Investments

At December 31, 2008 and 2007, the Corporation owned approximately 19 percent, or 44.7 billion common shares and eight percent, or 19.1 billion common shares of CCB. The initial investment of 19.1 billion common shares is accounted for at fair value and recorded as AFS marketable equity securities in other assets with an offset to accumulated OCI. These shares became transferable in October 2008. During 2008, under the terms of the purchase option the Corporation increased its ownership by purchasing approximately 25.6 billion common shares, or $9.2 billion of CCB. These recently purchased shares are accounted for at cost, are recorded in other assets and are non-transferable until August 2011. At December 31, 2008 and 2007, the cost of the CCB investment was $12.0 billion and $3.0 billion and the carrying value was $19.7 billion and $16.4 billion. Dividend income on this investment is recorded in equity investment income.

Additionally, the Corporation owned approximately 171.3 million and 137.0 million of preferred shares, and 51.3 million and 41.1 million of common shares of Banco Itaú Holding Financeira S.A. (Banco Itaú) at December 31, 2008 and 2007. This investment in Banco Itaú is accounted for at fair value and recorded as AFS marketable equity securities in other assets with an offset to accumulated OCI. Prior to the second quarter of 2008, these shares were accounted for at cost. Dividend income on this investment is recorded in equity investment income. At December 31, 2008 and 2007, the cost of this investment was $2.6 billion and the fair value was $2.5 billion and $4.6 billion.

At December 31, 2008 and 2007, the Corporation had a 24.9 percent, or $2.1 billion and $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, 2008 and 2007 were:

	December 31	
(Dollars in millions)	**2008**	2007
Consumer		
Residential mortgage	**$ 247,999**	$ 274,949
Home equity	**152,547**	114,820
Discontinued real estate [1]	**19,981**	n/a
Credit card – domestic	**64,128**	65,774
Credit card – foreign	**17,146**	14,950
Direct/Indirect consumer [2]	**83,436**	76,538
Other consumer [3]	**3,442**	4,170
Total consumer	**588,679**	551,201
Commercial		
Commercial – domestic [4]	**219,233**	208,297
Commercial real estate [5]	**64,701**	61,298
Commercial lease financing	**22,400**	22,582
Commercial – foreign	**31,020**	28,376
Total commercial loans	**337,354**	320,553
Commercial loans measured at fair value [6]	**5,413**	4,590
Total commercial	**342,767**	325,143
Total loans and leases	**$ 931,446**	$ 876,344

(1) Includes $18.2 billion of pay option loans and $1.8 billion of subprime loans obtained as part of the acquisition of Countrywide. The Corporation no longer originates these products.
(2) Includes foreign consumer loans of $1.8 billion and $3.4 billion at December 31, 2008 and 2007.
(3) Includes consumer finance loans of $2.6 billion and $3.0 billion, and other foreign consumer loans of $618 million and $829 million at December 31, 2008 and 2007.
(4) Includes small business commercial – domestic loans, primarily card-related, of $19.1 billion and $19.3 billion at December 31, 2008 and 2007.
(5) Includes domestic commercial real estate loans of $63.7 billion and $60.2 billion, and foreign commercial real estate loans of $979 million and $1.1 billion at December 31, 2008 and 2007.
(6) Certain commercial loans are measured at fair value in accordance with SFAS 159 and include commercial – domestic loans of $3.5 billion and $3.5 billion, commercial – foreign loans of $1.7 billion and $790 million, and commercial real estate loans of $203 million and $304 million at December 31, 2008 and 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 Corporation mitigates a portion of its credit risk in the residential mortgage portfolio through synthetic securitizations which are cash collateralized and provide mezzanine risk protection which will reimburse the Corporation in the event that losses exceed 10 bps of the original pool balance. As of December 31, 2008 and 2007, $109.3 billion and $140.5 billion of mortgage loans were protected by these agreements. As of December 31, 2008, $146 million of credit and other related costs recognized in 2008 are reimbursable by these structures. In addition, the Corporation has entered into credit protection agreements with government-sponsored enterprises on $9.6 billion and $32.9 billion as of December 31, 2008 and 2007, providing full protection on conforming residential mortgage loans that become severely delinquent. These structures provided risk mitigation for approximately 48 percent and 63 percent of the residential mortgage portfolio at December 31, 2008 and 2007.

Nonperforming Loans and Leases

The following table presents the recorded loan amounts for commercial loans, without consideration for the specific component of the allowance for loan and lease losses, which were considered individually impaired in accordance with SFAS 114 at December 31, 2008 and 2007. SFAS 114 defines impairment to include performing loans which had previously been accounted for as a troubled debt restructuring and excludes all commercial leases.

Impaired Loans

	December 31	
(Dollars in millions)	**2008**	2007
Commercial		
Commercial – domestic [1]	**$2,257**	$1,018
Commercial real estate	**3,906**	1,099
Commercial – foreign	**290**	19
Total impaired loans [2]	**$6,453**	$2,136

(1) Includes small business commercial – domestic loans of $205 million and $152 million at December 31, 2008 and 2007.
(2) Includes performing commercial troubled debt restructurings of $13 million and $44 million at December 31, 2008 and 2007.

Impaired loans include loans that have been modified in troubled debt restructurings where concessions to borrowers who experienced financial difficulties have been granted. Troubled debt restructurings typically result from the Corporation's loss mitigation activities and could include rate reductions, payment extensions and principal forgiveness. Troubled debt restructurings on commercial loans totaled $57 million and $74 million at December 31, 2008 and 2007, of which $44 million and $30 million were classified as nonperforming.

In addition to the commercial impaired loans included in the preceding table, the Corporation recorded $903 million of consumer impaired loans at December 31, 2008 that are individually impaired and restructured in a troubled debt restructuring. Included in this amount were $529 million of residential mortgage, $303 million of home equity and $71 million of discontinued real estate. These impaired loans exclude loans that were written down to fair value at acquisition within the scope of SOP 03-3, which is discussed in more detail below. Included in consumer impaired loans are performing troubled debt restructurings of $320 million for residential mortgage, $1 million for home equity and $66 million for discontinued real estate at December 31, 2008. There were no material consumer impaired loans at December 31, 2007. At December 31, 2008 the Corporation had commitments of $123 million to lend additional funds to debtors whose terms have been modified in a commercial or consumer troubled debt restructuring.

The average recorded investment in the commercial and consumer impaired loans for 2008, 2007 and 2006 was approximately $5.0 billion, $1.2 billion and $722 million, respectively. At December 31, 2008 and 2007, the recorded investment in impaired loans requiring an allowance for loan and lease losses per SFAS 114 guidelines was $5.4 billion and $1.2 billion, and the related allowance for loan and lease losses was $720 million and $123 million. For 2008, 2007 and 2006, interest income recognized on impaired loans totaled $105 million, $130 million and $36 million, respectively.

At December 31, 2008 and 2007, nonperforming loans and leases, which exclude performing troubled debt restructurings and acquired loans that were accounted for under SOP 03-3, totaled $16.4 billion and $5.6 billion. In addition, there were consumer and commercial nonperforming LHFS of $1.3 billion and $188 million at December 31, 2008 and 2007.

In addition, the Corporation works with customers that are experiencing financial difficulty through renegotiating credit card and direct/indirect consumer loans, while ensuring compliance with Federal Financial Institutions Examination Council guidelines. At December 31, 2008 and 2007, the Corporation had renegotiated credit card – domestic held loans of $2.3 billion and $1.6 billion, credit card – foreign held loans of $527 million and $483 million, and direct/indirect loans of $1.4 billion and $810 million. These renegotiated loans are not considered nonperforming.

Countrywide SOP 03-3

Loans acquired with evidence of credit quality deterioration since origination and for which it is probable at purchase that the Corporation will be unable to collect all contractually required payments are accounted for under SOP 03-3. For additional information on the accounting under SOP 03-3 see the *Loans and Leases* section of *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements. The SOP 03-3 portfolio associated with the acquisition of LaSalle did not materially impact results during 2008 and is excluded from the following discussion.

As of July 1, 2008 and December 31, 2008 Countrywide acquired loans within the scope of SOP 03-3 had an unpaid principal balance of $58.2 billion and $55.4 billion and a carrying value of $44.2 billion and $42.2 billion. The following table provides details on loans obtained in connection with the Countrywide acquisition within the scope of SOP 03-3.

Acquired Loan Information as of July 1, 2008

(Dollars in millions)	Countrywide [1]
Contractually required payments including interest	$ 83,864
Less: Nonaccretable difference	(20,157)
Cash flows expected to be collected [2]	63,707
Less: Accretable yield	(19,549)
Fair value of loans acquired	$ 44,158

(1) Loan information as of Countrywide acquisition date, July 1, 2008.
(2) Represents undiscounted expected principal and interest cash flows at acquisition.

Under SOP 03-3, the excess of cash flows expected at acquisition over the estimated fair value is referred to as the accretable yield and is recognized in interest income over the remaining life of the loans. The difference between contractually required payments at acquisition and the cash flows expected to be collected at acquisition is referred to as the nonaccretable difference. Changes in the expected cash flows from the date of acquisition will either impact the accretable yield or result in a charge to the provision for credit losses. Subsequent decreases to expected principal cash flows will result in a charge to provision for credit losses and a corresponding increase to allowance for loan and lease losses. Subsequent increases in expected principal cash flows will result in recovery of any previously recorded allowance for loan losses, to the extent applicable, and a reclassification from nonaccretable difference to accretable yield for any remaining increase. All changes in expected interest cash flows will result in reclassifications to/from nonaccretable differences.

The following table provides activity for the accretable yield of loans acquired from Countrywide within the scope of SOP 03-3 for the six months ended December 31, 2008. During 2008, the Corporation recorded a $750 million provision for credit losses establishing a corresponding allowance for loan and lease losses at December 31, 2008. This provision for credit losses represents deterioration in the Countrywide SOP 03-3 portfolio subsequent to the July 1, 2008 acquisition date. The reclassification to nonaccretable difference of $4.4 billion includes the impact of increased prepayment speeds, lower interest rates on variable rate loans, and principal reductions due to credit deterioration.

Accretable Yield Activity

(Dollars in millions)	Six Months Ended December 31, 2008
Accretable yield, beginning balance [1]	$ 19,549
Accretions	(1,667)
Disposals	(589)
Reclassifications to nonaccretable difference [2]	(4,433)
Accretable yield, December 31, 2008	$ 12,860

(1) The beginning balance represents the accretable yield of loans acquired from Countrywide at July 1, 2008.
(2) Nonaccretable difference represents gross contractually required payments including interest less expected cash flows.

Note 7 – Allowance for Credit Losses

The following table summarizes the changes in the allowance for credit losses for 2008, 2007 and 2006.

(Dollars in millions)	2008	2007	2006
Allowance for loan and lease losses, January 1	**$ 11,588**	$ 9,016	$ 8,045
Adjustment due to the adoption of SFAS 159	**–**	(32)	–
Loans and leases charged off	**(17,666)**	(7,730)	(5,881)
Recoveries of loans and leases previously charged off	**1,435**	1,250	1,342
Net charge-offs	**(16,231)**	(6,480)	(4,539)
Provision for loan and lease losses	**26,922**	8,357	5,001
Other [1]	**792**	727	509
Allowance for loan and lease losses, December 31	**23,071**	11,588	9,016
Reserve for unfunded lending commitments, January 1	**518**	397	395
Adjustment due to the adoption of SFAS 159	**–**	(28)	–
Provision for unfunded lending commitments	**(97)**	28	9
Other [2]	**–**	121	(7)
Reserve for unfunded lending commitments, December 31	**421**	518	397
Allowance for credit losses, December 31	**$ 23,492**	$12,106	$ 9,413

(1) The 2008 amount includes the $1.2 billion addition of the Countrywide allowance for loan losses as of July 1, 2008. The 2007 amount includes the $725 million and $25 million additions of the LaSalle and U.S. Trust Corporation allowance for loan losses as of October 1, 2007 and July 1, 2007. The 2006 amount includes the $577 million addition of the MBNA allowance for loan losses as of January 1, 2006.
(2) The 2007 amount includes the $124 million addition of the LaSalle reserve for unfunded lending commitments as of October 1, 2007.

Note 8 – Securitizations

The Corporation routinely securitizes loans and debt securities. These securitizations are a source of funding for the Corporation in addition to transferring the economic risk of the loans or debt securities to third parties. In a securitization, various classes of debt securities may be issued and are generally collateralized by a single class of transferred assets which most often consist of residential mortgages, but may also include commercial mortgages, credit card receivables, home equity loans, automobile loans or mortgage-backed securities. The securitized loans may be serviced by the Corporation or by third parties. With each securitization, the Corporation may retain 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, overcollateralization and cash reserve accounts, all of which are called retained interests. These retained interests are recorded in other assets, AFS debt securities, or trading account assets 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 of credit card related interest-only strips are recorded in card income. In addition, the Corporation may enter into derivatives with the securitization trust to mitigate the trust's interest rate or foreign exchange risk. These derivatives are entered into at market terms and are generally senior in payment. The Corporation also may serve as the underwriter and distributor of the securitization, serve as the administrator of the trust, and from time to time, make markets in securities issued by the securitization trusts. For more information related to derivatives, see *Note 4 – Derivatives* to the Consolidated Financial Statements.

First Lien 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 lien residential mortgages that it originates or purchases from other entities.

The following table summarizes selected information related to mortgage securitizations for 2008 and 2007.

	Residential Mortgage									
			Non-Agency							
	Agency		Prime		Subprime		Alt-A		Commercial Mortgage	
(Dollars in millions)	2008	2007	2008	2007	2008 [1]	2007	2008	2007	2008	2007
Cash proceeds from new securitizations [2]	**$ 123,653**	$ 50,866	**$ 1,038**	$17,499	**$ 1,377**	$ –	**$ –**	$ 745	**$ 3,557**	$15,409
Gains on securitizations [3, 4]	**25**	52	**2**	27	**24**	–	**–**	1	**29**	103
Cash flows received on residual interests	**–**	–	**6**	–	**33**	–	**4**	–	**–**	–
Principal balance outstanding [5, 6]	**1,123,916**	192,627	**111,683**	44,565	**57,933**	–	**136,027**	12,157	**55,403**	47,587
Senior securities held	**13,815**	4,702	**4,926**	5,261	**121**	–	**2,946**	553	**184**	584
Subordinated securities held	**–**	–	**43**	143	**4**	–	**18**	36	**136**	77
Residual interests held	**–**	–	**–**	–	**13**	–	**–**	–	**7**	13

(1) The cash proceeds related to the non-agency subprime securitization were received during 2007; however, this securitization did not achieve sale accounting until 2008.
(2) The Corporation sells residential mortgage loans to government-sponsored agencies in the normal course of business and receives mortgage-backed securities in exchange. These mortgage-backed securities are then subsequently sold into the market to third party investors for cash proceeds.
(3) Net of hedges
(4) Substantially all of the residential mortgages securitized are initially classified as LHFS and recorded at fair value under SFAS 159. As such, gains are recognized on these LHFS prior to securitization. During 2008 and 2007, the Corporation recognized $1.6 billion and $212 million of gains on these LHFS.
(5) Generally, the Corporation as transferor will service the sold loans and thus recognize an MSR upon securitization. See additional information to follow related to the Corporation's role as servicer and *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.
(6) The increase in principal balance outstanding at December 31, 2008 from the prior year was due to the addition of Countrywide securitizations.

The following table summarizes the balance sheet classification of the Corporation's residential and commercial mortgage senior and subordinated securities held at December 31, 2008 and 2007.

	Residential Mortgage									
			Non-Agency							
	Agency		Prime		Subprime		Alt-A		Commercial Mortgage	
(Dollars in millions)	**2008**	2007	**2008**	2007	**2008**	2007	**2008**	2007	**2008**	2007
Senior securities [1, 2]:										
Trading account assets	**$ 1,308**	$ –	**$ 367**	$1,254	**$ –**	$ –	**$ 278**	$ 12	**$ 168**	$ 584
Available-for-sale debt securities	**12,507**	4,702	**4,559**	4,007	**121**	–	**2,668**	541	**16**	–
Total senior securities	**$13,815**	$4,702	**$4,926**	$5,261	**$121**	$ –	**$2,946**	$553	**$ 184**	$ 584
Subordinated securities [1, 3]:										
Trading account assets	**$ –**	$ –	**$ 23**	$ 141	**$ 3**	$ –	**$ 1**	$ 36	**$ 136**	$ 77
Available-for-sale debt securities	**–**	–	**20**	2	**1**	–	**17**	–	**–**	–
Total subordinated securities	**$ –**	$ –	**$ 43**	$ 143	**$ 4**	$ –	**$ 18**	$ 36	**$ 136**	$ 77

(1) As a holder of these securities, the Corporation receives scheduled interest and principal payments accordingly. During 2008 and 2007, there were no significant impairments recorded on those securities classified as AFS debt securities.

(2) At December 31, 2008 and 2007, $13.8 billion and $4.7 billion of the agency senior securities were valued using quoted market prices and $13 million were valued using model valuations at December 31, 2008. At December 31, 2008 and 2007, $4.3 billion and $4.7 billion of the non-agency prime senior securities were valued using quoted market prices and $661 million and $583 million were valued using model valuations. At December 31, 2008, all of the non-agency subprime senior securities were valued using model valuations. At December 31, 2008 and 2007, $2.4 billion and $553 million of the non-agency Alt-A senior securities were valued using quoted market prices and $541 million were valued using model valuations at December 31, 2008. At December 31, 2008 and 2007, $16 million and $0 of the commercial mortgage senior securities were valued using quoted market prices and $168 million and $584 million were valued using model valuations.

(3) At December 31, 2008 and 2007, $23 million and $141 million of the non-agency prime subordinated securities were valued using quoted market prices and $20 million and $2 million were valued using model valuations. At December 31, 2008 all of the non-agency subprime and non-agency Alt-A subordinated securities were valued using model valuations. At December 31, 2007, all of the non-agency Alt-A subordinated securities were valued using quoted market prices. At December 31, 2008 and 2007, all of the commercial mortgage subordinated securities were valued using model valuations.

At December 31, 2008 and 2007, the Corporation had recourse obligations of $157 million and $150 million with varying terms up to seven years on loans that had been securitized and sold.

The Corporation sells loans with various representations and warranties related to, among other things, the ownership of the loan, validity of the lien securing the loan, absence of delinquent taxes or liens against the property securing the loan, the process used in selecting the loans for inclusion in a transaction, the loan's compliance with any applicable loan criteria established by the buyer, and the loan's compliance with applicable local, state and federal laws. Under the Corporation's representations and warranties, the Corporation may be required to either repurchase the mortgage loans with the identified defects or indemnify the investor or insurer. In such cases, the Corporation bears any subsequent credit loss on the mortgage loans. During 2008, the Corporation repurchased $448 million of loans from securitization trusts as a result of the Corporation's representations and warranties. The Corporation's representations and warranties are generally not subject to stated limits. However, the Corporation's contractual liability arises only when the representations and warranties are breached. The Corporation attempts to limit its risk of incurring these losses by structuring its operations to ensure consistent production of quality mortgages and servicing those mortgages at levels that meet secondary mortgage market standards. In addition, certain of the Corporation's securitizations include a corporate guarantee, which are contracts written to protect purchasers of the loans from credit losses up to a specified amount. The losses to be absorbed by the guarantees are recorded when the Corporation sells the loans with guarantees. The Corporation records its liability for representations and warranties, and corporate guarantees in accrued expenses and other liabilities and records the related expense through mortgage banking income.

In addition to the amounts included in the preceding tables, during 2008, the Corporation purchased $12.2 billion of mortgage-backed securities from third parties and resecuritized them, as compared to $18.1 billion during 2007. Net gains, which include net interest income earned during the holding period, totaled $80 million for 2008, as compared to net gains of $13 million during 2007. At December 31, 2008 and 2007 the Corporation retained $1.0 billion and $540 million of the senior securities issued in these transactions which were valued using quoted market prices and recorded in trading account assets.

The Corporation has retained consumer MSRs from the sale or securitization of mortgage loans. Servicing fee and ancillary fee income on consumer mortgage loans serviced, including securitizations where we still have continued involvement, were $3.3 billion and $810 million during 2008 and 2007. Servicing advances on consumer mortgage loans, including securitizations where we still have continuing involvement, were $8.8 billion and $323 million at December 31, 2008 and 2007. In addition, the Corporation has retained commercial MSRs from the sale or securitization of commercial mortgage loans. Servicing fee and ancillary fee income on commercial mortgage loans serviced, including securitizations where we still have continued involvement, were $40 million and $11 million during 2008 and 2007. Servicing advances on commercial mortgage loans, including securitizations where we still have continuing involvement, were $14 million and $13 million at December 31, 2008 and 2007. For more information on MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

Credit Card Securitizations

The Corporation maintains interests in credit card securitization vehicles. These retained interests include senior and subordinated securities, interest-only strips, subordinated interests in accrued interest and fees on the securitized receivables and cash reserve accounts. The following table summarizes selected information related to credit card securitizations for 2008 and 2007.

	Credit Card	
(Dollars in millions)	**2008**	2007
Cash proceeds from new securitizations	**$ 20,148**	$ 19,851
Gains on securitizations	**81**	117
Collections reinvested in revolving period securitizations	**162,332**	178,556
Cash flows received on residual interests	**5,771**	6,590
Principal balance outstanding [1]	**114,141**	114,450
Senior securities held [2, 3]	**4,965**	–
Subordinated securities held [2, 3]	**1,837**	424
Residual interests held [4]	**2,233**	2,766

(1) Principal balance outstanding represents the principal balance of credit card receivables that have been legally isolated from the Corporation including those loans that are still held on the Corporation's balance sheet (i.e., seller's interest).
(2) As a holder of these securities, the Corporation receives scheduled interest and principal payments accordingly. During 2008 and 2007, there were no significant impairments recorded on those securities classified as AFS debt securities.
(3) Held senior and subordinated securities issued by credit card securitization vehicles are valued using quoted market prices and were all classified as AFS debt securities at December 31, 2008 and 2007.
(4) Residual interests include interest-only strips of $74 million. The remainder of the residual interests are 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 and are not sensitive to favorable and adverse fair value changes in payment rates, expected credit losses and residual cash flows discount rates. The residual interests were valued using model valuations and are classified in other assets.

At December 31, 2008 and 2007, there were no recognized servicing assets or liabilities associated with any of these credit card securitization transactions. The Corporation recorded $2.1 billion in servicing fees related to credit card securitizations during both 2008 and 2007.

During the second half of 2008, the Corporation entered into a liquidity support agreement related to the Corporation's commercial paper program that obtains financing by issuing tranches of commercial paper backed by credit card receivables to third party investors from a trust sponsored by the Corporation. If certain criteria are met, such as not being able to reissue the commercial paper due to market illiquidity, the commercial paper maturity dates can be extended to 390 days from the original issuance date. This extension would cause the outstanding commercial paper to convert to an interest-bearing note and subsequent credit card receivable collections would be applied to the outstanding note balance. If any of the investor notes are still outstanding at the end of the extended maturity period, our liquidity commitment obligates the Corporation to purchase maturity notes in order to retire the investor notes. As a maturity note holder, the Corporation would be entitled to the remaining cash flows from the collateralizing credit card receivables. At December 31, 2008 there were no maturity notes outstanding and the Corporation held $5.0 billion of investment grade securities in AFS debt securities issued by the trust due to illiquidity in the marketplace.

Sensitivity Analysis

Key economic assumptions used in measuring the fair value of certain residual interests that continue to be held by the Corporation in credit card securitizations and the sensitivity of the current fair value of residual cash flows to changes in those assumptions are as follows:

	Credit Card	
	December 31	
(Dollars in millions)	**2008**	2007
Carrying amount of residual interests (at fair value) [1, 2]	**$2,233**	$2,766
Weighted average life to call or maturity (in years)	**0.3**	0.3
Monthly payment rate	**10.7-13.9%**	11.6-16.6%
Impact on fair value of 10% favorable change	**$ 8**	$ 51
Impact on fair value of 25% favorable change	**22**	158
Impact on fair value of 10% adverse change	**(6)**	(35)
Impact on fair value of 25% adverse change	**(14)**	(80)
Weighted average expected credit loss rate (annual rate)	**9.0%**	5.3%
Impact on fair value of 10% favorable change	**$ 296**	$ 141
Impact on fair value of 25% favorable change	**741**	374
Impact on fair value of 10% adverse change	**(26)**	(133)
Impact on fair value of 25% adverse change	**(57)**	(333)
Residual cash flows discount rate (annual rate)	**13.5%**	11.5%
Impact on fair value of 100 bps favorable change	**$ 3**	$ 9
Impact on fair value of 200 bps favorable change	**4**	13
Impact on fair value of 100 bps adverse change	**(5)**	(12)
Impact on fair value of 200 bps adverse change	**(10)**	(23)

(1) Residual interests include subordinated interests in accrued interest and fees on the securitized receivables, cash reserve accounts and interest-only strips which are carried at fair value or amounts that approximate fair value.
(2) At December 31, 2008 and 2007, $74 million and $400 million of residual interests were sensitive to favorable and adverse fair value changes in payment rates, expected credit losses and residual cash flows discount rates. The amount of the adverse change has been limited to the recorded amount of the residual interests where the hypothetical change exceeds its value.

The sensitivities in the preceding table 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 sensitivities in the previous table do not reflect any hedge strategies that may be undertaken to mitigate such risk.

Other Securitizations

The Corporation also maintains interests in other securitization vehicles. These retained interests include senior and subordinated securities and residual interests. The following table summarizes selected information related to home equity and automobile loan securitizations for 2008 and 2007.

	Home Equity		Automobile	
(Dollars in millions)	**2008**	2007	**2008**	2007
Cash proceeds from new securitizations	**$ –**	$ 363	**$ 741**	$ –
Losses on securitizations [1]	**–**	(20)	**(31)**	–
Collections reinvested in revolving period securitizations	**235**	41	**–**	–
Repurchase of loans from trust [2]	**128**	–	**184**	–
Cash flows received on residual interests	**27**	115	**–**	–
Principal balance outstanding [3]	**34,169**	8,776	**5,385**	1,955
Senior securities held [4, 5]	**–**	2	**4,102**	1,400
Subordinated securities held [4, 6]	**3**	14	**383**	33
Residual interests held [7]	**93**	5	**84**	100

(1) Net of hedges
(2) The repurchases of loans from the trust for home equity loans during 2008 was a result of the Corporation's representations and warranties and the exercise of an optional clean-up call. The repurchases of automobile loans during 2008 was substantially due to the exercise of an optional clean-up call.
(3) The increase in principal balance outstanding at December 31, 2008 from the prior year was due to the addition of Countrywide home equity securitizations.
(4) As a holder of these securities, the Corporation receives scheduled interest and principal payments accordingly. During 2008 and 2007, there were no significant impairments recorded on those securities classified as AFS debt securities.
(5) Substantially all of the held senior securities issued by these securitization vehicles are valued using quoted market prices. At December 31, 2007, all of the senior securities issued by home equity securitization vehicles were classified as trading account assets. At December 31, 2008 and 2007, substantially all of the senior securities issued by the automobile securitization vehicle were classified as AFS debt securities.
(6) At December 31, 2008 and 2007, all of the subordinated securities issued by the home equity securitization vehicles were valued using model valuations. At December 31, 2008, all of the subordinated securities issued by the home equity securitization vehicles were classified as AFS debt securities and at December 31, 2007, all of these subordinated securities were classified as trading account assets. At December 31, 2008, all of the subordinated securities issued by the automobile securitization vehicle were classified as AFS debt securities and $330 million were valued using quoted market prices, while $53 million were valued using model valuations. At December 31, 2007, all of the subordinated securities issued by the automobile securitization vehicle were valued using model valuations and classified as trading account assets.
(7) Residual interests include the residual asset, overcollateralization and cash reserve accounts, which are carried at fair value or amounts that approximate fair value. The residual interests were valued using model valuations and substantially all are classified in other assets.

Under the terms of the Corporation's home equity securitizations, advances are made to borrowers when they make a subsequent draw on their line of credit and the Corporation is reimbursed for those advances from the cash flows in the securitization. During the revolving period of the securitization, this reimbursement normally occurs within a short period after the advance. However, when the securitization transaction has begun its rapid amortization period, reimbursement of the Corporation's advance occurs only after other parties in the securitization have received all of the cash flows to which they are entitled. This has the effect of extending the time period for which the Corporation's advances are outstanding. In particular, if loan losses requiring draws on monoline insurer's policies (which protect the bondholders in the securitization) exceed a specified threshold or duration, the Corporation may not receive reimbursement for all of the funds advanced to borrowers, as the senior bondholders and the monoline insurer have priority for repayment. As of December 31, 2008, the reserve for losses on expected future draw obligations on the home equity securitizations in or expected to be in rapid amortization was $345 million.

The Corporation has retained consumer MSRs from the sale or securitization of home equity loans. The Corporation recorded $78 million in servicing fees related to home equity securitizations during 2008. No such fees were recorded during 2007. For more information on MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements. At December 31, 2008 and 2007, there were no recognized servicing assets or liabilities associated with any of these automobile securitization transactions. The Corporation recorded $30 million and $27 million in servicing fees related to automobile securitizations during 2008 and 2007.

Managed Asset Quality Indicators

The Corporation evaluates its credit card loan portfolio on a managed basis. Managed loans are defined as on-balance sheet loans as well as those loans in revolving credit card securitizations. Portfolio balances, delinquency and historical loss amounts of the credit card managed loan portfolio for 2008 and 2007, are presented in the following table.

	At and for the Year Ended December 31, 2008			At and for the Year Ended December 31, 2007		
(Dollars in millions)	**Outstandings**	**Accruing Past Due 90 Days or More**	**Net Charge-offs/ Losses**	Outstandings	Accruing Past Due 90 Days or More	Net Charge-offs/ Losses
Held credit card outstandings	**$ 81,274**	**$ 2,565**	**$ 4,712**	$ 80,724	$ 2,127	$ 3,442
Securitization impact	**100,960**	**3,185**	**6,670**	102,967	2,757	4,772
Managed credit card outstandings	**$ 182,234**	**$ 5,750**	**$ 11,382**	$ 183,691	$ 4,884	$ 8,214

Note 9 – Variable Interest Entities

In addition to the securitization vehicles described in *Note 8 – Securitizations* and *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements, which are typically structured as QSPEs, the Corporation utilizes SPEs in the ordinary course of business to support its own and its customers' financing and investing needs. These SPEs are typically structured as VIEs and are thus subject to consolidation by the reporting enterprise that absorbs the majority of the economic risks and rewards of the VIE. To determine whether it must consolidate a VIE, the Corporation qualitatively analyzes the design of the VIE to identify the creators of variability within the VIE, including an assessment as to the nature of the risks that are created by the assets and other contractual arrangements of the VIE, and identifies whether it will absorb a majority of that variability.

In addition to the VIEs discussed below, the Corporation uses VIEs such as trust preferred securities trusts in connection with its funding activities, as described in more detail in *Note 12 – Short-term Borrowings and Long-term Debt* to the Consolidated Financial Statements. The Corporation also uses VIEs in the form of synthetic securitization vehicles to mitigate a portion of the credit risk on its residential mortgage loan portfolio as described in *Note 6 – Outstanding Loans and Leases* to the Consolidated Financial Statements. The Corporation has also provided support to or has loss exposure resulting from its involvement with other VIEs, including certain cash funds managed within *Global Wealth and Investment Management (GWIM)*, as described in more detail in *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

On December 31, 2008, the Corporation adopted FSP FAS 140-4 and FIN 46(R)-8 which requires additional disclosures about its involvement with consolidated and unconsolidated VIEs and expanded the population of VIEs to be disclosed. For example, an unconsolidated customer vehicle that was sponsored by the Corporation is now included in the disclosures because the Corporation has a variable interest in the vehicle, even though that interest is not a significant variable interest. The following disclosures incorporate these requirements.

The table below presents the assets and liabilities of VIEs which have been consolidated on the Corporation's Balance Sheet at December 31, 2008, total assets of consolidated VIEs at December 31, 2007, and the Corporation's maximum exposure to loss resulting from its involvement with consolidated VIEs as of December 31, 2008 and 2007. The Corporation's maximum exposure to loss is based on the unlikely event that all of the assets in the VIEs become worthless and incorporates not only potential losses associated with assets recorded on the Corporation's Balance Sheet but also potential losses associated with off-balance sheet commitments such as unfunded liquidity commitments and other contractual arrangements.

Consolidated VIEs

(Dollars in millions)	Multi-Seller Conduits	Asset Acquisition Conduits	Municipal Bond Trusts	CDOs	Leveraged Lease Trusts	Other Vehicles	Total
Consolidated VIEs, December 31, 2008 [1]							
Maximum loss exposure [2]	$ 11,304	$ 1,121	$ 343	$2,443	$ 5,774	$ 3,222	**$24,207**
Consolidated Assets [3]							
Trading account assets	$ –	$ 188	$ 343	$ –	$ –	$ –	**$ 531**
Derivative assets	–	931	–	–	–	–	**931**
Available-for-sale debt securities	7,771	–	–	2,443	–	1,945	**12,159**
Held-to-maturity debt securities	605	–	–	–	–	–	**605**
Loans and leases	–	–	–	–	5,829	1,251	**7,080**
All other assets	992	2	–	–	–	1,420	**2,414**
Total	$ 9,368	$ 1,121	$ 343	$2,443	$ 5,829	$ 4,616	**$23,720**
Consolidated Liabilities							
Commercial paper and other short-term borrowings	$ 9,623	$ 1,121	$ 396	$ –	$ –	$ 1,626	**$12,766**
All other liabilities	53	–	–	–	55	582	**690**
Total	$ 9,676	$ 1,121	$ 396	$ –	$ 55	$ 2,208	**$13,456**
Consolidated VIEs, December 31, 2007 [1]							
Maximum loss exposure [2]	$ 16,984	$ 2,003	$ 7,646	$4,311	$ 6,236	$ 4,247	**$41,427**
Total assets [3]	11,944	2,003	7,646	4,464	6,236	5,671	**37,964**

(1) Cash flows generated by the assets of the consolidated VIEs must generally be used to settle the specific obligations of the VIEs before they are available to the Corporation for general purposes.
(2) Maximum loss exposure for consolidated VIEs includes on-balance sheet assets, net of non-recourse liabilities, plus off-balance sheet exposures. It does not include losses previously recognized through write-downs of assets.
(3) Total assets of consolidated VIEs are reported net of intercompany balances that have been eliminated in consolidation.

Unconsolidated VIEs (Dollars in millions)	Multi-Seller Conduits	Asset Acquisition Conduits	Municipal Bond Trusts	CDOs	Real Estate Investment Vehicles	Customer Vehicles	Other Vehicles	Total
Unconsolidated VIEs, December 31, 2008 (1)								
Maximum loss exposure (2)	$ 42,046	$ 2,622	$ 7,145	$ 2,383	$ 5,696	$ 5,741	$ 4,337	**$69,970**
Total assets of VIEs	27,922	2,622	7,997	2,570	5,980	6,032	7,280	**60,403**
On-Balance Sheet Assets								
Trading account assets	$ 1	$ 1	$ 688	$ 732	$ –	$ 2,877	$ 145	**$ 4,444**
Derivative assets	–	293	379	6	–	2,864	–	**3,542**
Available-for-sale debt securities	–	–	–	1,039	–	–	5	**1,044**
Loans and leases	388	–	–	–	–	–	1,004	**1,392**
All other assets	23	–	–	–	4,996	–	1,765	**6,784**
Total	$ 412	$ 294	$ 1,067	$ 1,777	$ 4,996	$ 5,741	$ 2,919	**$17,206**
On-Balance Sheet Liabilities								
Derivative liabilities	$ –	$ 293	$ 27	$ 57	$ –	$ –	$ 85	**$ 462**
All other liabilities	–	–	–	–	1,632	–	80	**1,712**
Total	$ –	$ 293	$ 27	$ 57	$ 1,632	$ –	$ 165	**$ 2,174**
Unconsolidated VIEs, December 31, 2007 (1)								
Maximum loss exposure (2)	$ 47,335	$ 6,399	$ 6,341	$11,135	$ 5,009	$ 9,114	$ 6,199	**$91,532**
Total assets of VIEs	29,363	6,399	6,361	13,300	5,138	11,725	9,562	**81,848**

(1) Includes unconsolidated VIEs and certain QSPEs which are not included in *Note 8 – Securitizations* to the Consolidated Financial Statements.
(2) Maximum loss exposure for unconsolidated VIEs includes on-balance sheet assets plus off-balance sheet exposures. It does not include losses previously recognized through write-downs of assets or the establishment of derivative or other liabilities.

The table above presents total assets of unconsolidated VIEs in which the Corporation holds a significant variable interest and Corporation-sponsored unconsolidated VIEs in which the Corporation holds a variable interest, even if not significant, at December 31, 2008 and 2007. The table also presents the Corporation's maximum exposure to loss resulting from its involvement with these VIEs at December 31, 2008 and 2007. The Corporation's maximum exposure to loss is based on the unlikely event that all of the assets in the VIEs become worthless and incorporates not only potential losses associated with assets recorded on the Corporation's balance sheet but also potential losses associated with off-balance sheet commitments such as unfunded liquidity commitments and other contractual arrangements. Certain QSPEs in which the Corporation has continuing involvement but that are not discussed in *Note 8 – Securitizations* to the Consolidated Financial Statements are also included in the table. Assets and liabilities of unconsolidated VIEs recorded on the Corporation's Consolidated Balance Sheet at December 31, 2008 are also summarized above.

Except as described below, we have not provided financial or other support to consolidated or unconsolidated VIEs that we were not previously contractually required to provide, nor do we intend to do so.

Multi-Seller Conduits

The Corporation administers four 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 short-term commercial paper that is rated high-grade and 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. The Corporation also receives fees for serving as commercial paper placement agent and for providing administrative services to the conduits. The Corporation's liquidity commitments are collateralized by various classes of assets which incorporate features such as overcollateralization and cash reserves that are designed to provide credit support to the conduits at a level equivalent to investment grade as determined in accordance with internal risk rating guidelines. Third parties participate in a small number of the liquidity facilities on a pari passu basis with the Corporation.

The Corporation determines whether it must consolidate a multi-seller conduit based on an analysis of projected cash flows using Monte Carlo simulations which are driven principally by credit risk inherent in the assets of the conduits. Interest rate risk is not included in the cash flow analysis because the conduits are not designed to absorb and pass along interest rate risk to investors. Instead, the assets of the conduits pay variable rates of interest based on the conduits' funding costs. The assets of the conduits typically carry a risk rating of AAA to BBB based on the Corporation's current internal risk rating equivalent, which reflects structural enhancements of the assets, including third party insurance. Projected loss calculations are based on maximum binding commitment amounts, probability of default based on the average one year Moody's Corporate Finance transition table, and recovery rates of 90 percent, 65 percent and 45 percent for senior, mezzanine and subordinate exposures. Approximately 97 percent of commitments in the unconsolidated conduits and 70 percent of commitments in the consolidated conduit are senior exposures. Certain assets funded by one of the unconsolidated conduits benefit from embedded credit enhancement provided by the Corporation. Credit risk created by these assets is deemed to be credit risk of the Corporation, which is absorbed by third party investors.

The Corporation does not consolidate three conduits as it does not expect to absorb a majority of the variability created by the credit risk of the assets held in the conduits. On a combined basis, these three conduits have issued approximately $97 million of capital notes and equity interests to third parties, $92 million of which were outstanding at December 31, 2008. These instruments will absorb credit risk on a first loss basis. The Corporation consolidates the fourth conduit, which has not issued capital notes or equity interests to third parties.

At December 31, 2008, liquidity commitments to the consolidated conduit were mainly collateralized by credit card loans (25 percent), auto loans (14 percent), equipment loans (10 percent), corporate and commercial loans (seven percent), and trade receivables (six 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. Amounts advanced under these arrangements will be repaid when cash flows due

under the long-term contracts are received. Approximately 74 percent of this exposure is insured. At December 31, 2008, the weighted average life of assets in the consolidated conduit was estimated to be 3.1 years and the weighted average maturity of commercial paper issued by this conduit was 33 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.

At December 31, 2008, the Corporation's liquidity commitments to the unconsolidated conduits were mainly collateralized by credit card loans (23 percent), student loans (17 percent), auto loans (14 percent), trade receivables (10 percent), and equipment loans (seven percent). In addition, 23 percent of the Corporation's commitments were collateralized by the conduits' short-term lending arrangements with investment funds, primarily real estate funds, which, as previously mentioned, incorporate features that provide credit support. Amounts advanced under these arrangements are secured by a diverse group of high quality equity investors. Outstanding advances under these facilities will be repaid when the investment funds issue capital calls. At December 31, 2008, the weighted average life of assets in the unconsolidated conduits was estimated to be 3.6 years and the weighted average maturity of commercial paper issued by these conduits was 37 days.

The Corporation's liquidity, SBLCs and similar loss protection commitments obligate us to purchase assets from the conduits at the conduits' cost. Subsequent realized losses on assets purchased from the unconsolidated conduits would be reimbursed from restricted cash accounts that were funded by the issuance of capital notes and equity interests to third party investors. The Corporation would absorb losses in excess of such amounts. If a conduit is unable to re-issue commercial paper due to illiquidity in the commercial paper markets or deterioration in the asset portfolio, the Corporation is obligated to provide funding subject to the following limitations. The Corporation's obligation to purchase assets under the SBLCs and similar loss protection commitments are subject to a maximum commitment amount which is typically set at eight to 10 percent of total outstanding commercial paper. The Corporation's obligation to purchase assets under the liquidity agreements, which comprise the remainder of our exposure, is generally limited to the amount of non-defaulted assets. Although the SBLCs are unconditional, we are not obligated to fund under other liquidity or loss protection commitments if the conduit is the subject of a voluntary or involuntary bankruptcy proceeding.

One of the unconsolidated conduits holds CDO investments with an aggregate outstanding par value of $388 million. The underlying collateral includes middle market loans held in an insured CDO (65 percent) and subprime residential mortgages (12 percent), with the remainder of the collateral consisting primarily of investment grade securities. During 2008, these investments were downgraded or threatened with a downgrade by the rating agencies. In accordance with the terms of our existing liquidity obligations, the Corporation funded these investments in a transaction that was accounted for as a secured borrowing, and the investments no longer serve as collateral for commercial paper issuances. The Corporation will be reimbursed for any realized losses on these investments up to the amount of capital notes issued by the conduit. There were no other significant downgrades nor were any losses recorded in earnings from writedowns of assets held by any of the conduits during this period.

The liquidity commitments and SBLCs provided to unconsolidated conduits are included in *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

Asset Acquisition Conduits

The Corporation administers three asset acquisition conduits which acquire assets on behalf of the Corporation or our customers. Two of the conduits, which are unconsolidated, acquire assets at the request of customers who wish to benefit from the economic returns of the specified assets, which consist principally of liquid exchange-traded equity securities and some leveraged loans, on a leveraged basis. The consolidated conduit holds subordinated debt securities for the Corporation's benefit. The conduits obtain funding by issuing commercial paper and subordinated certificates to third party investors. Repayment of the commercial paper and certificates is assured by total return swap contracts between the Corporation and the conduits and, for unconsolidated conduits, the Corporation is reimbursed through total return swap contracts with its customers. The weighted average maturity of commercial paper issued by the conduits at December 31, 2008 was 54 days. The Corporation receives fees for serving as commercial paper placement agent and for providing administrative services to the conduits.

The Corporation determines whether it must consolidate an asset acquisition conduit based on the design of the conduit and whether the third party investors are exposed to the Corporation's credit risk or the market risk of the assets. Interest rate risk is not included in the cash flow analysis because the conduits are not designed to absorb and pass along interest rate risk to investors, who receive current rates of interest that are appropriate for the tenor and relative risk of their investments. When a conduit acquires assets for the benefit of the Corporation's customers, the Corporation enters into back-to-back total return swaps with the conduit and the customer such that the economic returns of the assets are passed through to the customer. The Corporation's performance under the derivatives is collateralized by the underlying assets and, as such, the third party investors are exposed primarily to credit risk of the Corporation. The Corporation's exposure to the counterparty credit risk of its customers is mitigated by the aforementioned collateral arrangements and the ability to liquidate an asset held in the conduit if the customer defaults on its obligation. When a conduit acquires assets on the Corporation's behalf and the Corporation absorbs the market risk of the assets, it consolidates the conduit.

Derivative activity related to unconsolidated conduits is carried at fair value with changes in fair value recorded in trading account profits (losses).

Municipal Bond Trusts

The Corporation administers municipal bond trusts that hold highly-rated, long-term, fixed-rate municipal bonds, some of which are callable prior to maturity. The majority of the bonds are rated AAA or AA and some of the bonds benefit from insurance provided by monolines. 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. The Corporation serves as remarketing agent and liquidity provider for the trusts. Should the Corporation be unable to remarket the tendered certificates, it is generally obligated to purchase them at par. The Corporation is 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 insurer. The weighted average remaining life of bonds held in the trusts at December 31, 2008 was 11.8 years. There were no material writedowns or downgrades of assets or issuers during 2008.

Some of these trusts are QSPEs and, as such, are not subject to consolidation by the Corporation. The Corporation consolidates those trusts that are not QSPEs if it holds the residual interests or otherwise

expects to absorb a majority of the variability created by changes in market value of assets in the trusts and changes in market rates of interest. The Corporation does not consolidate a trust if the customer holds the residual interest and the Corporation is protected from loss in connection with its liquidity obligations. For example, the Corporation may have the ability to trigger the liquidation of a trust that is not a QSPE if the market value of the bonds held in the trust declines below a specified threshold which is designed to limit market losses to an amount that is less than the customer's residual interest, effectively preventing the Corporation from absorbing the losses incurred on the assets held within the trust.

The Corporation's liquidity commitments to consolidated and unconsolidated trusts totaled $7.2 billion and $13.5 billion at December 31, 2008 and 2007. The decline is due principally to the liquidation of certain consolidated trusts. Liquidity commitments to unconsolidated trusts of $6.8 billion and $6.1 billion at December 31, 2008 and 2007 are included in *Note 13 – Commitments and Contingencies* to the Consolidated Financial Statements.

Collateralized Debt Obligation Vehicles

CDO vehicles 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 CDOs and providing liquidity support for super senior tranches of securities issued by certain CDOs. No third parties provide a significant amount of similar commitments to these CDOs.

The Corporation evaluates whether it must consolidate a CDO based principally on a determination as to which party is expected to absorb a majority of the credit risk created by the assets of the CDO. When the Corporation structured certain CDOs, it acquired the super senior tranches issued by the CDOs or provided commitments to support the issuance of super senior commercial paper to third parties. When the CDOs were first created, the Corporation did not expect its investments or its liquidity commitments to absorb a significant amount of the variability driven by the credit risk within the CDOs and did not consolidate the CDOs. When the Corporation subsequently acquired commercial paper or term securities issued by certain CDOs during 2008 and 2007, principally as a result of our liquidity obligations, we performed updated consolidation analyses. Due to credit deterioration in the pools of securities held by the CDOs, the updated analyses typically indicated that the Corporation would now be expected to absorb a majority of the variability and, accordingly, we consolidated these CDOs. Consolidation did not have a significant impact on net income, as the Corporation's investments and liquidity obligations were recorded at fair value prior to consolidation. The creditors of the consolidated CDOs have no recourse to the general credit of the Corporation.

Liquidity commitments provided to CDOs include written put options with a notional amount of $542 million and $10.0 billion at December 31, 2008 and 2007. The written put options pertain to commercial paper which is the most senior class of securities issued by the CDOs and benefits from the subordination of all other securities issued by the CDOs. The Corporation is obligated 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. The decrease of $9.5 billion in the notional amount of written put options was due primarily to the elimination of liquidity commitments to certain CDOs. This amount includes $2.2 billion of put options related to two CDOs that were consolidated by the Corporation due to a change in contractual arrangements such as the conversion of commercial paper into term notes and for which it now holds all of the remaining outstanding commercial paper. It also includes $7.0 billion of put options that were terminated due to liquidation of three CDOs.

At December 31, 2007, the Corporation also provided liquidity support to a CDO conduit that held $2.3 billion of assets consisting of super senior tranches of debt securities issued by other CDOs. The CDO conduit obtained funds by issuing commercial paper to third party investors. During 2008, the Corporation purchased the assets and liquidated the CDO conduit in accordance with our liquidity obligation due to a threatened downgrade of the CDO conduit's commercial paper. Four CDO vehicles which issued securities formerly held in the CDO conduit are consolidated on the Consolidated Balance Sheet of the Corporation at December 31, 2008.

Leveraged Lease Trusts

The Corporation's net involvement with consolidated leveraged lease trusts totaled $5.8 billion and $6.2 billion at December 31, 2008 and 2007. The trusts hold long-lived equipment such as rail cars, power generation and distribution equipment, and commercial aircraft. The Corporation consolidates these trusts because it holds a residual interest which is expected to absorb a majority of the variability driven by credit risk of the lessee and, in some cases, by the residual risk of the leased property. The net investment represents the Corporation's maximum loss exposure to the trusts 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.

Real Estate Investment Vehicles

The Corporation's investment in real estate investment vehicles at December 31, 2008 and 2007 consisted principally of limited partnership investments in unconsolidated partnerships that finance the construction and rehabilitation of affordable rental housing. The Corporation earns a return primarily through the receipt of tax credits allocated to the affordable housing projects.

The Corporation determines whether it must consolidate these limited partnerships based on a determination as to which party is expected to absorb a majority of the risk created by the real estate held in the vehicle, which may include construction, market and operating risk. Typically, the general partner in a limited partnership will absorb a majority of this risk due to the legal nature of the limited partnership structure. The Corporation's risk of loss is mitigated by policies requiring that the project qualify for the expected tax credits prior to making its investment. The Corporation may from time to time be asked to invest additional amounts to support a troubled project. Such additional investments have not been and are not expected to be significant.

Customer Vehicles

Customer vehicles include credit-linked note vehicles and asset acquisition vehicles, which are typically created on behalf of customers who wish to obtain market or credit exposure to a specific company or financial instrument.

Credit-linked note vehicles issue notes linked to the credit risk of a specified company or debt instrument, purchase high-grade assets as collateral and enter into credit default swaps to synthetically create the credit risk to pay the return on the notes. The Corporation is typically the counterparty for some or all of the credit default swaps and, to a lesser extent, it may invest in securities issued by the vehicles. The Corporation does not consolidate the vehicles because the credit default swaps create variability which is absorbed by the third party investors. The Corporation is exposed to loss if the collateral held by the vehicle declines in

value and is insufficient to cover the vehicle's obligation to the Corporation under the credit default swaps.

Asset acquisition vehicles acquire financial instruments, typically loans, at the direction of a single customer and obtain funding through the issuance of structured notes to the Corporation. At the time the vehicle acquires an asset, the Corporation enters into a total return swap with the customer such that the economic returns of the asset are passed through to the customer. As a result, the Corporation does not consolidate the vehicles. The Corporation is exposed to counterparty credit risk if the asset declines in value and the customer defaults on its obligation to the Corporation under the total return swap. The Corporation's risk may be mitigated by collateral or other arrangements.

Other Vehicles

Other vehicles include loan and other investment vehicles as well as other corporate conduits that were established on behalf of the Corporation or customers who wish to obtain market or credit exposure to a specific company or financial instrument.

Loan and other investment vehicles at December 31, 2008 and 2007 consisted primarily of securitization vehicles, including term securitization vehicles that did not meet QSPE status, as well as managed investment vehicles that invest in financial assets, primarily debt securities and loans. The Corporation determines whether it is the primary beneficiary of and must consolidate a loan or other investment vehicle based principally on a determination as to which party is expected to absorb a majority of the credit risk or market risk created by the assets of the vehicle. Typically, the party holding subordinated or residual interests in a vehicle will absorb a majority of the risk. Investors in consolidated loan and other investment vehicles have no recourse to the general credit of the Corporation as their investments are repaid solely from the assets of the vehicle.

Other corporate conduits at December 31, 2008 and 2007 are commercial paper conduits, which hold primarily high-grade, long-term municipal, corporate and mortgage-backed securities. The assets held by these other conduits have a weighted average remaining life of approximately 2.5 years at December 31, 2008. Substantially all of the securities are rated AAA or AA and some of the bonds benefit from insurance provided by monolines. The conduits obtain funding by issuing commercial paper to third party investors. At December 31, 2008, the weighted average maturity of the commercial paper was 15 days. We have entered into derivative contracts which provide interest rate, currency and a pre-specified amount of credit protection to the conduits in exchange for the commercial paper rate. In addition, the Corporation may be obligated to purchase assets from the conduits 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, the Corporation is no longer exposed to the risk of loss.

During 2008, three monoline insurers were downgraded by the rating agencies which resulted in the mandatory sale of $1.5 billion of insured assets out of the conduits. Due to illiquidity in the financial markets at the time of the sales, the Corporation purchased a majority of these assets. After subsequent sales to third parties, $1.1 billion of these assets remain on the Consolidated Balance Sheet and are recorded within trading account assets at December 31, 2008. The conduits are QSPEs and, as such, are not subject to consolidation by the Corporation. In the event that the Corporation is unable to remarket the conduits' commercial paper such that they no longer qualify as QSPEs, the Corporation would consolidate the conduits which may have an adverse impact on the fair value of the related derivative contracts. Derivative activity related to the other corporate conduits is carried at fair value with changes in fair value recorded in trading account profits (losses).

Note 10 – Goodwill and Intangible Assets

The following table presents goodwill at December 31, 2008 and 2007, which includes approximately $4.4 billion of goodwill related to the acquisition of Countrywide. For more information on the Countrywide acquisition, see *Note 2 – Merger and Restructuring Activities* to the Consolidated Financial Statements.

	December 31	
(Dollars in millions)	**2008**	2007
Global Consumer and Small Business Banking	**$44,873**	$ 40,340
Global Corporate and Investment Banking	**29,570**	29,648
Global Wealth and Investment Management	**6,503**	6,451
All Other	**988**	1,091
Total goodwill	**$81,934**	$ 77,530

The Corporation performed its annual goodwill impairment test as of June 30, 2008 which indicated some stress in certain reporting units. As a result of this test and considering the overall market displacement, an additional impairment analysis was completed at year-end. The Corporation evaluated the fair value of its reporting units using a combination of the market and income approach, using a range of valuations to determine the fair value of each reporting unit. In performing the updated goodwill impairment analysis the *Mortgage, Home Equity and Insurance Services* business failed the first step analysis (i.e., carrying value exceeded its fair value) and therefore the second step analysis was performed (i.e., comparing the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill). In addition, although not required, to further substantiate the value of the Corporation's goodwill balance the second step analysis described above was performed for the *Card Services* business as well. As a result of the tests, no goodwill losses were recognized for 2008. For more information on goodwill impairment testing, see the *Goodwill and Intangible Assets* section of *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

The gross carrying values and accumulated amortization related to intangible assets at December 31, 2008 and 2007 are presented below:

	December 31			
	2008		2007	
(Dollars in millions)	Gross Carrying Value	Accumulated Amortization	Gross Carrying Value	Accumulated Amortization
Purchased credit card relationships	$ 7,080	$ 2,740	$ 7,027	$ 1,970
Core deposit intangibles	4,594	3,284	4,594	2,828
Affinity relationships	1,638	587	1,681	406
Other intangibles	3,113	1,279	3,050	852
Total intangible assets	$ 16,425	$ 7,890	$ 16,352	$ 6,056

Amortization of intangibles expense was $1.8 billion, $1.7 billion and $1.8 billion in 2008, 2007 and 2006, respectively. The Corporation estimates aggregate amortization expense will be approximately $1.6 billion, $1.4 billion, $1.2 billion, $1.0 billion and $840 million for 2009 through 2013, respectively.

Note 11 – Deposits

The Corporation had domestic certificates of deposit and other domestic time deposits of $100 thousand or more totaling $136.6 billion and $94.4 billion at December 31, 2008 and 2007. Foreign certificates of deposit and other foreign time deposits of $100 thousand or more totaled $85.4 billion and $109.1 billion at December 31, 2008 and 2007.

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	$ 62,663	$ 69,913	$ 4,018	$136,594
Foreign certificates of deposit and other time deposits	83,900	486	966	85,352

At December 31, 2008, the scheduled maturities for total time deposits were as follows:

(Dollars in millions)	Domestic	Foreign	Total
Due in 2009	$ 248,231	$ 85,416	$ 333,647
Due in 2010	6,976	87	7,063
Due in 2011	2,962	69	3,031
Due in 2012	2,122	246	2,368
Due in 2013	1,854	62	1,916
Thereafter	2,990	526	3,516
Total time deposits	$ 265,135	$ 86,406	$ 351,541

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, 2008 was $38.0 billion compared to $55.6 billion at December 31, 2007.

Bank of America, N.A. maintains a domestic program to offer up to a maximum of $75.0 billion, outstanding 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 $10.5 billion at December 31, 2008, compared to $12.3 billion at December 31, 2007. These short-term bank notes, along with commercial paper, Federal Home Loan Bank advances, U.S. 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

Long-term debt consists of borrowings having an original maturity of one year or more. The following table presents the balance of long-term debt at December 31, 2008 and 2007 and the related rates and maturity dates at December 31, 2008:

	December 31	
(Dollars in millions)	**2008**	2007
Notes issued by Bank of America Corporation [1]		
Senior notes:		
Fixed, with a weighted average rate of 4.62%, ranging from 0.61% to 10.00%, due 2009 to 2043	**$ 67,776**	$ 47,430
Floating, with a weighted average rate of 3.05%, ranging from 0.42% to 6.78%, due 2009 to 2041	**54,076**	41,791
Subordinated notes:		
Fixed, with a weighted average rate of 5.80%, ranging from 2.40% to 10.20%, due 2009 to 2038	**29,618**	28,630
Floating, with a weighted average rate of 3.06%, ranging from 2.48% to 5.13%, due 2016 to 2019	**650**	686
Junior subordinated notes (related to trust preferred securities):		
Fixed, with a weighted average rate of 6.73%, ranging from 5.25% to 11.45%, due 2026 to 2055	**15,606**	13,866
Floating, with a weighted average rate of 3.56%, ranging from 2.25% to 8.17%, due 2027 to 2056	**3,736**	3,359
Total notes issued by Bank of America Corporation	**171,462**	135,762
Notes issued by Bank of America, N.A. and other subsidiaries		
Senior notes:		
Fixed, with a weighted average rate of 2.84%, ranging from 1.70% to 11.30%, due 2009 to 2027	**6,103**	5,648
Floating, with a weighted average rate of 2.43%, ranging from 0.47% to 4.50%, due 2009 to 2051	**28,467**	33,088
Subordinated notes:		
Fixed, with a weighted average rate of 5.90%, ranging from 5.30% to 7.13%, due 2009 to 2036	**5,593**	6,592
Floating, with a weighted average rate of 2.42%, ranging from 2.28% to 3.77%, due 2010 to 2027	**2,796**	1,907
Total notes issued by Bank of America, N.A. and other subsidiaries	**42,959**	47,235
Notes issued by NB Holdings Corporation		
Junior subordinated notes (related to trust preferred securities):		
Floating, 3.82%, due 2027	**258**	258
Total notes issued by NB Holdings Corporation	**258**	258
Notes issued by BAC North America Holding Company and subsidiaries		
Senior notes:		
Fixed, with a weighted average rate of 5.27%, ranging from 3.00% to 7.00%, due 2009 to 2026	**562**	583
Junior subordinated notes (related to trust preferred securities):		
Fixed, 6.97%, perpetual	**491**	491
Floating, with a weighted average rate of 3.83%, ranging from 2.05% to 6.50%, perpetual	**940**	1,627
Total notes issued by BAC North America Holding Company and subsidiaries	**1,993**	2,701
Other debt [1]		
Advances from Federal Home Loan Banks		
Fixed, with a weighted average rate of 4.80%, ranging from 1.00% to 8.29%, due 2009 to 2031	**48,495**	5,751
Floating, with a weighted average rate of 0.78%, ranging from 0.20% to 2.09%, due 2009 to 2013	**2,750**	5,450
Other	**375**	351
Total other debt	**51,620**	11,552
Total long-term debt	**$ 268,292**	$ 197,508

(1) Includes long-term debt assumed related to Countrywide.

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, 2008 and 2007, the amount of foreign currency denominated debt translated into U.S. dollars included in total long-term debt was $53.3 billion and $58.8 billion. Foreign currency contracts are used to convert certain foreign currency denominated debt into U.S. dollars.

(Dollars in millions)	2009	2010	2011	2012	2013	Thereafter	Total
Bank of America Corporation	$ 18,411	$ 21,781	$ 13,299	$ 25,928	$ 7,233	$ 84,810	$ 171,462
Bank of America, N.A. and other subsidiaries	15,466	11,584	75	5,667	86	10,081	42,959
NB Holdings Corporation	–	–	–	–	–	258	258
BAC North America Holding Company and subsidiaries	73	92	51	15	26	1,736	1,993
Other	8,932	15,947	13,604	5,490	5,026	2,621	51,620
Total	**$ 42,882**	**$ 49,404**	**$ 27,029**	**$ 37,100**	**$ 12,371**	**$ 99,506**	**$ 268,292**

At December 31, 2008 and 2007, Bank of America Corporation was authorized to issue approximately $92.9 billion and $64.0 billion of additional corporate debt and other securities under its existing shelf registration statements. At December 31, 2008 and 2007, Bank of America, N.A. was authorized to issue approximately $48.3 billion and $62.1 billion of bank notes. At both December 31, 2008 and 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, 2008) were 4.26 percent, 5.05 percent and 2.80 percent, respectively, at December 31, 2008 and (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. These obligations were denominated primarily in U.S. dollars.

Aggregate annual maturities of long-term debt obligations (based on final maturity dates) at December 31, 2008 are included in the table above.

Trust Preferred and Hybrid Securities

Trust preferred securities (Trust Securities) are issued by 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 or its subsidiaries (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 in 2007. 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 December 31, 2008, the Corporation's 6.625% Junior Subordinated Notes due 2036 constitutes the Covered Debt under the covenant corresponding to the Floating Rate Preferred HITS and the Corporation's 5.625% 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 Board of Governors of the Federal Reserve System (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.

Included in the outstanding Trust Securities and Notes in the following table are non-consolidated wholly owned subsidiary funding vehicles of BAC North America Holding Company (BACNAH) and its subsidiaries that 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 its subsidiaries, as applicable (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 2001. These Funding Securities are subject to mandatory redemption upon repayment by the issuer 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.

The following table is a summary of the outstanding Trust and Hybrid Securities and the related Notes at December 31, 2008 as originated by Bank of America Corporation and its predecessor companies.

(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	1,221	**1,259**	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
ABN Amro North America							
Series I	May 2001	77	**77**	Perpetual	3-mo. LIBOR +175 bps	2/15,5/15,8/15,11/15	On or after 8/15/06
Series II	May 2001	77	**77**	Perpetual	3-mo. LIBOR +175 bps	3/15,6/15,9/15,12/15	On or after 9/15/06
Series III	May 2001	77	**77**	Perpetual	3-mo. LIBOR +175 bps	1/15,4/15,7/15,10/15	On or after 10/15/06
Series IV	May 2001	77	**77**	Perpetual	3-mo. LIBOR +175 bps	2/28,5/30,8/30,11/30	On or after 8/30/06
Series V	May 2001	77	**77**	Perpetual	3-mo. LIBOR +175 bps	3/30,6/30,9/30,12/30	On or after 9/30/06
Series VI	May 2001	77	**77**	Perpetual	3-mo. LIBOR +175 bps	1/30,4/30,7/30,10/30	On or after 10/30/06
Series VII	May 2001	88	**88**	Perpetual	3-mo. LIBOR +175 bps	3/15,6/15,9/15,12/15	On or after 9/15/06
Series IX	June 2001	70	**70**	Perpetual	3-mo. LIBOR +175 bps	3/5,6/5,9/5,12/5	On or after 9/05/06
Series X	June 2001	53	**53**	Perpetual	3-mo. LIBOR +175 bps	3/12,6/12,9/12,12/12	On or after 9/12/06
Series XI	June 2001	27	**27**	Perpetual	3-mo. LIBOR +175 bps	3/26,6/26,9/26,12/26	On or after 9/26/06
Series XII	June 2001	80	**80**	Perpetual	3-mo. LIBOR +175 bps	1/10,4/10,7/10,10/10	On or after 9/12/06
Series XIII	June 2001	70	**70**	Perpetual	3-mo. LIBOR +175 bps	1/24,4/24,7/24,10/24	On or after 10/24/06
LaSalle							
Series I	August 2000	491	**491**	Perpetual	6.97% through 9/15/2010; 3-mo. LIBOR +105.5 bps thereafter	3/15,6/15,9/15,12/15	On or after 9/15/10
Series J	September 2000	95	**95**	Perpetual	3-mo. LIBOR +5.5 bps through 9/15/2010; 3-mo. LIBOR +105.5 bps thereafter	3/15,6/15,9/15,12/15	On or after 9/15/10
Countrywide							
Countrywide Capital III	June 1997	200	**206**	June 2027	8.05	6/15,12/15	Only under special event
Countrywide Capital IV	April 2003	500	**515**	April 2033	6.75	1/1,4/1,7/1,10/1	On or after 4/11/08
Countrywide Capital V	November 2006	1,495	**1,496**	November 2036	7.00	2/1,5/1,8/1,11/1	On or after 4/11/08
Total		$ 20,047	**$ 20,513**				

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 $46.9 billion and $39.2 billion at December 31, 2008 and 2007. At December 31, 2008, the carrying amount of these commitments, excluding fair value adjustments, was $454 million, including deferred revenue of $33 million and a reserve for unfunded legally binding lending commitments of $421 million. At December 31, 2007, the comparable amounts were $550 million, $32 million and $518 million. The carrying amount of these commitments is recorded in accrued expenses and other liabilities. For information regarding the Corporation's loan commitments accounted for at fair value, see *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

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.

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 is 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.

At December 31, 2008, the Corporation had no forward leveraged finance commitments compared to $11.9 billion at December 31, 2007. During 2008, the Corporation had new transactions of $10.0 billion, funded and syndicated of $11.5 billion, closed but not yet syndicated of $6.8 billion, and client terminations and other transactions of $3.6 billion related to the forward leveraged finance commitments. The Corporation also had unfunded capital markets commercial real estate commitments of $700 million at December 31, 2008 compared to $2.2 billion at December 31, 2007 with the primary change resulting from the $1.2 billion of transactions that were funded. The Corporation has not originated any material unfunded capital markets commercial real estate commitments subsequent to September 30, 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
Credit extension commitments, December 31, 2008					
Loan commitments	**$ 128,992**	**$ 120,234**	**$ 67,111**	**$ 31,200**	**$ 347,537**
Home equity lines of credit	**3,883**	**2,322**	**4,799**	**96,415**	**107,419**
Standby letters of credit and financial guarantees [1]	**33,350**	**26,090**	**8,328**	**9,812**	**77,580**
Commercial letters of credit	**2,228**	**29**	**1**	**1,507**	**3,765**
Legally binding commitments [2]	**168,453**	**148,675**	**80,239**	**138,934**	**536,301**
Credit card lines [3]	**827,350**	**–**	**–**	**–**	**827,350**
Total credit extension commitments	**$ 995,803**	**$ 148,675**	**$ 80,239**	**$ 138,934**	**$1,363,651**
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 [1]	31,629	14,493	7,943	8,731	62,796
Commercial letters of credit	3,753	50	33	717	4,553
Legally binding commitments [2]	222,795	108,524	117,638	144,405	593,362
Credit card lines [3]	876,393	17,864	–	–	894,257
Total credit extension commitments	$ 1,099,188	$ 126,388	$ 117,638	$ 144,405	$1,487,619

(1) At December 31, 2008 the notional value of SBLC and financial guarantees classified as investment grade and non-investment grade based on the credit quality of the underlying reference name within the instrument were $54.4 billion and $23.2 billion compared to $44.1 billion and $18.7 billion at December 31, 2007.

(2) Includes commitments to unconsolidated VIEs and certain QSPEs disclosed in *Note 9 – Variable Interest Entities* to the Consolidated Financial Statements, including $41.6 billion and $47.3 billion to multi-seller conduits, $6.8 billion and $6.1 billion to municipal bond trusts, and $0 and $2.3 billion to CDOs at December 31, 2008 and 2007. 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, including $980 million and $1.7 billion to customer-sponsored conduits at December 31, 2008 and 2007.

(3) Includes business card unused lines of credit.

Other Commitments

Principal Investing and Other Equity Investments

At December 31, 2008 and 2007, the Corporation had unfunded equity investment commitments of approximately $1.9 billion and $2.6 billion. These commitments relate primarily to 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. 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 is heightened exposure in the portfolio and higher potential for loss, unless an orderly disposition of the exposure can be made. At December 31, 2008, the Corporation did not have any unfunded bridge equity commitments and had previously funded $1.2 billion of equity bridges which are considered held for investment and recorded in other assets at $670 million. During 2008, the Corporation recorded $545 million in losses related to these investments through equity investment income.

Loan Purchases

At December 31, 2008, the Corporation had no collateralized mortgage obligation loan purchase commitments related to its ALM activities compared to $752 million at December 31, 2007, all of which settled in the first quarter of 2008.

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. The Corporation purchased $12.0 billion of such loans under this agreement in 2008 compared to $4.5 billion of such loans in 2007. As of December 31, 2008, the Corporation was committed for additional purchases of up to $13.0 billion over the remaining term of the agreement of which $3.0 billion will be purchased by June 30, 2009. All loans purchased under this agreement are subject to a comprehensive set of credit criteria. This agreement is accounted for as a derivative liability which had a balance of $316 million and $129 million at December 31, 2008 and 2007.

Operating Leases

The Corporation is a party to operating leases for certain of its premises and equipment. Commitments under these leases approximate $2.3 billion, $2.1 billion, $1.8 billion, $1.5 billion and $1.2 billion for 2009 through 2013, respectively, and $8.3 billion for all years thereafter.

Other Commitments

Beginning 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 invested in high quality, short-term securities with a portfolio weighted average maturity of 90 days or less, including securities issued by SIVs and senior debt holdings of financial service companies. Due to market disruptions, certain investments in SIVs and senior debt securities were downgraded by the rating agencies and experienced a decline in fair value. The Corporation entered into capital commitments, under which the Corporation provided cash to these funds in the event the net asset value per unit of a fund declined below certain thresholds. The capital commitments expire no later than the third quarter of 2010. At December 31, 2008 and 2007, the Corporation had gross (i.e., funded and unfunded) capital commitments to the funds of $1.0 billion and $565 million. In 2008, the Corporation incurred losses of $695 million related to these capital commitments. At December 31, 2008 and 2007, the remaining loss exposure on capital commitments was $300 million and $183 million. Additionally, during 2008, the Corporation purchased $1.7 billion of investments from the funds and recorded losses of $418 million.

The Corporation may from time to time, but is under no obligation to, 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 does not consolidate the cash funds managed within *GWIM* because the subordinated support provided by the Corporation will not absorb a majority of the variability created by the assets of the funds. In reaching this conclusion, the Corporation considered both interest rate and credit risk. The cash funds had total assets under management of $185.9 billion and $189.5 billion at December 31, 2008 and 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, 2008 and 2007, the notional amount of these guarantees totaled $42.2 billion and $35.2 billion with estimated maturity dates between 2009 and 2038. As of December 31, 2008 and 2007, 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, 2008 and 2007, the Corporation provided liquidity support in the form of written put options on $542 million and $10.0 billion of commercial paper issued by CDOs, all of which were issued by unconsolidated CDOs at December 31, 2008. 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 are expected to be terminated in 2009. 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). At December 31, 2008, the Corporation held $323 million of commercial paper that was issued by the unconsolidated CDOs.

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. The indemnification clauses are often standard contractual terms and were entered into in the normal course of business based on an assessment that the risk of loss would be remote. 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 occurrence of an external event, 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 2008 and 2007, the Corporation processed $369.4 billion and $361.9 billion of transactions and recorded losses as a result of these chargebacks of $21 million and $13 million.

At December 31, 2008 and 2007, the Corporation held as collateral $38 million and $19 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, 2008 and 2007, the maximum potential exposure totaled approximately $147.1 billion and $151.2 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 the Corporation's clients. This contract stipulates that the Corporation will indemnify the third party for any margin loan losses that occur in their issuing margin to the Corporation's clients. The maximum potential future payment under this indemnification was $577 million and $1.0 billion at December 31, 2008 and 2007. 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, 2008 and 2007, the notional amount of these guarantees totaled $1.3 billion and $1.5 billion. These guarantees have various maturities ranging from two to five years. At December 31, 2008 and 2007, 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 $7.3 billion and $4.8 billion at December 31, 2008 and 2007. The estimated maturity dates of these obligations are between 2009 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 SEC, the Financial Industry Regulatory Authority (FINRA), the New York Stock Exchange, the Financial Services Authority and other domestic, international 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 5, 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 the Lehman Brothers Holdings, Inc. 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

Adelphia Recovery Trust is the plaintiff in a lawsuit pending in the U.S. District Court for the Southern District of New York (SDNY). The lawsuit originally named over 700 defendants, including Bank of America, N.A. (BANA), Banc of America Securities LLC (BAS), Merrill Lynch & Co., Inc., Merrill Lynch Capital Corp. (collectively Merrill Lynch), Fleet National Bank, Fleet Securities, Inc. (collectively Fleet) and other affiliated entities, and asserted over 50 claims under federal statutes and state common law relating to loans and other services provided to various affiliates of ACC and entities owned by members of the founding family of Adelphia Communications Corporation. The plaintiffs seek unspecified damages in an amount not less than $5 billion. The District Court granted in part defendants' motions to dismiss, which resulted in the dismissal of approximately 650 defendants from the lawsuit. The plaintiffs have appealed the dismissal decision. The primary claims remaining against BANA, BAS, Merrill Lynch, and Fleet include fraud, aiding and abetting fraud, and aiding and abetting breach of fiduciary duty. Trial is scheduled for February 2010.

Auction Rate Securities (ARS) Claims

On May 22, 2008, a putative class action, *Bondar v. Bank of America Corporation* , was filed in the U.S. District Court for the Northern District of California against the Corporation, Banc of America Investment Services, Inc. (BAI) and BAS (collectively Bank of America) on behalf of persons who purchased auction rate securities (ARS) from the defendants. The amended complaint, which was filed on January 22, 2009, alleges, among other things, that Bank of America manipulated the market for, and failed to disclose material facts about, ARS and seeks to recover unspecified damages for losses in the market value of ARS allegedly caused by the decision of the Company and other broker-dealers to discontinue supporting auctions for the securities. On February 12, 2009, the Judicial Panel on Multidistrict Litigation consolidated *Bondar* and two related, individual federal actions into one proceeding in the U.S. District Court for the Northern District of California.

On March 25, 2008, a putative class action, *Burton v. Merrill Lynch & Co., Inc., et al.* , was filed in the U.S. District Court for the Southern District of New York against Merrill Lynch on behalf of persons who purchased and continue to hold ARS offered for sale by Merrill Lynch between March 25, 2003 and February 13, 2008. The complaint alleges, among other things, that Merrill Lynch failed to disclose material facts about ARS. A similar action, captioned *Stanton v. Merrill Lynch & Co., Inc., et al.* , was filed the next day in the same court. On October 31, 2008, the two cases were consolidated, and on December 10, 2008, a consolidated class action amended complaint was filed. Plaintiffs seek to recover alleged losses in the market value of ARS allegedly caused by the decision of Merrill Lynch to discontinue supporting auctions for the securities. Responses to the amended complaint were due on February 27, 2009.

On September 4, 2008, two civil antitrust putative class actions, *City of Baltimore v. Citigroup et al.* , and *Mayfield v. Citigroup et al.* , were filed in the U.S. District Court for the Southern District of New York against the Corporation, Merrill Lynch, and other financial institutions alleging that the defendants conspired to restrain trade in ARS by artificially supporting auctions and later withdrawing that support. *City of Baltimore* is filed on behalf of a class of issuers of ARS underwritten by the defendants between May 12, 2003 and February 13, 2008 who seek to recover the alleged above-market interest payments they claim they were forced to make when the Corporation, Merrill Lynch and others allegedly discontinued supporting ARS. The plaintiffs who also purchased ARS also seek to recover claimed losses in the market value of those securities allegedly caused by the decision of the financial institutions to discontinue supporting auctions for the securities. Plaintiffs seek treble damages and to rescind at par their purchases of ARS. *Mayfield* is filed on behalf of a class of persons who acquired ARS directly from defendants and who held those securities as of February 13, 2008. Plaintiffs seek to recover alleged losses in the market value of ARS allegedly caused by the decision of the Corporation and Merrill Lynch and others to discontinue supporting auctions for the securities. Plaintiffs seek treble damages and to rescind at par their purchases of ARS. On January 15, 2009, defendants, including the Corporation and Merrill Lynch, filed a motion to dismiss the complaints.

On September 10, 2008, Bank of America announced an agreement in principle with the Massachusetts Securities Division, without admitting or denying allegations of wrongdoing, under which it will offer to purchase at par ARS held by certain customers. On October 8, 2008, Bank of America announced agreements in principle with the SEC, the Office of the New York State Attorney General (NYAG), and the North American Securities Administrators Association. The agreements are substantially similar except that the agreement with the NYAG requires the payment of a penalty to be allocated among and at the discretion of the settling states. In addition, the agreement with the SEC provides that the SEC reserves the right to seek an additional penalty in the event it concludes Bank of America has not satisfied its obligations under the agreement.

Merrill Lynch has entered into agreements in principle to settle regulatory actions related to its sale of ARS. As part of these settlements, Merrill Lynch agreed to offer to purchase ARS held by certain individuals, charities, and non-profit corporations and to pay a fine.

Countrywide Equity and Debt Securities Matters

Countrywide Financial Corporation (CFC), certain other Countrywide entities, and certain former officers and directors of CFC, among others, have been named as defendants in two putative class actions filed in the U.S. District Court for the Central District of California relating to certain CFC equity and debt securities. One case, entitled *In re Countrywide Financial Corp. Securities Litigation*, was filed by certain New York state and munici-

pal pension funds on behalf of purchasers of CFC's common stock and certain other equity and debt securities. The complaint alleges, among other things, that CFC made misstatements (including in certain SEC filings) concerning the nature and quality of its loan underwriting practices and its financial results, in violation of the antifraud provisions of the Securities Exchange Act of 1934 and Sections 11 and 12 of the Securities Act of 1933. Plaintiffs also assert claims against BAS, Merrill Lynch, Pierce, Fenner & Smith, Inc. (MLPFS) and other underwriter defendants under Sections 11 and 12 of the Securities Act of 1933. Plaintiffs seek unspecified compensatory damages, among other remedies. On December 1, 2008, the Court granted in part and denied in part the defendants' motions to dismiss the First Consolidated Amended Complaint, with leave to amend certain claims. Plaintiffs have filed a Second Consolidated Amended Complaint. A motion to dismiss is pending.

The other case, entitled *Argent Classic Convertible Arbitrage Fund L.P. v. Countrywide Financial Corp. et al.*, was filed in the U.S. District Court for the Central District of California in October 2007 against CFC on behalf of purchasers of certain Series A and B debentures issued in various private placements pursuant to a May 16, 2007 CFC offering memorandum. This matter involves allegations similar to those in the *In re Countrywide Financial Corporation Securities Litigation* case, asserts claims under the antifraud provisions of the Exchange Act and California state law, and seeks unspecified damages. Plaintiffs have filed an amended complaint that added the Corporation as a defendant. A motion to dismiss is pending.

CFC has also responded to subpoenas from the SEC and the U.S. Department of Justice.

Countrywide Mortgage-Backed Securities Litigation

CFC, certain other Countrywide entities, certain former CFC officers and directors, as well as BAS and MLPFS, are named as defendants in a consolidated putative class action, entitled *Luther v. Countrywide Home Loans Servicing LP, et al.*, filed in the Superior Court of the State of California, County of Los Angeles, that relates to the public offering of various mortgage-backed securities. The consolidated complaint alleges, among other things, that the mortgage loans underlying these securities were improperly underwritten and failed to comply with the guidelines and processes described in the applicable registration statements and prospectus supplements, in violation of Sections 11 and 12 of the Securities Act of 1933 and seeks unspecified compensatory damages, among other relief. In addition, in August 2008 a complaint was filed in the First Judicial Court for the County of Santa Fe against CFC, certain other CFC entities and certain former officers and directors of CFC by three New Mexico governmental entities that allegedly acquired certain of these mortgage-backed securities. The complaint asserts claims under the Securities Act and New Mexico state law. A motion to dismiss the complaint in the New Mexico action is pending.

Countrywide State and Local Enforcement Actions

Certain state and local government officials filed proceedings against CFC and/or various of CFC's wholly-owned subsidiaries, including lawsuits brought by the state attorneys general of California, Florida, Illinois, Connecticut, Indiana and West Virginia in their respective state courts. These lawsuits alleged, among other things, that CFC and/or its subsidiaries violated state consumer protection laws by engaging in deceptive marketing practices designed to increase the volume of loans it originated and then sold into the secondary market. These lawsuits sought, among other remedies, restitution, other monetary relief, penalties and, in the Illinois action, rescission or repurchase of mortgage loans made to Illinois consumers. CFC and its affiliates removed each of the lawsuits to federal court, and they have been transferred, finally or provisionally, to the U.S. District Court for the Southern District of California by the Judicial Panel on Multidistrict Litigation. In addition, the Director of the Washington State Department of Financial Institutions commenced an administrative proceeding against a CFC wholly-owned subsidiary alleging, among other things, that such subsidiary did not provide borrowers with certain required disclosures and that the loan products made available to Washington borrowers of protected races or ethnicities were less favorable than those made available to other, similarly situated borrowers. That proceeding seeks, among other things, a monetary fine and an order barring the CFC subsidiary from making consumer loans in the state of Washington for five years. The state lawsuits have been settled finally or in principle, except for the lawsuit brought by Indiana. The settlement provides for a loan modification program, principally for subprime and pay option ARM borrowers, and a nationwide fund of up to $150 million for foreclosure relief programs designated by certain settling states and for payments to individuals whose property was foreclosed and, prior to foreclosure, had made few mortgage payments. The settlements with all of the states except Connecticut have been documented and filed in state court, leading to the dismissal of the federal court cases as to CFC and/or its affiliates, and the remaining settlements are subject to the negotiation and execution of agreements and the Court's approval of such agreements.

Countrywide Bond Insurance Litigation

In September 2008, CFC and other Countrywide entities were named as defendants in an action filed by MBIA Insurance Corporation (MBIA) in New York Supreme Court. The action relates to bond insurance policies provided by MBIA with regard to certain securitized pools of home equity lines of credit and fixed-rate second lien mortgage loans. MBIA allegedly has paid claims as a result of defaults in the underlying loans, and claims that these defaults are the result of improper underwriting. The complaint alleges misrepresentation and breach of contract, among other claims, and seeks unspecified actual and punitive damages, and attorneys' fees. The Countrywide defendants have filed a motion to dismiss the primary claims in the action.

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. This matter has been scheduled for trial in the fall of 2009.

Enron Litigation

On April 8, 2002, Merrill Lynch & Co., Inc. and MLPFS (collectively Merrill Lynch) were added as defendants in a consolidated class action, entitled *Newby v. Enron Corp. et al.*, filed in the U.S. District Court for the Southern District of Texas on behalf of certain purchasers of Enron's publicly traded equity and debt securities. The complaint alleges, among other things, that Merrill Lynch engaged in improper transactions that helped Enron misrepresent its earnings and revenues. The District Court denied Merrill Lynch's motion to dismiss and certified a class action by Enron

shareholders and bondholders against Merrill Lynch and other defendants. On March 19, 2007, the U.S. Court of Appeals for the Fifth Circuit reversed the District Court's decision certifying the case as a class action. On January 22, 2008, the Supreme Court denied plaintiffs' petition to review the Fifth Circuit's decision. The parties are currently awaiting the District Court's decision on Merrill Lynch's request to dismiss the case based on the Fifth Circuit's March 19, 2007 decision and the Supreme Court's January 15, 2008 decision in another case, *Stoneridge Investment v. Scientific Atlanta* , which rejected liability on the same theory asserted by plaintiffs in this case. Over a dozen other actions have been brought against Merrill Lynch and other investment firms in connection with their Enron-related activities. There has been no adjudication of the merits of these claims.

Heilig-Meyers Litigation

In *AIG Global Securities Lending Corp., et al. v. Banc of America Securities LLC* , pending in the U.S. District Court for the Southern District of New York, the plaintiffs purchased asset-backed securities issued by a trust formed by Heilig-Meyers Co., and allege that BAS, as underwriter, made misrepresentations in connection with the sale of those securities in violation of the federal securities laws and New York common law. The case was tried and a jury rendered a verdict against BAS in favor of the plaintiffs for violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 and for common law fraud. The jury awarded aggregate compensatory damages of $84.9 million plus prejudgment interest totaling approximately $59 million. BAS filed motions to set aside the verdict in January 2009.

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, Merrill Lynch & Co., Inc., MLPFS (collectively Merrill Lynch), 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 opposed. On October 10, 2008, the District Court granted plaintiffs' request to withdraw without prejudice their class certification motion. A settlement in principle has been reached, subject to negotiation of definitive documentation and court approval. If the settlement is finalized and approved, Robertson Stephens, Inc., BAS and Merrill Lynch will pay, in total, approximately $100 million to the settlement classes.

Interchange and Related Cases

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 seek unspecified treble damages and injunctive relief and allege 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. The class actions are coordinated for pre-trial proceedings in the U.S. District Court for the Eastern District of New York, together 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. Plaintiffs filed a motion for class certification on May 8, 2008, and the defendants have opposed that motion. On January 29, 2009, the class plaintiffs filed an amended consolidated complaint.

The class plaintiffs have also filed two supplemental complaints against certain defendants, including the Corporation and certain of its subsidiaries, relating to, respectively, MasterCard's 2006 initial public offering (MasterCard IPO) and Visa's 2008 initial public offering (Visa IPO). The supplemental complaints, which seek unspecified treble damages and injunctive relief, assert, among other things, claims under federal antitrust laws. On November 25, 2008, the District Court granted defendants' motion to dismiss the supplemental complaint relating to MasterCard's IPO, with leave to amend. On January 29, 2009, plaintiffs amended this supplemental complaint and also filed the supplemental complaint relating to Visa's IPO. Responses to all of the complaints are due on March 16, 2009.

The Corporation and certain of its subsidiaries have entered into agreements that provide for sharing liabilities in connection with certain antitrust litigation against Visa (the Visa-Related Litigation), including *Interchange*. Under these agreements, the Corporation's obligations to Visa in the Visa-Related Litigation are capped at the Corporation's membership interest in Visa USA (approximately 12.1 percent as of December 31, 2008, but expected to rise to approximately 12.6 percent after giving effect to the transaction with Merrill Lynch & Co., Inc.). Also under these agreements, Visa Inc. has used a portion of the proceeds from the Visa IPO to fund liabilities arising from the Visa-Related Litigation, including the settlement during 2008 of *Discover Financial Services v. Visa USA, et al*. and the 2007 settlement of *American Express Travel Related Services Company v. Visa USA, et al.,* and has stated that it will use such proceeds to fund other liabilities in the future, if any, arising from the Visa-Related Litigation.

Lehman Brothers Holdings, Inc.

Beginning in September 2008, BAS, MLPFS, Countrywide Securities Corporation and LaSalle Financial Services Inc., along with other underwriters and individuals, were named as defendants in several putative class action complaints filed in the U.S. District Court for the Southern District of New York and state courts in Arkansas, California, New York and Texas. Plaintiffs allege that the underwriter defendants violated Sections 11 and 12 of the Securities Act of 1933 by making false or misleading disclosures in connection with various debt and convertible stock offerings of Lehman Brothers Holdings, Inc. and seek unspecified damages. On January 9, 2009, the U.S. District Court for the Southern District of New York issued an order consolidating most of these cases under the caption *In re Lehman Brothers Securities and ERISA Litigation*.

Mediafiction Litigation

Approximately a decade ago, Merrill Lynch International Bank Limited (MLIB) (formerly Merrill Lynch Capital Markets Bank Limited) acted as manager for a $284 million issuance of notes for an Italian library of movies, backed by the future flow of receivables to such movie rights. Mediafiction S.p.A (Mediafiction) was responsible for collecting payments in connection with the rights to the movies and forwarding the payments to MLIB for distribution to note holders. Mediafiction failed to make the required payments to MLIB and subsequently filed for protection under the bankruptcy laws of Italy. MLIB has filed claims in the Mediafiction bankruptcy proceeding for amounts that Mediafiction failed to pay on the notes and Mediafiction has filed a counterclaim alleging that the agree-

ment between MLIB and Mediafiction is null and void and seeking return of the payments previously made by Mediafiction to MLIB. In October 2008, the Court of Rome granted Mediafiction S.p.A.'s counter-claim against MLIB in the amount of $137 million. MLIB has appealed the ruling to the Court of Appeals of the Court of Rome.

Merrill Lynch Merger-Related Matters

Beginning in January 2009, the Corporation and certain of its officers and directors have been named as defendants in putative class actions brought by shareholders alleging violations of Sections 10(b), 14(a) and 20(a) of the Securities Exchange Act of 1934, and SEC rules promulgated thereunder, based on, among other things, the alleged failure to disclose information concerning the financial performance of Merrill Lynch during the fourth quarter of 2008 in connection with the proxy statement pursuant to which the Corporation's shareholders approved the merger between the Corporation and Merrill Lynch (the Merger) and certain other public statements. These actions, which seek unspecified damages and other relief, include *Sklar v. Bank of America Corp., et al.*, *Finger Interests No. One Ltd. v. Bank of America Corp., et al., Fort Worth Employees' Ret. Fund v. Bank of America Corp., et. al., Palumbo v. Bank of America Corp., et al., Zitner v. Bank of America Corp., et al.,* and *Stabbert v. Bank of America Corp., et al.* in the U.S. District Court for the Southern District of New York, *Boorn v. Bank of America Corp., et. al.* in the U.S District Court for the Northern District of Georgia, and *Cromier v. Bank of America Corp., et al.* in the U.S. District Court for the Northern District of California.

The Corporation and certain of its officers and directors have also been named as defendants in a putative class action, *Stern v. Bank of America Corp., et al.*, brought in the Delaware Court of Chancery by shareholders alleging breaches of fiduciary duties in connection with the Merger.

Other putative class actions, including *Dailey v. Bank of America Corp., et al., Wilson v. Bank of America Corp., et al., Adams v. Bank of America Corp., et al., Wright v. Bank of America Corp., et al.*, and *Stricker v. Bank of America Corp. Corporate Benefits Comm., et al.,* have been filed in the U.S. District Court for the Southern District of New York against the Corporation and certain of its officers and directors seeking recovery for losses from the Bank of America 401(k) Plan pursuant to the Employee Retirement Income Security Act. The complaints allege, among other things, that defendants made false and misleading statements in connection with the Merger and failed to inform participants in the plan of risks associated with investment in the Corporation's stock.

In addition, several derivative actions have been filed against directors of the Corporation, and the Corporation as nominal defendant, in the U.S. District Court for the Southern District of New York, including *Louisiana Municipal Police Employees Ret. System v. Lewis et al., Waldman v. Lewis, et al.*, *Hollywood Police Officers' Ret. System v. Lewis, et al., Siegel v. Lewis, et al., Lehmann v. Lewis, et al.*, and *Smith v. Lewis, et al.* Other derivative actions have been filed in the Delaware Court of Chancery, consolidated as *In re Bank of America Corp. Stockholder Derivative Litigation*, and in North Carolina Superior Court, *Cunniff v. Lewis, et al*. The derivative actions assert common law claims for breach of fiduciary duty and waste of corporate assets in connection with the Merger. Certain derivative actions filed in the U.S. District Court for the Southern District of New York also allege violations of Section 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9 promulgated thereunder based on, among other things, the alleged failure to disclose information concerning the financial performance of Merrill Lynch during the fourth quarter of 2008 in connection with the proxy statement pursuant to which the Corporation's shareholders approved the Merger.

The Corporation and Merrill Lynch have also received and are responding to inquiries from governmental authorities relating to (1) the Merger, and (2) incentive compensation paid to employees for 2008.

Merrill Lynch Subprime-Related Matters

In re Merrill Lynch & Co., Inc. Securities, Derivative, and ERISA Litigation

Beginning in October 2007, Merrill Lynch & Co., Inc. and MLPFS (collectively Merrill Lynch) and certain present and former Merrill Lynch officers and directors were named in both putative class actions filed on behalf of certain persons who acquired Merrill Lynch securities (the Securities Action) or participated in Merrill Lynch retirement plans (the ERISA Action) and purported shareholder derivative actions (the Derivative Actions) that have largely been consolidated under the caption, *In re Merrill Lynch & Co., Inc. Securities, Derivative, and ERISA Litigation*, filed in the U.S. District Court for the Southern District of New York. The complaints allege, among other things, that the defendants misrepresented and omitted facts related to Merrill Lynch's exposure to subprime collateralized debt obligations and subprime lending markets in violation of the federal securities laws, and seek damages in unspecified amounts. The Securities Action plaintiffs allege harm to investors who purchased Merrill Lynch securities during the class period; the ERISA Action plaintiffs allege harm to employees who invested retirement assets in Merrill Lynch securities, in violation of the Employee Retirement Income Securities Act (ERISA); and the plaintiffs in the derivative suits allege harm to Merrill Lynch itself from alleged breaches of fiduciary duty. In January 2009, Merrill Lynch agreed in principle to settle the Securities Action for $475 million and the ERISA Action for $75 million. The settlement is subject to a number of conditions, including court approval and confirmatory discovery, and was reached without any adjudication of the merits or finding of liability. On February 17, 2009, the District Court granted the defendants' motion to dismiss the Derivative Actions.

Louisiana Sheriffs' Pension & Relief Fund v. Conway, et al.

On October 3, 2008, a putative class action was filed against Merrill Lynch & Co., Inc., Merrill Lynch Capital Trust I, Merrill Lynch Capital Trust II, Merrill Lynch Capital Trust III, MLPFS (collectively Merrill Lynch), and certain present and former Merrill Lynch officers and directors, and underwriters, including BAS, in New York Supreme Court. The complaint seeks relief on behalf of all persons who purchased or otherwise acquired Merrill Lynch debt securities issued pursuant to a shelf registration statement dated March 31, 2006. The complaint alleges that Merrill Lynch's prospectuses misstated Merrill Lynch's financial condition and failed to disclose its exposure to losses from investments tied to subprime and other mortgages, as well as its liability arising from its participation in the auction rate securities market. On October 22, 2008, the action was removed to federal court and on November 5, 2008 it was accepted as a related case to *In re Merrill Lynch & Co., Inc. Securities, Derivative, and ERISA Litigation.* On February 9, 2009, Merrill Lynch filed a motion to dismiss the action.

Connecticut Carpenters Pension Fund, et al. v. Merrill Lynch & Co., Inc., et al.

On December 5, 2008, a class action complaint was filed against Merrill Lynch & Co., Inc., MLPFS, Merrill Lynch Mortgage Investors, Inc., Merrill Lynch Mortgage Lending, Inc., and Merrill Lynch Credit Corporation, Inc. (collectively Merrill Lynch) and certain present and former Merrill Lynch officers and directors in the Superior Court of the State of California, County of Los Angeles on behalf of persons who purchased Merrill Lynch

Mortgage Trust Certificates pursuant or traceable to registration statements that Merrill Lynch Mortgage Investors, Inc. filed with the SEC on August 5, 2005, December 21, 2005, and February 2, 2007. The complaint alleges that the registration statements misrepresented or omitted material facts regarding the quality of the mortgage pools underlying the Trusts, the mortgages' loan-to-value ratios, and other criteria that were used to qualify borrowers for mortgages. Plaintiffs seek to recover alleged losses in the market value of the Certificates allegedly caused by the performance of the underlying mortgages.

Public Employees' Ret. System of Mississippi v. Merrill Lynch & Co. Inc.

On February 17, 2009, a putative class action was filed against Merrill Lynch and others in the U.S. District Court for the Southern District of New York on behalf of persons who purchased Merrill Lynch Mortgage Trust Certificates pursuant or traceable to registration statements that Merrill Lynch Mortgage Investors, Inc. filed with the SEC on December 21, 2005 and February 2, 2007. The complaint alleges, among other things, that the registration statements and related documents misrepresented or omitted material facts regarding the underwriting standards used to originate the mortgages in the mortgage pools underlying the Trusts. Plaintiffs seek to recover alleged losses in the market value of the Certificates allegedly caused by the performance of the underlying mortgages or to rescind their purchases of the Certificates.

In addition to the above class actions, Merrill Lynch is a respondent or defendant in arbitrations and lawsuits brought by customers relating to the purchase of subprime-related securities. Plaintiffs generally allege causes of action for negligence, breach of duty, and fraud.

Merrill Lynch & Co., Inc. is cooperating with the SEC and other governmental authorities investigating sub-prime mortgage-related activities.

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." An SEC action or proceeding could seek a permanent injunction, disgorgement plus prejudgment interest, civil penalties and other remedial relief. Merrill Lynch & Co., Inc. is also being investigated by the SEC and the DOJ.

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. 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.

Beginning in March 2008, the Corporation, BANA and other financial institutions, including Merrill Lynch & Co., Inc., have been named as defendants in complaints filed in federal courts in the District of Columbia, New York and elsewhere. Plaintiffs purport to represent classes of government and private entities that purchased municipal derivatives from defendants. The complaints allege that defendants conspired to allocate customers and fix or stabilize the prices of certain municipal derivatives from 1992 through the present. The plaintiffs' complaints seek unspecified damages, including treble damages. These lawsuits were consolidated for pre-trial proceedings in the *In re Municipal Derivatives Antitrust Litigation*, MDL No. 1950 (Master Docket No. 08-2516), pending in the U.S. District Court for the Southern District of New York, and plaintiffs have filed a Consolidated Class Action complaint in this matter. BANA, BAS, Merrill Lynch and other financial institutions were also named in several related individual suits filed in California state courts on behalf of a number of cities and counties in California. These complaints allege a substantially similar conspiracy and assert violations of California's Cartwright Act, as well as fraud and deceit claims. All of these state complaints have been removed to federal court and are now part of *In re Municipal Derivatives Antitrust Litigation*, MDL No. 1950 (Master Docket No. 08-2516). Motions to remand these cases to state court were denied.

Beginning in April 2008, the Corporation and BANA received subpoenas, interrogatories and/or civil investigative demands from a number of state attorneys general requesting documents and information regarding municipal derivatives transactions from 1992 through the present. The Corporation and BANA are cooperating with the state attorneys general.

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.

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. On December 18, 2008 the Court of Milan, Italy fully acquitted each of the former employees of all charges. At this time, the acquittal has not been appealed. The Public Prosecutor's Office also filed a related charge in May, 2004 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 this administrative charge is ongoing, with hearing dates scheduled in 2009.

Separately, on October 9, 2008 the Public Prosecutor of the Court of Parma, Italy filed a notice of intent to file criminal charges against twelve former and current employees of the Corporation in connection with the insolvency of Parmalat S.p.A. The notice of intent to file charges alleges that the Corporation's transactions with Parmalat contributed to the insolvency of Parmalat, that certain transactions violated the Italian usury laws, and that certain former employees of the Corporation wrongly diverted funds in connection with certain transactions.

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 was brought as a putative class action on behalf of purchasers of Parmalat securities, alleged violations of the federal securities laws against the Corporation and certain affiliates, and sought unspecified damages. The action was subsequently consolidated as the *In re Parmalat Securities Litigation* before Judge Lewis A. Kaplan of the Southern District of New York. On August 12, 2008, the District Court dismissed the putative class claims against the Corporation and its affiliates in their entirety and no appeal was taken.

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 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.

Pender

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.

Note 14 – Shareholders' Equity and Earnings Per Common Share

During the first quarter of 2009, the Corporation issued preferred stock and warrants to purchase common stock. For additional information, see *Note 25 – Subsequent Events* to the Consolidated Financial Statements. In January 2009, the Corporation issued common stock in connection with its acquisition of Merrill Lynch. For additional information, see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements.

Common Stock

In October 2008, the Corporation issued 455 million shares of common stock at $22.00 per share which resulted in proceeds of $9.9 billion, net of underwriting expenses. In July 2008, the Corporation issued 107 million shares in connection with the Countrywide acquisition. Also during the year, the Corporation issued 17.8 million shares under employee stock plans. Additionally, the Corporation may repurchase shares, subject to certain restrictions including those imposed by the U.S. government, from time to time, in the open market or in private transactions through the Corporation's approved repurchase program. In 2008, the Corporation did not repurchase any shares of common stock. As discussed further below, the declaration of common stock dividends and the repurchase of common shares are subject to certain restrictions in connection with the Troubled Asset Relief Program (TARP) Capital Purchase Program.

In October 2008, the Board declared a fourth quarter cash dividend of $0.32 per common share which was paid on December 26, 2008 to common shareholders of record on December 5, 2008. In July 2008, the Board declared a third quarter cash dividend of $0.64 per common share which was paid on September 26, 2008 to common shareholders of record on September 5, 2008. In April 2008, the Board declared a second quarter cash dividend of $0.64 per common share which was paid on June 27, 2008 to shareholders of record on June 6, 2008. In January 2008, the Board declared a first quarter cash dividend of $0.64 per common share which was paid on March 28, 2008 to shareholders of record on March 7, 2008.

In addition, in January 2009, the Board declared a regular quarterly cash dividend on common stock of $0.01 per share, payable on March 27, 2009 to common shareholders of record on March 6, 2009.

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Preferred Stock

The following table presents a summary of Preferred Stock issued by the Corporation.

Preferred Stock Summary

(Dollars in millions, except as noted) Series [1]	Description	Initial Issuance Date	Total Shares Issued	Liquidation Preference per Share (in dollars)	Carrying Value [2]	Per Annum Dividend Rate	Redemption Period
Series B [3]	7% Cumulative Redeemable	January 1998	7,642	$ 100	$ 1	7.00%	n/a
Series D [4, 5]	6.204% Non-Cumulative	September 2006	33,000	25,000	825	6.204%	On or after September 14, 2011
Series E [4, 5]	Floating Rate Non-Cumulative	November 2006	81,000	25,000	2,025	Annual rate equal to the greater of (a) 3-mo. LIBOR + 35 bps and (b) 4.00%	On or after November 15, 2011
Series H [4, 5]	8.20% Non-Cumulative	May 2008	117,000	25,000	2,925	8.20%	On or after May 1, 2013
Series I [4, 5]	6.625% Non-Cumulative	September 2007	22,000	25,000	550	6.625%	On or after October 1, 2017
Series J [4, 5]	7.25% Non-Cumulative	November 2007	41,400	25,000	1,035	7.25%	On or after November 1, 2012
Series K [5, 6]	Fixed-to-Floating Rate Non-Cumulative	January 2008	240,000	25,000	6,000	8.00% through 1/29/18; 3-mo. LIBOR + 363 bps thereafter	On or after January 30, 2018
Series L [7]	7.25% Non-Cumulative Perpetual Convertible	January 2008	6,900,000	1,000	6,900	7.25%	n/a
Series M [5, 6]	Fixed-to-Floating Rate Non-Cumulative	April 2008	160,000	25,000	4,000	8.125% through 5/14/18; 3-mo. LIBOR + 364 bps thereafter	On or after May 15, 2018
Series N [8]	Fixed Rate Cumulative Perpetual	October 2008	600,000	25,000	13,550	5.00% through 11/14/13; 9.00% thereafter	On or after November 15, 2011
Total			8,202,042		$ 37,811		

(1) Series of preferred stock have a par value of $0.01 per share.
(2) Amounts shown before third party issuance costs totaling $110 million.
(3) Series B Preferred Stock does not have early redemption/call rights.
(4) Ownership is held in the form of depository shares each representing a 1/1000 th interest in a share of preferred stock paying a quarterly cash dividend.
(5) The Corporation may redeem series of preferred stock on or after the redemption date, in whole or in part, at its option, at the liquidation preference plus declared and unpaid dividends.
(6) Ownership is held in the form of depository shares each representing a 1/25 th interest in a share of preferred stock, paying a semi-annual cash dividend, if and when declared, until the redemption date then adjusts to a quarterly cash dividend, if and when declared, thereafter.
(7) Series L Preferred Stock does not have early redemption/call rights. 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.
(8) Series N Preferred Stock initially pays quarterly cash dividends. Series N Preferred Stock may be redeemed earlier with net proceeds from qualified equity offerings, which is defined generally as a sale or issuance of common or perpetual preferred stock to third parties that qualifies as Tier 1 Capital.

n/a = not applicable

The shares of the series of preferred stock previously discussed are not subject to the operation 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 in the previous table are not convertible. The holders of these series have no general voting rights. If any dividend payable on these series is in arrears for three or more semi-annual or six or more quarterly dividend periods, as applicable (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 two semi-annual or four quarterly dividend periods, as applicable, following the dividend arrearage (or, in the case of the Series N Preferred Stock, upon payment of all accrued and unpaid dividends).

In October 2008, in connection with the TARP Capital Purchase Program, established as part of the Emergency Economic Stabilization Act of 2008, the Corporation issued to the U.S. Treasury 600 thousand shares of Series N Preferred Stock as presented in the previous table. The Series N Preferred Stock has a call feature after three years. In connection with this investment, the Corporation also issued to the U.S. Treasury 10-year warrants to purchase approximately 73.1 million shares of Bank of America Corporation common stock at an exercise price of $30.79 per share. Upon the request of the U.S. Treasury, at any time, the Corporation has agreed to enter into a deposit arrangement pursuant to which the Series N Preferred Stock may be deposited and depositary shares, representing 1/25th of a share of Series N Preferred Stock, may be issued. The Corporation has agreed to register the Series N Preferred Stock, the warrants, the shares of common stock underlying the warrants and the depositary shares, if any, for resale under the Securities Act of 1933.

As required under the TARP Capital Purchase Program in connection with the sale of the Series N Preferred Stock to the U.S. Treasury, dividend payments on, and repurchases of, the Corporation's outstanding preferred and common stock are subject to certain restrictions. For as long as any Series N Preferred Stock is outstanding, no dividends may be declared or paid on the Corporation's outstanding preferred and common stock until all accrued and unpaid dividends on Series N Preferred Stock are fully paid. In addition, the U.S. Treasury's consent is required for any increase in dividends declared on shares of common stock before the third anniversary of the issuance of the Series N Preferred Stock unless the Series N Preferred Stock is redeemed by the Corporation or transferred in whole by the U.S. Treasury. Further, the U.S. Treasury's consent is required for any repurchase of any equity securities or trust preferred securities except for repurchases of Series N Preferred Stock or repurchases of common shares in connection with benefit plans consistent with past practice before the third anniversary of the issuance of the Series N Preferred Stock unless redeemed by the Corporation or transferred in whole by the U.S. Treasury.

On July 14, 2006, the Corporation redeemed its 6.75% Perpetual Preferred Stock with a stated value of $250 per share. The 382.5 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.

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.

During 2008, 2007 and 2006 the aggregate dividends declared on preferred stock were $1.3 billion, $182 million and $22 million respectively. In addition, in January 2009, the Corporation declared aggregate dividends on preferred stock of $909 million, including $145 million related to preferred stock exchanged in connection with the Merrill Lynch acquisition.

Accumulated OCI

The following table presents the changes in accumulated OCI for 2008, 2007 and 2006, net-of-tax.

(Dollars in millions)	Securities [1]	Derivatives [2]	Employee Benefit Plans [3]	Foreign Currency [4]	Total
Balance, December 31, 2007	**$ 6,536**	**$ (4,402)**	**$ (1,301)**	**$ 296**	**$ 1,129**
Net change in fair value recorded in accumulated OCI [5]	**(10,354)**	**104**	**(3,387)**	**(1,000)**	**(14,637)**
Net realized losses reclassified into earnings [6]	**1,797**	**840**	**46**	**–**	**2,683**
Balance, December 31, 2008	**$ (2,021)**	**$ (3,458)**	**$ (4,642)**	**$ (704)**	**$(10,825)**
Balance, December 31, 2006	$ (2,733)	$ (3,697)	$ (1,428)	$ 147	$ (7,711)
Net change in fair value recorded in accumulated OCI [5]	9,416	(1,252)	4	142	8,310
Net realized (gains) losses reclassified into earnings [6]	(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	465	534	(1,310)	219	(92)
Net realized (gains) losses reclassified into earnings [6]	(220)	107	–	50	(63)
Balance, December 31, 2006	$ (2,733)	$ (3,697)	$ (1,428)	$ 147	$ (7,711)

(1) In 2008, 2007 and 2006, the Corporation reclassified net realized losses into earnings on the sales and other-than-temporary impairments of AFS debt securities of $1.4 billion, $137 million and $279 million, net-of-tax, respectively, and net realized (gains) losses on the sales and other-than-temporary impairments of AFS marketable equity securities of $377 million, $(284) million, and $(499) million, net-of-tax, respectively.
(2) The amounts included in accumulated OCI for terminated interest rate derivative contracts were losses of $3.4 billion, $3.8 billion and $3.2 billion, net-of-tax, at December 31, 2008, 2007 and 2006, respectively.
(3) For more information, see *Note 16 – Employee Benefit Plans* to the Consolidated Financial Statements.
(4) For 2008, the net change in fair value recorded in accumulated OCI represented $3.8 billion in losses associated with the Corporation's foreign currency translation adjustments on its net investment in consolidated foreign operations partially offset by gains of $2.8 billion on the related foreign currency exchange hedging results.
(5) Securities include the fair value adjustment of $4.8 billion and $8.4 billion, net-of-tax, related to the Corporation's investment in CCB at December 31, 2008 and 2007.
(6) 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 impairment charges. These amounts are reclassified into earnings upon sale of the related security or when the other-than-temporary impairment charge is recognized.

Earnings Per Common Share

The calculation of earnings per common share and diluted earnings per common share for 2008, 2007 and 2006 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)	2008	2007	2006
Earnings per common share			
Net income	**$ 4,008**	$ 14,982	$ 21,133
Preferred stock dividends [1]	**(1,452)**	(182)	(22)
Net income available to common shareholders	**$ 2,556**	$ 14,800	$ 21,111
Average common shares issued and outstanding	**4,592,085**	4,423,579	4,526,637
Earnings per common share	**$ 0.56**	$ 3.35	$ 4.66
Diluted earnings per common share			
Net income available to common shareholders	**$ 2,556**	$ 14,800	$ 21,111
Average common shares issued and outstanding	**4,592,085**	4,423,579	4,526,637
Dilutive potential common shares [2, 3]	**20,406**	56,675	69,259
Total diluted average common shares issued and outstanding	**4,612,491**	4,480,254	4,595,896
Diluted earnings per common share	**$ 0.55**	$ 3.30	$ 4.59

(1) In 2008, preferred stock dividends includes $130 million of Series N Preferred Stock fourth quarter 2008 cumulative preferred dividends not declared as of year end and $50 million of accretion of discounts on preferred stock issuances.
(2) For 2008, 2007 and 2006, average options to purchase 181 million, 28 million and 355 thousand shares, respectively, were outstanding but not included in the computation of earnings per common share because they were antidilutive. For 2008, 128 million average dilutive potential common shares associated with the convertible Series L Preferred Stock issued in January of 2008 were excluded from the diluted share count because the result would have been antidilutive under the "if-converted" method.
(3) Includes incremental shares from restricted stock units, restricted stock shares, stock options and warrants.

Note 15 – Regulatory Requirements and Restrictions

The 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 $7.1 billion and $5.7 billion for 2008 and 2007. 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 $133 million and $49 million for 2008 and 2007.

The primary source of funds for cash distributions by the Corporation to its shareholders is dividends received from its banking subsidiaries Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB. In 2008, the Corporation received $12.2 billion in dividends from its banking subsidiaries. In 2009, Bank of America, N.A., FIA Card Services, N.A., and Countrywide Bank, FSB can declare and pay dividends to the Corporation of $0, $226 million and $695 million plus an additional amount equal to their net profits for 2009, as defined by statute, up to the date of any such dividend declaration. The other subsidiary national banks can initiate aggregate dividend payments in 2009 of $1.2 billion plus an additional amount equal to their net profits for 2009, 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. In addition, the Corporation's declaration of common stock dividends is subject to certain restrictions in connection with its preferred stock issued to the U.S. Treasury under the TARP Capital Purchase Program. For additional information see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

The FRB, OCC, Office of Thrift Supervision (OTS) and FDIC (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, 2008 and 2007, the Corporation, Bank of America, N.A. and FIA Card Services, N.A. were classified as "well-capitalized" under this regulatory framework. Effective July 1, 2008, the Corporation acquired Countrywide Bank, FSB which is regulated by the OTS and is, therefore, subject to OTS capital requirements. Countrywide Bank, FSB is required by OTS regulations to maintain a tangible equity ratio of at least two percent to avoid being classified as "critically undercapitalized." At December 31, 2008, Countrywide Bank, FSB's tangible equity ratio was 6.64 percent and was classified as "well-capitalized" for regulatory purposes. Management believes that the Corporation, Bank of America, N.A., FIA Card Services, N.A. and Countrywide Bank, FSB will remain "well-capitalized."

The regulatory capital guidelines measure capital in relation to the credit and market risks of both on- and off-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, 2008 and 2007, the Corporation had no subordinated debt that qualified as Tier 3 Capital.

Certain corporate sponsored trust companies which issue Trust Securities are not consolidated pursuant to FIN 46R. In accordance with FRB guidance, the FRB allows Trust Securities to qualify as Tier 1 Capital with revised quantitative limits that will be effective on March 31, 2009. As a result, we include Trust Securities in Tier 1 Capital.

Such limits restrict 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, 2008, the Corporation's restricted core capital elements comprised 14.7 percent of total core capital elements. The Corporation expects to remain 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 Tier 1 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. 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, 2008 and 2007, 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.

On January 1, 2009, the Corporation completed its acquisition of Merrill Lynch and subsequently issued an additional $10.0 billion of preferred stock in connection with the TARP Capital Purchase Program. On January 16, 2009, the U.S. government agreed to assist in the Merrill Lynch acquisition by making a further investment in the Corporation of $20.0 billion in preferred stock. For additional information regarding the acquisition of Merrill Lynch see *Note 2 – Merger and Restructuring Activity* to the Consolidated Financial Statements and for additional information regarding these equity issuances see *Note 25 – Subsequent Events* to the Consolidated Financial Statements.

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, the U.S. regulatory Agencies published the Basel II Final 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 was 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 2008, while others will begin implementation in 2009 and beyond.

Regulatory Capital

	December 31					
	2008			2007		
	Actual		Minimum	Actual		Minimum
(Dollars in millions)	Ratio	Amount	Required [1]	Ratio	Amount	Required [1]
Risk-based capital						
Tier 1						
Bank of America Corporation	**9.15%**	**$120,814**	**$ 52,833**	6.87%	$ 83,372	$ 48,516
Bank of America, N.A.	**8.51**	**88,979**	**41,818**	8.23	75,395	36,661
FIA Card Services, N.A.	**13.90**	**19,573**	**5,632**	14.29	21,625	6,053
Countrywide Bank, FSB [2]	**9.03**	**7,602**	**3,369**	n/a	n/a	n/a
Total						
Bank of America Corporation	**13.00**	**171,661**	**105,666**	11.02	133,720	97,032
Bank of America, N.A.	**11.71**	**122,392**	**83,635**	11.01	100,891	73,322
FIA Card Services, N.A.	**16.25**	**22,875**	**11,264**	16.82	25,453	12,105
Countrywide Bank, FSB [2]	**10.28**	**8,662**	**6,738**	n/a	n/a	n/a
Tier 1 Leverage						
Bank of America Corporation	**6.44**	**120,814**	**56,155**	5.04	83,372	49,595
Bank of America, N.A.	**5.94**	**88,979**	**44,944**	5.94	75,395	38,092
FIA Card Services, N.A.	**14.28**	**19,573**	**4,113**	16.37	21,625	3,963
Countrywide Bank, FSB [2]	**6.64**	**7,602**	**3,437**	n/a	n/a	n/a

(1) Dollar amount required to meet guidelines for adequately capitalized institutions.
(2) Countrywide Bank, FSB is presented for periods subsequent to June 30, 2008.
n/a = not applicable

Note 16 – Employee Benefit Plans

Pension and Postretirement Plans

The Corporation sponsors noncontributory trusteed qualified pension plans that cover substantially all officers and employees, a number of noncontributory nonqualified pension plans, and postretirement health and life plans. 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 effectively provides principal protection for participant balances transferred and certain compensation credits. 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, LaSalle and Countrywide. 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), The Bank of America Pension Plan for Legacy LaSalle (the LaSalle Pension Plan) and the Countrywide Financial Corporation Inc. Defined Benefit Pension Plan (the Countrywide 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. Effective December 31, 2008, the Countrywide Pension Plan, LaSalle Pension Plan, MBNA Pension Plan and U.S. Trust Pension Plan merged into the FleetBoston Pension Plan, which was renamed the Bank of America Pension Plan for Legacy Companies. The plan merger did not change participant benefits or benefit accruals as the Bank of America Pension Plan for Legacy Companies continues the respective benefit structures of the five plans for their respective participant groups.

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, LaSalle, and Countrywide. 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, except for Countrywide which did not have a Postretirement Health and Life Plan.

The tables within this Note include the information related to the U.S. Trust Corporation plans beginning July 1, 2007, the LaSalle plans beginning October 1, 2007 and the Countrywide plans beginning July 1, 2008.

The following table 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, 2008 and 2007. Amounts recognized at December 31, 2008 and 2007 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, 2008, 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 2009. 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 prior year's market gains or losses at the next measurement date, with the remaining 40 percent spread equally over the subsequent four years.

	Qualified Pension Plans [1]		Nonqualified Pension Plans [1]		Postretirement Health and Life Plans [1]	
(Dollars in millions)	**2008**	2007	**2008**	2007	**2008**	2007
Change in fair value of plan assets						
Fair value, January 1	**$ 18,720**	$ 16,793	**$ 2**	$ –	**$ 165**	$ 90
U.S. Trust Corporation balance, July 1, 2007	**–**	437	**–**	–	**–**	–
LaSalle balance, October 1, 2007	**–**	1,400	**–**	–	**–**	85
Countrywide balance, July 1, 2008	**305**	–	**–**	–	**–**	–
Actual return on plan assets	**(5,310)**	1,043	**–**	–	**(43)**	7
Company contributions [2]	**1,400**	–	**154**	159	**83**	84
Plan participant contributions	**–**	–	**–**	–	**117**	109
Benefits paid	**(861)**	(953)	**(154)**	(157)	**(227)**	(225)
Federal subsidy on benefits paid	**n/a**	n/a	**n/a**	n/a	**15**	15
Fair value, December 31	**$ 14,254**	$ 18,720	**$ 2**	$ 2	**$ 110**	$ 165
Change in projected benefit obligation						
Projected benefit obligation, January 1	**$ 14,200**	$ 12,680	**$ 1,307**	$ 1,345	**$ 1,576**	$ 1,549
U.S. Trust Corporation balance, July 1, 2007	**–**	363	**–**	6	**–**	9
LaSalle balance, October 1, 2007	**–**	1,133	**–**	108	**–**	120
Countrywide balance, July 1, 2008	**439**	–	**53**	–	**–**	–
Service cost	**343**	316	**7**	9	**16**	16
Interest cost	**837**	761	**77**	71	**87**	84
Plan participant contributions	**–**	–	**–**	–	**117**	109
Plan amendments	**5**	3	**–**	(1)	**–**	–
Actuarial gains	**(1,239)**	(103)	**(32)**	(74)	**(180)**	(101)
Benefits paid	**(861)**	(953)	**(154)**	(157)	**(227)**	(225)
Federal subsidy on benefits paid	**n/a**	n/a	**n/a**	n/a	**15**	15
Projected benefit obligation, December 31	**$ 13,724**	$ 14,200	**$ 1,258**	$ 1,307	**$ 1,404**	$ 1,576
Amount recognized, December 31	**$ 530**	$ 4,520	**$ (1,256)**	$ (1,305)	**$ (1,294)**	$ (1,411)
Funded status, December 31						
Accumulated benefit obligation	**$ 12,864**	$ 13,540	**$ 1,246**	$ 1,284	**n/a**	n/a
Overfunded (unfunded) status of ABO	**1,390**	5,180	**(1,244)**	(1,282)	**n/a**	n/a
Provision for future salaries	**860**	660	**12**	23	**n/a**	n/a
Projected benefit obligation	**13,724**	14,200	**1,258**	1,307	**$ 1,404**	$ 1,576
Weighted average assumptions, December 31						
Discount rate	**6.00%**	6.00%	**6.00%**	6.00%	**6.00%**	6.00%
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 2009 is $0, $110 million and $119 million, respectively.
n/a = not applicable

Amounts recognized in the Consolidated Financial Statements at December 31, 2008 and 2007 were as follows:

	Qualified Pension Plans		Nonqualified Pension Plans		Postretirement Health and Life Plans	
(Dollars in millions)	**2008**	2007	**2008**	2007	**2008**	2007
Other assets	**$607**	$ 4,520	**$ –**	$ –	**$ –**	$ –
Accrued expenses and other liabilities	**(77)**	–	**(1,256)**	(1,305)	**(1,294)**	(1,411)
Net amount recognized at December 31	**$530**	$ 4,520	**$ (1,256)**	$ (1,305)	**$ (1,294)**	$ (1,411)

Net periodic benefit cost (income) for 2008, 2007 and 2006 included the following components:

	Qualified Pension Plans			Nonqualified Pension Plans			Postretirement Health and Life Plans		
(Dollars in millions)	**2008 [1]**	2007	2006	**2008 [1]**	2007	2006	**2008 [1]**	2007	2006
Components of net periodic benefit cost (income)									
Service cost	**$ 343**	$ 316	$ 306	**$ 7**	$ 9	$ 13	**$ 16**	$ 16	$ 13
Interest cost	**837**	761	676	**77**	71	78	**87**	84	86
Expected return on plan assets	**(1,444)**	(1,312)	(1,034)	**–**	–	–	**(13)**	(8)	(10)
Amortization of transition obligation	**–**	–	–	**–**	–	–	**31**	32	31
Amortization of prior service cost (credits)	**33**	47	41	**(8)**	(7)	(8)	**–**	–	–
Recognized net actuarial loss (gain)	**83**	156	229	**14**	17	20	**(81)**	(60)	12
Recognized loss (gain) due to settlements and curtailments	**–**	–	–	**–**	14	–	**–**	(2)	–
Net periodic benefit cost (income)	**$ (148)**	$ (32)	$ 218	**$ 90**	$ 104	$ 103	**$ 40**	$ 62	$ 132
Weighted average assumptions used to determine net cost for years ended December 31									
Discount rate [2]	**6.00%**	5.75%	5.50%	**6.00%**	5.75%	5.50%	**6.00%**	5.75%	5.50%
Expected return on plan assets	**8.00**	8.00	8.00	**n/a**	n/a	n/a	**8.00**	8.00	8.00
Rate of compensation increase	**4.00**	4.00	4.00	**4.00**	4.00	4.00	**n/a**	n/a	n/a

(1) Includes the results of Countrywide. The net periodic benefit cost of the Countrywide Qualified Pension Plan was $29 million in 2008 using a discount rate of 6.75 percent at July 1, 2008. The net periodic benefit cost of the Countrywide Nonqualified Pension Plan was $1 million and Countrywide did not have a Postretirement Health and Life Plan.
(2) 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 8.00 percent for 2009, reducing in steps to 5.00 percent in 2015 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 $4 million and $35 million in 2008, $5 million and $64 million in 2007, and $3 million and $51 million in 2006. 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 $31 million in 2008, $4 million and $54 million in 2007, and $3 million and $44 million in 2006.

Pre-tax amounts included in accumulated OCI at December 31, 2008 and 2007 were as follows:

	Qualified Pension Plans		Nonqualified Pension Plans		Postretirement Health and Life Plans		Total	
(Dollars in millions)	**2008**	2007	**2008**	2007	**2008**	2007	**2008**	2007
Net actuarial (gain) loss	**$7,232**	$ 1,776	**$ 70**	$ 119	**$ (158)**	$ (106)	**$7,144**	$1,789
Transition obligation	**–**	–	**–**	–	**126**	157	**126**	157
Prior service cost (credits)	**129**	157	**(30)**	(38)	**–**	–	**99**	119
Amounts recognized in accumulated OCI	**$7,361**	$ 1,933	**$ 40**	$ 81	**$ (32)**	$ 51	**$7,369**	$2,065

Pre-tax amounts recognized in OCI for 2008 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				
Current year actuarial (gain) loss	**$ 5,539**	**$ (35)**	**$ (133)**	**$5,371**
Amortization of actuarial gain (loss)	**(83)**	**(14)**	**81**	**(16)**
Current year prior service (credit) cost	**5**	**–**	**–**	**5**
Amortization of prior service credit (cost)	**(33)**	**8**	**–**	**(25)**
Amortization of transition obligation	**–**	**–**	**(31)**	**(31)**
Total recognized in OCI	**$ 5,428**	**$ (41)**	**$ (83)**	**$5,304**

The estimated net actuarial loss and prior service cost (credits) for the Qualified Pension Plans that will be amortized from accumulated OCI into net periodic benefit cost (income) during 2009 are pre-tax amounts of $395 million and $36 million. The estimated net actuarial loss and prior service cost for the Nonqualified Pension Plans that will be amortized from accumulated OCI into net periodic benefit cost (income) during 2009 are pre-tax amounts of $7 million and $(8) million. The estimated net actuarial 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 2009 are pre-tax amounts of $(58) 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 2009.

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, 2008 and 2007 and target allocations for 2008 by asset category are as follows:

Asset Category	Qualified Pension Plans			Postretirement Health and Life Plans		
	2009 Target Allocation	Percentage of Plan Assets at December 31		2009 Target Allocation	Percentage of Plan Assets at December 31	
		2008	2007		**2008**	2007
Equity securities	60 – 80%	**53%**	70%	50 – 75%	**58%**	67%
Debt securities	20 – 40	**44**	27	25 – 45	**40**	30
Real estate	0 – 5	**3**	3	0 – 5	**2**	3
Total		**100%**	100%		**100%**	100%

Equity securities for the Qualified Pension Plans include common stock of the Corporation in the amounts of $269 million (1.88 percent of total plan assets) and $667 million (3.56 percent of total plan assets) at December 31, 2008 and 2007.

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, 2008 or 2007. The FleetBoston Postretirement Health and Life Plans included common stock of the Corporation in the amount of $0.05 million (0.12 percent of total plan assets) and $0.3 million (0.20 percent of total plan assets) at December 31, 2008 and 2007.

Defined Contribution Plans

The Corporation maintains qualified defined contribution retirement plans and nonqualified defined contribution retirement plans.

The Corporation contributed approximately $454 million, $420 million and $328 million for 2008, 2007 and 2006, in cash, respectively. At December 31, 2008 and 2007, an aggregate of 104 million shares and 93 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 $214 million, $228 million and $216 million during 2008, 2007 and 2006, 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.

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
2009	$ 968	$ 110	$ 150	$ 15
2010	975	109	149	15
2011	1,004	112	150	16
2012	1,022	112	149	16
2013	1,026	111	149	16
2014 - 2018	5,101	530	588	78

(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.

Note 17 – Stock-Based Compensation Plans

The compensation cost recognized in income for the plans described below was $885 million, $1.2 billion and $1.0 billion in 2008, 2007 and 2006, respectively. The related income tax benefit recognized in income was $328 million, $438 million and $382 million for 2008, 2007 and 2006, respectively.

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. Lattice option-pricing models incorporate ranges of assumptions for inputs and those ranges are disclosed in the following table. 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 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.

	2008	2007	2006
Risk-free interest rate	**2.05 –3.85%**	4.72 –5.16%	4.59 –4.70%
Dividend yield	**5.30**	4.40	4.50
Expected volatility	**26.00 –36.00**	16.00 –27.00	17.00 –27.00
Weighted average volatility	**32.80**	19.70	20.30
Expected lives (years)	**6.6**	6.5	6.5

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, 10-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, 2008, approximately 53 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. In January 2009, in conjunction with the Merrill Lynch merger, the shareholders authorized an additional 105 million shares for grant under the Key Associate Stock Plan. At December 31, 2008, approximately 159 million options were

outstanding under this plan. Approximately 18 million shares of restricted stock and restricted stock units were granted in 2008. 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, 2008, and changes during 2008:

Employee stock options

	Shares	Weighted Average Exercise Price
Outstanding at January 1, 2008	228,660,049	$ 39.49
Countrywide acquisition, July 1, 2008	9,062,914	150.99
Granted	17,123,312	42.70
Exercised	(7,900,507)	30.94
Forfeited	(14,516,711)	59.92
Outstanding at December 31, 2008 [1]	232,429,057	43.08
Options exercisable at December 31, 2008	186,430,678	41.87
Options vested and expected to vest [2]	231,919,145	43.08

(1) Includes 53 million options under the Key Employee Stock Plan, 159 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, 2008, the Corporation had no aggregate intrinsic value of options outstanding, exercisable, and vested and expected to vest. The weighted average remaining contractual term of options outstanding was 5.0 years, options exercisable was 4.2 years, and options vested and expected to vest was 5.0 years at December 31, 2008.

The weighted average grant-date fair value of options granted in 2008, 2007 and 2006 was $8.92, $8.44 and $6.90, respectively. The total intrinsic value of options exercised in 2008 was $54 million.

The following table presents the status of the restricted stock/unit awards at December 31, 2008, and changes during 2008:

Restricted stock/unit awards

	Shares	Weighted Average Grant Date Fair Value
Outstanding at January 1, 2008	31,821,724	$ 48.80
Countrywide acquisition, July 1, 2008	718,152	23.81
Granted	17,856,372	41.97
Vested	(16,209,483)	47.16
Cancelled	(1,470,801)	46.31
Outstanding at December 31, 2008	32,715,964	45.45

At December 31, 2008, there was $610 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 0.88 years. The total fair value of restricted stock vested in 2008 was $657 million, of which $15 million related to restricted stock acquired in connection with Countrywide and vested upon acquisition as a result of change in control provisions. In 2008, the amount of cash used to settle equity instruments was $39 million.

Note 18 – Income Taxes

The components of income tax expense for 2008, 2007 and 2006 were as follows:

(Dollars in millions)	2008	2007	2006
Current income tax expense			
Federal	**$ 5,075**	$5,210	$ 7,398
State	**561**	681	796
Foreign	**585**	804	796
Total current expense	**6,221**	6,695	8,990
Deferred income tax expense (benefit)			
Federal	**(5,269)**	(710)	1,807
State	**(520)**	(18)	45
Foreign	**(12)**	(25)	(2)
Total deferred expense (benefit)	**(5,801)**	(753)	1,850
Total income tax expense [1]	**$ 420**	$5,942	$10,840

(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 increased $5.9 billion in 2008, decreased $5.0 billion in 2007 and increased $378 million in 2006. Also, does not reflect tax effects associated with the Corporation's employee stock plans which decreased common stock and additional paid-in capital $9 million in 2008 and increased common stock and additional paid-in capital $251 million and $674 million in 2007 and 2006. Goodwill was reduced $9 million, $47 million and $195 million in 2008, 2007 and 2006, 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 2008, 2007 and 2006 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 2008, 2007 and 2006 are presented in the following table.

	2008		2007		2006	
(Dollars in millions)	**Amount**	**Percent**	Amount	Percent	Amount	Percent
Expected federal income tax expense	**$ 1,550**	**35.0%**	$ 7,323	35.0%	$11,191	35.0%
Increase (decrease) in taxes resulting from:						
State tax expense, net of federal benefit	**27**	**0.6**	431	2.1	547	1.7
Low income housing credits/other credits	**(722)**	**(16.3)**	(590)	(2.8)	(537)	(1.7)
Tax-exempt income, including dividends	**(631)**	**(14.3)**	(683)	(3.3)	(630)	(2.0)
Leveraged lease tax differential	**216**	**4.9**	148	0.7	249	0.8
Foreign tax differential	**(192)**	**(4.3)**	(485)	(2.3)	(291)	(0.9)
Changes in prior period UTBs (including interest)	**169**	**3.8**	143	0.7	126	0.4
Non-U.S. leasing – TIPRA/AJCA	**–**	**–**	(221)	(1.1)	175	0.5
Other	**3**	**0.1**	(124)	(0.6)	10	0.1
Total income tax expense	**$ 420**	**9.5%**	$ 5,942	28.4%	$10,840	33.9%

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.

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 UTB balance, reducing retained earnings by $146 million and increasing goodwill by $52 million. The reconciliation of the beginning UTB balance to the ending balance is presented in the following table.

Reconciliation of the Change in Unrecognized Tax Benefits

(Dollars in millions)	2008	2007
Beginning balance	**$3,095**	$2,667
Increases related to positions taken during prior years	**688**	67
Increases related to positions taken during the current year	**241**	456
Positions acquired or assumed in business combinations	**169**	328
Decreases related to positions taken during prior years	**(371)**	(227)
Settlements	**(209)**	(108)
Expiration of statute of limitations	**(72)**	(88)
Ending balance	**$3,541**	$3,095

As of December 31, 2008 and 2007, the balance of the Corporation's UTBs which would, if recognized, affect the Corporation's effective tax rate was $2.6 billion (reflective of the January 1, 2009 adoption of SFAS 141R) and $1.8 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 may impact goodwill if recognized during the initial measurement period for the acquisition. As of December 31, 2008 and 2007, the portion of the UTB balance that could impact goodwill if recognized in the future was $117 million and $577 million.

The table below summarizes the status of significant U.S. federal examinations for the Corporation and various acquired subsidiaries as of December 31, 2008:

Company	Years under examination	Status at December 31, 2008
Bank of America Corporation	2000-2002	In Appeals process
Bank of America Corporation	2003-2005	Field examination
FleetBoston	1997-2000	In Appeals process
FleetBoston	2001-2004	Field examination
LaSalle	2003-2005	In Appeals process
Countrywide	2005-2006	Field examination
Countrywide	2007	Field examination

With the exception of the examinations of the 2003 through 2005 tax years for the Corporation and the 2007 tax year for Countrywide, and except as noted below, it is reasonably possible that all above examinations will be concluded during 2009.

During 2008, the Internal Revenue Service (IRS) announced a settlement initiative related to lease-in, lease-out (LILO) and sale-in, lease-out (SILO) leveraged lease transactions. Pursuant to the settlement initiative, the Corporation received offers to settle its LILOs and SILOs and accepted these offers, which impact the years in Appeals and under examination for the Corporation and FleetBoston. According to the terms of the settlement initiative, an acceptance will not be binding until a closing agreement is executed by both parties, which is expected during 2009. The Corporation revised the assumptions used in accounting for the projected cash flows of the relevant leases to reflect its expectation of receiving the tax treatment proposed in the leasing settlement initiative. As a result of prior remittances, the Corporation does not expect to pay any additional tax and interest related to the settlement initiative.

Upon the execution of a closing agreement for the settlement initiative, the Corporation's remaining unagreed proposed adjustment for the 2000 through 2002 tax years is the disallowance of foreign tax credits related to certain structured investment transactions. The Corporation continues to believe the crediting of these foreign taxes against U.S. income taxes was appropriate. Except with respect to the foreign tax credit issue, management believes it is reasonably possible that the 2000 through 2002 examinations can be concluded within the next twelve months.

Considering all federal examinations, it is reasonably possible that the UTB balance will decrease by as much as $650 million during the next twelve months, since resolved items would be removed from the balance whether their resolution resulted in payment or recognition.

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 2008 and 2007, the Corporation recognized within income tax expense, $147 million and $161 million of interest and penalties, net of tax. As of December 31, 2008 and 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 $677 million and $573 million.

Significant components of the Corporation's net deferred tax assets and liabilities at December 31, 2008 and 2007 are presented in the following table.

	December 31	
(Dollars in millions)	**2008**	2007
Deferred tax assets		
Allowance for credit losses	**$ 8,042**	$ 4,056
Security and loan valuations	**5,590**	3,673
Employee compensation and retirement benefits	**2,409**	1,541
Accrued expenses	**2,271**	1,307
Net operating loss carryforwards	**1,263**	–
Available-for-sale securities	**1,149**	–
State income taxes	**279**	–
Other	**1,987**	73
Gross deferred tax assets	**22,990**	10,650
Valuation allowance [1]	**(272)**	(148)
Total deferred tax assets, net of valuation allowance	**22,718**	10,502
Deferred tax liabilities		
Equipment lease financing	**5,720**	6,875
Mortgage servicing rights	**3,404**	859
Intangibles	**1,712**	2,015
Fee income	**1,637**	1,445
Available-for-sale securities	**–**	3,836
State income taxes	**–**	347
Other	**1,549**	1,667
Gross deferred liabilities	**14,022**	17,044
Net deferred tax assets (liabilities) [2]	**$ 8,696**	$ (6,542)

(1) At December 31, 2008 $115 million of the valuation allowance related to gross deferred tax assets was attributable to the Countrywide merger. In accordance with SFAS 141R, tax attributes associated with these gross deferred tax assets could result in tax benefits to reduce goodwill during a portion of 2009.

(2) The Corporation's net deferred tax assets (liabilities) were adjusted during 2008 and 2007 to include $3.5 billion of net deferred tax assets and $226 million of net deferred tax liabilities related to business combinations.

The valuation allowance at December 31, 2008 and 2007 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 certain state deferred tax assets acquired in the Countrywide merger.

At December 31, 2008 and 2007, federal income taxes had not been provided on $6.5 billion and $5.8 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 $1.1 billion and $925 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, 2008 and 2007.

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, with changes in fair value recognized in earnings as they occur. 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)
Loans held-for-sale [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) 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.

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. The Corporation determines the fair 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. The Corporation carries certain corporate loans and loan commitments, LHFS, structured reverse repurchase agreements, and long-term deposits at fair value in accordance with SFAS 159. The Corporation also carries at fair value trading account assets and liabilities, derivative assets and liabilities, AFS debt securities, MSRs, and certain other assets. For a detailed discussion regarding the fair value hierarchy and how the Corporation measures fair value, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements.

Fair Value Measurement

Level 1, 2 and 3 Valuation Techniques

Financial instruments are considered Level 1 when valuation can be based on quoted prices in active markets for identical assets or liabilities. Level 2 financial instruments are valued using quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or models using inputs that are observable or can be corroborated by observable market data of substantially the full term of the assets or liabilities. 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 and when determination of the fair value requires significant management judgment or estimation.

The Corporation also uses market indices for direct inputs to certain models, where the cash settlement is directly linked to appreciation or depreciation of that particular index (primarily in the context of structured credit products). In those cases, no material adjustments are made to the index-based values. In other cases, market indices are also used as inputs to valuation, but are adjusted for trade specific factors such as rating, credit quality, vintage and other factors.

Corporate Loans and Loan Commitments

The fair values of 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.

Structured Reverse Repurchase Agreements and Long-term Deposits

The fair values of structured reverse repurchase agreements and long-term deposits are determined using quantitative models, including discounted cash flow models that require the use of multiple market inputs including interest rates and spreads to generate continuous yield or pricing curves and volatility factors. The majority of market inputs are actively quoted and can be validated through external sources, including brokers, market transactions and third-party pricing services. The Corporation does incorporate, consistent with the requirements of SFAS 157, within its fair value measurements of long-term deposits the net credit differential between the counterparty credit risk and our own credit risk. The value of the net credit differential is determined by reference to existing direct market reference costs of credit, or where direct references are not available, a proxy is applied consistent with direct references for other counterparties that are similar in credit risk.

Trading Account Assets and Liabilities and Available-for-Sale Debt Securities

The fair values of trading account assets and liabilities are primarily based on actively traded markets where prices are based on either direct market quotes or observed transactions. The fair values of AFS debt securities are generally based on quoted market prices or market prices for similar assets. Liquidity is a significant factor in the determination of the fair values of trading account assets or liabilities and AFS debt securities. 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 such as certain CDO positions and other ABS. Some of these instruments are 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. 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.

Derivative Assets and Liabilities

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 majority 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. The fair values of derivative assets and liabilities include adjustments for market liquidity, counterparty credit quality and other deal specific factors, where appropriate. Consistent with the way the Corporation fair values long-term deposits as previously discussed, the Corporation incorporates, within its fair value measurements of over-the-counter derivatives, the net credit differential between the counterparty credit risk and our own credit risk. An estimate of severity of loss is also used in the determination of fair value, primarily based on historical experience, adjusted for recent name specific expectations.

Mortgage Servicing Rights

The fair values of MSRs are determined using models which depend on estimates of prepayment rates, the resultant weighted average lives of the MSRs and the OAS levels. For more information on MSRs, see *Note 21 – Mortgage Servicing Rights* to the Consolidated Financial Statements.

Loans Held-for-Sale

The fair values of LHFS 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 adjusted to reflect the inherent credit risk.

Other Assets

The Corporation fair values certain other assets including AFS equity securities and certain retained residual interests in securitization vehicles. The fair values of AFS equity securities are generally based on quoted market prices or market prices for similar assets. However, non-public investments are initially valued at transaction price and subsequently adjusted when evidence is available to support such adjustments. Retained residual interests in securitization vehicles 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.

Asset-backed Secured Financings

The fair values of asset-backed secured financings are based on external broker bids, where available, or are determined by discounting estimated cash flows using interest rates approximating the Corporation's current origination rates for similar loans adjusted to reflect the inherent credit risk.

Recurring Fair Value

Assets and liabilities measured at fair value on a recurring basis, including financial instruments for which the Corporation accounts for in accordance with SFAS 159 are summarized below:

	December 31, 2008				
	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	$ –	$ 2,330	$ –	$ –	$ 2,330
Trading account assets	44,889	107,315	7,318	–	159,522
Derivative assets	2,109	1,525,106	8,289	(1,473,252)	62,252
Available-for-sale debt securities	2,789	255,413	18,702	–	276,904
Loans and leases [2]	–	–	5,413	–	5,413
Mortgage servicing rights	–	–	12,733	–	12,733
Loans held-for-sale	–	15,582	3,382	–	18,964
Other assets [3]	25,089	1,245	3,572	–	29,906
Total assets	$74,876	$1,906,991	$59,409	$ (1,473,252)	$ 568,024
Liabilities					
Interest-bearing deposits in domestic offices	$ –	$ 1,717	$ –	$ –	$ 1,717
Trading account liabilities	42,974	14,313	–	–	57,287
Derivative liabilities	4,872	1,488,509	6,019	(1,468,691)	30,709
Accrued expenses and other liabilities	38	–	1,940	–	1,978
Total liabilities	$47,884	$1,504,539	$ 7,959	$ (1,468,691)	$ 91,691

	December 31, 2007				
Assets					
Federal funds sold and securities purchased under agreements to resell	$ –	$ 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]	–	–	4,590	–	4,590
Mortgage servicing rights	–	–	3,053	–	3,053
Loans held-for-sale	–	14,431	1,334	–	15,765
Other assets [3]	19,796	1,540	3,987	–	25,323
Total assets	$65,387	$ 781,805	$31,470	$ (417,297)	$ 461,365
Liabilities					
Interest-bearing deposits in domestic offices	$ –	$ 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	–	–	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) Loans and leases at December 31, 2008 and December 31, 2007 included $22.4 billion and $22.6 billion of leases that were not eligible for the fair value option as leases are specifically excluded from fair value option election in accordance with SFAS 159.

(3) Other assets include equity investments held by Principal Investing, AFS equity securities and certain retained residual interests in securitization vehicles, including interest-only strips. Substantially all of other assets are eligible for, and the Corporation has not chosen to elect, fair value accounting at December 31, 2008 and 2007.

The table below presents a reconciliation of all assets and liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) during the year ended December 31, 2008 and 2007, including realized and unrealized gains (losses) included in earnings and OCI.

Level 3 Fair Value Measurements

	Year Ended December 31, 2008							
(Dollars in millions)	Net Derivatives [1]	Trading Account Assets	Available-for-Sale Debt Securities	Loans and Leases [2]	Mortgage Servicing Rights	Loans Held-for-Sale [2]	Other Assets [3]	Accrued Expenses and Other Liabilities [2]
Balance, January 1, 2008	**$ (1,203)**	**$ 4,027**	**$ 5,507**	**$ 4,590**	**$ 3,053**	**$ 1,334**	**$ 3,987**	**$ (660)**
Countrywide acquisition	**(185)**	**1,407**	**528**	**–**	**17,188**	**1,425**	**–**	**(1,212)**
Included in earnings	**2,531**	**(3,222)**	**(2,509)**	**(780)**	**(7,115)**	**(1,047)**	**175**	**(169)**
Included in other comprehensive income	**–**	**–**	**(1,688)**	**–**	**–**	**–**	**–**	**–**
Purchases, issuances and settlements	**1,380**	**(2,055)**	**2,754**	**1,603**	**(393)**	**(542)**	**(550)**	**101**
Transfers into (out of) Level 3	**(253)**	**7,161**	**14,110**	**–**	**–**	**2,212**	**(40)**	**–**
Balance, December 31, 2008	**$ 2,270**	**$ 7,318**	**$ 18,702**	**$ 5,413**	**$ 12,733**	**$ 3,382**	**$ 3,572**	**$ (1,940)**

	Year Ended December 31, 2007							
Balance, January 1, 2007	$ 788	$ 303	$ 1,133	$ 3,947	$ 2,869	$ –	$ 6,605	$ (349)
Included in earnings	(341)	(2,959)	(398)	(140)	231	(90)	2,149	(279)
Included in other comprehensive income	–	–	(206)	–	–	–	(79)	–
Purchases, issuances and settlements	(333)	708	4,588	783	(47)	(1,259)	(4,638)	(32)
Transfers into (out of) Level 3	(1,317)	5,975	390	–	–	2,683	(50)	–
Balance, December 31, 2007	$ (1,203)	$ 4,027	$ 5,507	$ 4,590	$ 3,053	$ 1,334	$ 3,987	$ (660)

[1] Net derivatives at December 31, 2008 and 2007 included derivative assets of $8.3 billion and $9.0 billion and derivative liabilities of $6.0 billion and $10.2 billion. Net derivatives acquired in connection with Countrywide on July 1, 2008 included derivative assets of $107 million and derivative liabilities of $292 million.
[2] Amounts represent items which are accounted for at fair value in accordance with SFAS 159 including commercial loan commitments and certain secured financings recorded in accrued expenses and other liabilities.
[3] Other assets include equity investments held by Principal Investing and certain retained interests in securitization vehicles, including interest-only strips.

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 the year ended December 31, 2008 and 2007. These amounts include those gains and losses generated by loans, LHFS and loan commitments which are accounted for at fair value in accordance with SFAS 159.

Level 3 Total Realized and Unrealized Gains (Losses) Included in Earnings

	Year Ended December 31, 2008								
(Dollars in millions)	Net Derivatives	Trading Account Assets	Available-for-Sale Debt Securities	Loans and Leases [1]	Mortgage Servicing Rights	Loans Held-for-Sale [1]	Other Assets	Accrued Expenses and Other Liabilities [1]	Total
Card income	**$ –**	**$ –**	**$ –**	**$ –**	**$ –**	**$ –**	**$ 55**	**$ –**	**$ 55**
Equity investment income	**–**	**–**	**–**	**–**	**–**	**–**	**110**	**–**	**110**
Trading account profits (losses)	**103**	**(3,044)**	**–**	**(5)**	**–**	**(195)**	**–**	**9**	**(3,132)**
Mortgage banking income (loss) [2]	**2,428**	**(178)**	**(74)**	**–**	**(7,115)**	**(848)**	**–**	**295**	**(5,492)**
Other income (loss)	**–**	**–**	**(2,435)**	**(775)**	**–**	**(4)**	**10**	**(473)**	**(3,677)**
Total	**$ 2,531**	**$ (3,222)**	**$ (2,509)**	**$ (780)**	**$ (7,115)**	**$(1,047)**	**$ 175**	**$ (169)**	**$(12,136)**

	Year Ended December 31, 2007								
Card income	$ –	$ –	$ –	$ –	$ –	$ –	$ 103	$ –	$ 103
Equity investment income	–	–	–	–	–	–	1,971	–	1,971
Trading account profits (losses)	(515)	(2,959)	–	(1)	–	(61)	–	(5)	(3,541)
Mortgage banking income (loss) [2]	174	–	–	–	231	(29)	–	–	376
Other income (loss)	–	–	(398)	(139)	–	–	75	(274)	(736)
Total	$ (341)	$ (2,959)	$ (398)	$ (140)	$ 231	$ (90)	$ 2,149	$ (279)	$ (1,827)

[1] Amounts represent items which are accounted for at fair value in accordance with SFAS 159.
[2] Mortgage banking income does not reflect impact of Level 1 and Level 2 hedges against MSRs.

The table below summarizes changes in unrealized gains or losses recorded in earnings during the years ended December 31, 2008 and 2007 for Level 3 assets and liabilities that were still held at December 31, 2008 and 2007. These amounts include changes in fair value of loans, LHFS and loan commitments which are accounted for at fair value in accordance with SFAS 159.

Level 3 Changes in Unrealized Gains (Losses) Relating to Assets and Liabilities Still Held at Reporting Date

	Year Ended December 31, 2008									
(Dollars in millions)	Net Derivatives	Trading Account Assets	Available-for-Sale Debt Securities	Loans and Leases [1]	Mortgage Servicing Rights	Loans Held-for-Sale [1]	Other Assets	Accrued Expenses and Other Liabilities [1]	Total
Card income (loss)	$ –	$ –	$ –	$ –	$ –	$ –	$ (331)	$ –	$ (331)
Equity investment income (loss)	–	–	–	–	–	–	(193)	–	(193)
Trading account profits (losses)	2,095	(2,144)	–	–	–	(154)	–	–	(203)
Mortgage banking income (loss) [2]	1,154	(178)	(74)	–	(7,378)	(423)	–	292	(6,607)
Other income (loss)	–	–	(1,840)	(1,003)	–	(4)	–	(880)	(3,727)
Total	$ 3,249	$ (2,322)	$ (1,914)	$ (1,003)	$ (7,378)	$ (581)	$ (524)	$ (588)	$(11,061)

	Year Ended December 31, 2007								
Card income (loss)	$ –	$ –	$ –	$ –	$ –	$ –	$ (136)	$ –	$ (136)
Equity investment income (loss)	–	–	–	–	–	–	(65)	–	(65)
Trading account profits (losses)	(196)	(2,857)	–	–	–	(58)	–	(1)	(3,112)
Mortgage banking income (loss) [2]	139	–	–	–	(43)	(22)	–	–	74
Other income (loss)	–	–	(398)	(167)	–	–	–	(395)	(960)
Total	$ (57)	$ (2,857)	$ (398)	$ (167)	$ (43)	$ (80)	$ (201)	$ (396)	$ (4,199)

[1] Amounts represented items which are accounted for at fair value in accordance with SFAS 159.
[2] Mortgage banking income does not reflect impact of Level 1 and Level 2 hedges against MSRs.

Non-recurring Fair Value

Certain assets and liabilities are measured at fair value on a non-recurring basis and are not included in the tables above. These assets and liabilities primarily include LHFS, unfunded loan commitments held-for-sale, and foreclosed properties. The amounts below represent only balances measured at fair value during the period and still held as of the reporting date.

Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

	At and for the Year Ended December 31, 2008				At and for the Year Ended December 31, 2007			
(Dollars in millions)	Level 1	Level 2	Level 3	(Losses)	Level 1	Level 2	Level 3	(Losses)
Assets								
Loans held-for-sale	$ –	$ 1,828	$ 9,782	$ (1,699)	$ –	$ 1,200	$ 13,300	$ (172)
Foreclosed properties [1]	–	–	590	(171)	–	–	155	(17)
Liabilities								
Accrued expenses and other liabilities	–	–	–	–	–	–	142	(145)

[1] Amounts are included in other assets on the Consolidated Balance Sheet and represent fair value and related losses of foreclosed properties that were written down subsequent to their initial classification as foreclosed properties.

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.

At December 31, 2008 and 2007, funded loans which the Corporation has elected to fair value had an aggregate fair value of $5.41 billion and $4.59 billion recorded in loans and leases and an aggregate outstanding principal balance of $6.42 billion and $4.82 billion. At December 31, 2008 and 2007, unfunded loan commitments that the Corporation has elected to fair value had an aggregate fair value of $1.12 billion and $660 million recorded in accrued expenses and other liabilities and an aggregate committed exposure of $16.9 billion and $20.9 billion. Interest income on these loans is recorded in interest and fees on loans and leases. At December 31, 2008 and 2007, none of these loans were 90 days or more past due and still accruing interest or had been placed on nonaccrual status.

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. At December 31, 2008 and 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 $18.96 billion and $15.77 billion and an aggregate outstanding principal balance of $20.75 billion and $16.72 billion. Interest income on these loans is recorded in other interest income. 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.

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, 2008 and 2007, these instruments had an aggregate fair value of $2.33 billion and $2.58 billion, and a principal balance of $2.34 billion and $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. 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, 2008 and 2007, these instruments had an aggregate fair value of $1.72 billion and $2.00 billion and principal balance of $1.70 billion and $1.99 billion recorded in interest-bearing deposits. Interest paid on these instruments continues to be recorded in interest expense. 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.

Asset-backed Secured Financings

During 2008, the Corporation elected to fair value certain asset-backed secured financings that were acquired as part of the Countrywide acquisition. At December 31, 2008, these secured financings had an aggregate fair value of $816 million and principal balance of $1.6 billion recorded in accrued expenses and other liabilities. Using the fair value option election allows the Corporation to reduce the accounting volatility that would otherwise result from the accounting asymmetry created by accounting for the asset-backed secured financings at historical cost and the corresponding mortgage LHFS securing these financings at fair value.

The following table provides information about where changes in the fair value of assets or liabilities for which the fair value option has been elected are included in the Consolidated Statement of Income.

Gains (Losses) Relating to Assets and Liabilities Accounted for Using Fair Value Option

	Year Ended December 31, 2008					
(Dollars in millions)	Corporate Loans and Loan Commitments	Loans Held-for-Sale	Structured Reverse Repurchase Agreements	Long-term Deposits	Asset-Backed Secured Financings	Total
Trading account profits (losses)	**$ 4**	**$ (680)**	**$ –**	**$ –**	**$ –**	**$ (676)**
Mortgage banking income	**–**	**281**	**–**	**–**	**295**	**576**
Other income (loss)	**(1,248)**	**(215)**	**(18)**	**(10)**	**–**	**(1,491)**
Total	**$ (1,244)**	**$ (614)**	**$ (18)**	**$ (10)**	**$ 295**	**$(1,591)**
	Year Ended December 31, 2007					
Trading account profits (losses)	$ (6)	$ (348)	$ –	$ –	$ –	$ (354)
Mortgage banking income	–	333	–	–	–	333
Other income (loss)	(413)	(58)	23	(26)	–	(474)
Total	$ (419)	$ (73)	$ 23	$ (26)	$ –	$ (495)

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, 2008 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 generally determined by discounting both principal and interest cash flows expected to be collected using an observable discount rate for similar instruments with adjustments that management believes a market participant would consider in determining fair value. The Corporation estimates the cash flows expected to be collected at acquisition using internal credit risk, interest rate and prepayment risk models that incorporate management's best estimate of current key assumptions, such as default rates, loss severity and prepayment speeds for the life of the loan. 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.

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 and credit spreads for debt with similar maturities.

The book and fair values of certain financial instruments at December 31, 2008 and 2007 were as follows:

	December 31			
	2008		2007	
(Dollars in millions)	**Book Value[1]**	**Fair Value**	Book Value[1]	Fair Value
Financial assets				
Loans [2]	**$ 886,198**	**$ 841,629**	$ 842,392	$ 847,405
Financial liabilities				
Deposits	**882,997**	**883,987**	805,177	806,511
Long-term debt	**268,292**	**260,291**	197,508	195,835

(1) Loans are presented net of allowance for loan losses. Amounts exclude leases.
(2) The fair value is determined based on the present value of future cash flows using credit spreads or risk adjusted rates of return that a buyer of the portfolio would require in the dislocated markets as of December 31, 2008. However, the Corporation expects to collect the principal cash flows underlying the book values as well as the related interest cash flows.

Note 21 – Mortgage Servicing Rights

The Corporation accounts for consumer 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 and securities.

The following table presents activity for consumer mortgage MSRs for 2008 and 2007.

(Dollars in millions)	2008	2007
Balance, January 1	**$ 3,053**	$2,869
Countrywide balance, July 1, 2008	**17,188**	–
Additions	**2,587**	792
Impact of customer payments	**(3,313)**	(766)
Other changes in MSR market value	**(6,782)**	158
Balance, December 31	**$12,733**	$3,053
Mortgage loans serviced for investors (in billions)	**$ 1,654**	$ 259

During 2008 and 2007, other changes in MSR market value were $(6.8) billion and $158 million. These amounts reflect the change in discount rates and prepayment speed assumptions, mostly due to changes in interest rates, as well as the effect of changes in other assumptions. The amounts do not include $(333) million in losses in 2008 resulting from cash received being lower than expected prepayments and $73 million in gains in 2007 resulting from the actual cash received exceeding expected prepayments. The total amounts of $(7.1) billion and $231 million are included in the line "mortgage banking income (loss)" in the table "Level 3 – Total Realized and Unrealized Gains (Losses) Included in Earnings" in *Note 19 – Fair Value Disclosures* to the Consolidated Financial Statements.

At December 31, 2008 and 2007, the fair value of consumer MSRs was $12.7 billion and $3.1 billion. The Corporation uses an OAS valuation approach to determine the fair value of MSRs which factors in prepayment risk. This approach consists of projecting servicing cash flows under multiple interest rate scenarios and discounting these cash flows using risk-adjusted discount rates. The key economic assumptions used in valuations of MSRs include weighted average lives of the MSRs and the OAS levels.

Key economic assumptions used in determining the fair value of MSRs at December 31, 2008 and 2007 were as follows:

	December 31, 2008		December 31, 2007	
(Dollars in millions)	**Fixed**	**Adjustable**	Fixed	Adjustable
Weighted average option adjusted spread	**1.71%**	**6.40%**	0.59%	2.54%
Weighted average life, in years	**3.26**	**2.71**	4.80	2.75

The following table presents the sensitivity of the weighted average lives and fair value of MSRs to changes in modeled assumptions. The sensitivities in the following table 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 a MSR 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 and market valuation fluctuations associated with MSRs. The sensitivities below do not reflect any hedge strategies that may be undertaken to mitigate such risk.

	December 31, 2008		
	Change in Weighted Average Lives		
(Dollars in millions)	**Fixed**	**Adjustable**	**Change in Fair Value**
Prepayment rates			
Impact of 10% decrease	0.23 years	0.13 years	$ 786
Impact of 20% decrease	0.51	0.28	1,717
Impact of 10% increase	(0.20)	(0.11)	(674)
Impact of 20% increase	(0.36)	(0.20)	(1,258)
OAS level			
Impact of 100 bps decrease	n/a	n/a	460
Impact of 200 bps decrease	n/a	n/a	955
Impact of 100 bps increase	n/a	n/a	(428)
Impact of 200 bps increase	n/a	n/a	(827)

n/a = not applicable

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 $323 million and $294 million at December 31, 2008 and 2007 and are not included in the tables above.

Note 22 – Business Segment Information

The Corporation reports the results of its operations through three busi- ness 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 and certain unsecured lending portfolios, on a managed basis. 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. This basis of presentation excludes the Corporation's securitized mortgage and home equity portfolios for which the Corporation retains servicing. 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 securitized 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 strips 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 residential mortgage portfolio associated with ALM activities, the residual impact of the cost allocation processes, merger and restructuring charges, and the results of certain businesses that are expected to be or have been sold or are in the process of being liquidated. *All Other* also includes certain amounts associated with ALM activities and a corresponding "securitization offset" which removes the "securitization impact" of sold loans in *GCSBB*, 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 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.

The following table presents total revenue, net of interest expense, on a FTE basis and net income for 2008, 2007, and 2006, and total assets at December 31, 2008 and 2007 for each business segment, as well as *All Other*.

Business Segments

At and for the Year Ended December 31	Total Corporation [1]			Global Consumer and Small Business Banking [2, 3]		
(Dollars in millions)	**2008**	2007	2006	**2008**	2007	2006
Net interest income [4]	**$ 46,554**	$ 36,190	$ 35,818	**$ 33,851**	$ 28,712	$ 28,059
Noninterest income	**27,422**	32,392	38,182	**24,493**	19,143	16,769
Total revenue, net of interest expense	**73,976**	68,582	74,000	**58,344**	47,855	44,828
Provision for credit losses [5]	**26,825**	8,385	5,010	**26,841**	12,920	8,518
Amortization of intangibles	**1,834**	1,676	1,755	**1,383**	1,336	1,452
Other noninterest expense	**39,695**	35,848	34,038	**23,554**	19,013	16,725
Income before income taxes	**5,622**	22,673	33,197	**6,566**	14,586	18,133
Income tax expense [4]	**1,614**	7,691	12,064	**2,332**	5,224	6,682
Net income	**$ 4,008**	$ 14,982	$ 21,133	**$ 4,234**	$ 9,362	$ 11,451
Period-end total assets	**$ 1,817,943**	$ 1,715,746		**$ 511,401**	$ 445,319	

	Global Corporate and Investment Banking [2]			Global Wealth and Investment Management [2]		
(Dollars in millions)	**2008**	2007	2006	**2008**	2007	2006
Net interest income [4]	**$ 16,538**	$ 11,206	$ 9,914	**$ 4,775**	$ 3,917	$ 3,754
Noninterest income (loss)	**(3,098)**	2,445	11,443	**3,010**	3,636	3,330
Total revenue, net of interest expense	**13,440**	13,651	21,357	**7,785**	7,553	7,084
Provision for credit losses [5]	**3,080**	658	6	**664**	14	(39)
Amortization of intangibles	**191**	178	218	**231**	150	72
Other noninterest expense	**10,190**	12,020	11,659	**4,673**	4,330	3,652
Income (loss) before income taxes	**(21)**	795	9,474	**2,217**	3,059	3,399
Income tax expense (benefit) [4]	**(7)**	285	3,505	**801**	1,099	1,257
Net income (loss)	**$ (14)**	$ 510	$ 5,969	**$ 1,416**	$ 1,960	$ 2,142
Period-end total assets	**$ 707,170**	$ 778,158		**$ 187,994**	$ 155,683	

	All Other [2, 3]		
(Dollars in millions)	**2008**	2007	2006
Net interest income [4]	**$ (8,610)**	$ (7,645)	$ (5,909)
Noninterest income	**3,017**	7,168	6,640
Total revenue, net of interest expense	**(5,593)**	(477)	731
Provision for credit losses [5]	**(3,760)**	(5,207)	(3,475)
Amortization of intangibles	**29**	12	13
Other noninterest expense	**1,278**	485	2,002
Income (loss) before income taxes	**(3,140)**	4,233	2,191
Income tax expense (benefit) [4]	**(1,512)**	1,083	620
Net income (loss)	**$ (1,628)**	$ 3,150	$ 1,571
Period-end total assets	**$ 411,378**	$ 336,586	

(1) There were no material intersegment revenues.
(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, insurance premiums, all other income and realized credit losses associated with the securitized loans to card income.

Global Consumer and Small Business Banking – Reconciliation

	2008			2007			2006		
(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)	**$ 33,851**	**$ (8,701)**	**$25,150**	$ 28,712	$ (8,027)	$20,685	$ 28,059	$ (7,593)	$20,466
Noninterest income:									
Card income	**10,057**	**2,250**	**12,307**	10,194	3,356	13,550	9,371	4,566	13,937
Service charges	**6,807**	**–**	**6,807**	6,007	–	6,007	5,344	–	5,344
Mortgage banking income	**4,422**	**–**	**4,422**	1,332	–	1,332	919	–	919
Insurance premiums	**1,968**	**(186)**	**1,782**	912	(250)	662	615	(302)	313
All other income	**1,239**	**(33)**	**1,206**	698	(38)	660	520	(33)	487
Total noninterest income	**24,493**	**2,031**	**26,524**	19,143	3,068	22,211	16,769	4,231	21,000
Total revenue, net of interest expense	**58,344**	**(6,670)**	**51,674**	47,855	(4,959)	42,896	44,828	(3,362)	41,466
Provision for credit losses	**26,841**	**(6,670)**	**20,171**	12,920	(4,959)	7,961	8,518	(3,362)	5,156
Noninterest expense	**24,937**	**–**	**24,937**	20,349	–	20,349	18,177	–	18,177
Income before income taxes	**6,566**	**–**	**6,566**	14,586	–	14,586	18,133	–	18,133
Income tax expense (3)	**2,332**	**–**	**2,332**	5,224	–	5,224	6,682	–	6,682
Net income	**$ 4,234**	**$ –**	**$ 4,234**	$ 9,362	$ –	$ 9,362	$ 11,451	$ –	$11,451

(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

	2008			2007			2006		
(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)	**$ (8,610)**	**$ 8,701**	**$ 91**	$ (7,645)	$ 8,027	$ 382	$ (5,909)	$ 7,593	$ 1,684
Noninterest income:									
Card income (loss)	**2,164**	**(2,250)**	**(86)**	2,817	(3,356)	(539)	3,795	(4,566)	(771)
Equity investment income	**265**	**–**	**265**	3,745	–	3,745	2,872	–	2,872
Gains (losses) on sales of debt securities	**1,133**	**–**	**1,133**	180	–	180	(475)	–	(475)
All other income (loss)	**(545)**	**219**	**(326)**	426	288	714	448	335	783
Total noninterest income	**3,017**	**(2,031)**	**986**	7,168	(3,068)	4,100	6,640	(4,231)	2,409
Total revenue, net of interest expense	**(5,593)**	**6,670**	**1,077**	(477)	4,959	4,482	731	3,362	4,093
Provision for credit losses	**(3,760)**	**6,670**	**2,910**	(5,207)	4,959	(248)	(3,475)	3,362	(113)
Merger and restructuring charges	**935**	**–**	**935**	410	–	410	805	–	805
All other noninterest expense	**372**	**–**	**372**	87	–	87	1,210	–	1,210
Income (loss) before income taxes	**(3,140)**	**–**	**(3,140)**	4,233	–	4,233	2,191	–	2,191
Income tax expense (benefit) (3)	**(1,512)**	**–**	**(1,512)**	1,083	–	1,083	620	–	620
Net income (loss)	**$ (1,628)**	**$ –**	**$ (1,628)**	$ 3,150	$ –	$ 3,150	$ 1,571	$ –	$ 1,571

(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)	**2008**	2007	2006
Segments' total revenue, net of interest expense [1]	**$79,569**	$69,059	$73,269
Adjustments:			
ALM activities	**1,867**	66	(936)
Equity investment income	**265**	3,745	2,872
Liquidating businesses	**256**	1,060	3,013
FTE basis adjustment	**(1,194)**	(1,749)	(1,224)
Managed securitization impact to total revenue, net of interest expense	**(6,670)**	(4,959)	(3,362)
Other	**(1,311)**	(389)	(856)
Consolidated revenue, net of interest expense	**$72,782**	$66,833	$72,776
Segments' net income	**$ 5,636**	$11,832	$19,562
Adjustments, net of taxes:			
ALM activities	**(1,015)**	(241)	(816)
Equity investment income	**167**	2,359	1,809
Liquidating businesses	**86**	613	1,276
Merger and restructuring charges	**(630)**	(258)	(507)
Other	**(236)**	677	(191)
Consolidated net income	**$ 4,008**	$14,982	$21,133

(1)FTE basis

	December 31	
(Dollars in millions)	**2008**	2007
Segments' total assets	**$ 1,406,565**	$ 1,379,160
Adjustments:		
ALM activities, including securities portfolio	**553,730**	452,626
Equity investments	**28,839**	28,358
Liquidating businesses	**3,172**	4,608
Elimination of segment excess asset allocations to match liabilities	**(100,611)**	(104,118)
Elimination of managed securitized loans [1]	**(100,960)**	(102,967)
Other	**27,208**	58,079
Consolidated total assets	**$ 1,817,943**	$ 1,715,746

(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

(Dollars in millions)	Year Ended December 31 2008	2007	2006
Income			
Dividends from subsidiaries:			
Bank holding companies and related subsidiaries	**$ 18,178**	$20,615	$15,950
Nonbank companies and related subsidiaries	**1,026**	181	111
Interest from subsidiaries	**3,433**	4,939	3,944
Other income	**940**	3,319	2,346
Total income	**23,577**	29,054	22,351
Expense			
Interest on borrowed funds	**6,818**	7,834	5,799
Noninterest expense	**1,829**	3,127	3,019
Total expense	**8,647**	10,961	8,818
Income before income taxes and equity in undistributed earnings of subsidiaries	**14,930**	18,093	13,533
Income tax benefit	**1,793**	1,136	1,002
Income before equity in undistributed earnings of subsidiaries	**16,723**	19,229	14,535
Equity in undistributed earnings (losses) of subsidiaries:			
Bank holding companies and related subsidiaries	**(11,221)**	(4,497)	5,613
Nonbank companies and related subsidiaries	**(1,494)**	250	985
Total equity in undistributed earnings (losses) of subsidiaries	**(12,715)**	(4,247)	6,598
Net income	**$ 4,008**	$14,982	$21,133
Net income available to common shareholders	**$ 2,556**	$14,800	$21,111

Condensed Balance Sheet

(Dollars in millions)	December 31 2008	2007
Assets		
Cash held at bank subsidiaries	**$ 98,525**	$ 51,953
Debt securities	**16,241**	3,198
Receivables from subsidiaries:		
Bank holding companies and related subsidiaries	**39,239**	30,032
Nonbank companies and related subsidiaries	**23,518**	33,637
Investments in subsidiaries:		
Bank holding companies and related subsidiaries	**172,460**	181,248
Nonbank companies and related subsidiaries	**20,355**	6,935
Other assets	**20,428**	30,919
Total assets	**$ 390,766**	$ 337,922
Liabilities and shareholders' equity		
Commercial paper and other short-term borrowings	**$ 26,536**	$ 40,667
Accrued expenses and other liabilities	**15,244**	13,226
Payables to subsidiaries:		
Bank holding companies and related subsidiaries	**469**	1,464
Nonbank companies and related subsidiaries	**3**	—
Long-term debt	**171,462**	135,762
Shareholders' equity	**177,052**	146,803
Total liabilities and shareholders' equity	**$ 390,766**	$ 337,922

Condensed Statement of Cash Flows

(Dollars in millions)	Year Ended December 31 2008	2007	2006
Operating activities			
Net income	**$ 4,008**	$ 14,982	$ 21,133
Reconciliation of net income to net cash provided by operating activities:			
Equity in undistributed (earnings) losses of subsidiaries	**12,715**	4,247	(6,598)
Other operating activities, net	**(598)**	(276)	2,159
Net cash provided by operating activities	**16,125**	18,953	16,694
Investing activities			
Net purchases of securities	**(12,142)**	(839)	(705)
Net payments from (to) subsidiaries	**2,490**	(44,457)	(13,673)
Other investing activities, net	**43**	(824)	(1,300)
Net cash used in investing activities	**(9,609)**	(46,120)	(15,678)
Financing activities			
Net increase (decrease) in commercial paper and other short-term borrowings	**(14,131)**	8,873	12,519
Proceeds from issuance of long-term debt	**28,994**	38,730	28,412
Retirement of long-term debt	**(13,178)**	(12,056)	(15,506)
Proceeds from issuance of preferred stock	**34,742**	1,558	2,850
Redemption of preferred stock	**–**	–	(270)
Proceeds from issuance of common stock	**10,127**	1,118	3,117
Common stock repurchased	**–**	(3,790)	(14,359)
Cash dividends paid	**(11,528)**	(10,878)	(9,661)
Other financing activities, net	**5,030**	576	(2,799)
Net cash provided by financing activities	**40,056**	24,131	4,303
Net increase (decrease) in cash held at bank subsidiaries	**46,572**	(3,036)	5,319
Cash held at bank subsidiaries at January 1	**51,953**	54,989	49,670
Cash held at bank subsidiaries at December 31	**$ 98,525**	$ 51,953	$ 54,989

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 (Loss) Before Income Taxes	Net Income (Loss)
Domestic [3]	**2008**	**$ 1,678,853**	**$ 67,549**	**$ 3,289**	**$ 3,254**
	2007	1,529,899	60,245	18,039	13,137
	2006		64,577	28,041	18,605
Asia	**2008**	**50,567**	**1,770**	**1,207**	**761**
	2007	46,359	1,613	1,146	721
	2006		1,117	637	420
Europe, Middle East and Africa	**2008**	**78,790**	**3,020**	**(456)**	**(252)**
	2007	129,303	4,097	894	592
	2006		4,835	1,843	1,193
Latin America and the Caribbean	**2008**	**9,733**	**443**	**388**	**245**
	2007	10,185	878	845	532
	2006		2,247	1,452	915
Total Foreign	**2008**	**139,090**	**5,233**	**1,139**	**754**
	2007	185,847	6,588	2,885	1,845
	2006		8,199	3,932	2,528
Total Consolidated	**2008**	**$ 1,817,943**	**$ 72,782**	**$ 4,428**	**$ 4,008**
	2007	1,715,746	66,833	20,924	14,982
	2006		72,776	31,973	21,133

(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 $13.5 billion and $10.9 billion at December 31, 2008 and 2007; total revenue, net of interest expense of $1.2 billion, $770 million and $636 million; income before income taxes of $552 million, $292 million and $269 million; and net income of $404 million, $195 million and $182 million for the years ended December 31, 2008, 2007 and 2006, respectively.

Note 25 – Subsequent Events

In January 2009, in connection with the TARP Capital Purchase Program, established as part of the Emergency Economic Stabilization Act of 2008 and in connection with the Merrill Lynch acquisition, the Corporation issued to the U.S. Treasury 400 thousand shares of Bank of America Corporation Fixed Rate Cumulative Perpetual Preferred Stock, Series Q (Series Q Preferred Stock) with a par value of $0.01 per share for $10.0 billion. The Series Q Preferred Stock initially pays quarterly dividends at a five percent annual rate that increases to nine percent after five years on a liquidation preference of $25,000 per share. The Series Q Preferred Stock has a call feature after three years. In connection with this investment, the Corporation also issued to the U.S. Treasury 10-year warrants to purchase approximately 48.7 million shares of Bank of America Corporation common stock at an exercise price of $30.79 per share. Upon the request of the U.S. Treasury, at any time, the Corporation has agreed to enter into a deposit arrangement pursuant to which the Series Q Preferred Stock may be deposited and depositary shares, representing 1/25th of a share of Series Q Preferred Stock, may be issued. The Corporation has agreed to register the Series Q Preferred Stock, the warrants, the shares of common stock underlying the warrants and the depositary shares, if any, for resale under the Securities Act of 1933.

As required under the TARP Capital Purchase Program in connection with the sale of the Series Q Preferred Stock to the U.S. Treasury, dividend payments on, and repurchases of, the Corporation's outstanding preferred and common stock are subject to certain restrictions. The restrictions are the same as previously discussed in connection with the sale of the Series N Preferred Stock. For more information on these restrictions, see *Note 14 – Shareholders' Equity and Earnings Per Common Share* to the Consolidated Financial Statements.

Also in January 2009, the U.S. Treasury, the FDIC and the Federal Reserve agreed in principle to provide protection against the possibility of unusually large losses on an asset pool of approximately $118.0 billion of financial instruments comprised of $81.0 billion of derivative assets and $37.0 billion of other financial assets. The assets that would be protected under this agreement are expected generally to be domestic, pre-market disruption (i.e., originated prior to September 30, 2007) leveraged and commercial real estate loans, CDOs, financial guarantor counterparty exposure, certain trading counterparty exposure and certain investment securities. These protected assets would be expected to exclude certain foreign assets and assets originated or issued on or after March 14, 2008. The majority of the protected assets were added by the Corporation as a result of its acquisition of Merrill Lynch. This guarantee is expected to be in place for 10 years for residential assets and five years for non-residential assets unless the guarantee is terminated by the Corporation at an earlier date. It is expected that the Corporation will absorb the first $10.0 billion of losses related to the assets while any additional losses will be shared between the Corporation (10 percent) and the U.S. government (90 percent). These assets would remain on the Corporation's balance sheet and the Corporation would continue to manage these assets in the ordinary course of business as well as retain the associated income. The assets that would be covered by this guarantee are expected to carry a 20 percent risk weighting for regulatory capital purposes. As a fee for this arrangement, the Corporation expects to issue to the U.S. Treasury and FDIC a total of $4.0 billion of a new class of preferred stock and to issue warrants to acquire 30.1 million shares of Bank of America common stock.

If necessary, under this proposed agreement, the Federal Reserve will provide liquidity for the residual risk in the asset pool through a nonrecourse loan facility. As previously discussed, the Corporation would be responsible for the first $10.0 billion in losses on the asset pool. Once additional losses exceed this amount by $8.0 billion the Corporation would be able to draw on this facility. This loan facility would terminate and any related funded loans would mature on the termination dates of the U.S. government's guarantee. The Federal Reserve is expected to charge a fee of 20 bps per annum on undrawn amounts and a floating interest rate of the overnight index swap rate plus 300 bps per annum on funded amounts. Interest and fee payments would be with recourse to the Corporation.

Further, the Corporation issued to the U.S. Treasury 800 thousand shares of Bank of America Corporation Fixed Rate Cumulative Perpetual Preferred Stock, Series R (Series R Preferred Stock) with a par value of $0.01 per share for $20.0 billion. The Series R Preferred Stock pays dividends at an eight percent annual rate on a liquidation preference of $25,000 per share. The Series R Preferred Stock may only be redeemed after the Series N and Series Q Preferred Stock have been redeemed. In connection with this investment, the Corporation also issued to the U.S. Treasury 10-year warrants to purchase approximately 150.4 million shares of Bank of America Corporation common stock at an exercise price of $13.30 per share. Upon the request of the U.S. Treasury, at any time, the Corporation has agreed to enter into a deposit arrangement pursuant to which the Series R Preferred Stock may be deposited and depositary shares, representing 1/25th of a share of Series R Preferred Stock, may be issued. The Corporation has agreed to register the Series R Preferred Stock, the warrants, the shares of common stock underlying the warrants and the depositary shares, if any, for resale under the Securities Act of 1933.

As required under the TARP Capital Purchase Program dividend payments on, and repurchases of, the Corporation's outstanding preferred and common stock are subject to certain restrictions. In addition to these restrictions, in connection with this arrangement, the Corporation will comply with enhanced executive compensation restrictions and continue with current mortgage loan modification programs. Additionally, any increase in the quarterly common stock dividend for the next three years will require the consent of the U.S. government.

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

Disclosure 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 (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 that Bank of America's disclosure controls and procedures were effective, as of the end of the period covered by this report, in recording, processing, summarizing and reporting information required to be disclosed, within the time periods specified in the SEC's rules and forms.

Report of Management on Internal Control Over Financial Reporting

The Report of Management on Internal Control over Financial Reporting is set forth on page 108 and incorporated herein by reference. The Report of Independent Registered Public Accounting Firm with respect to the Corporation's internal control over financial reporting is set forth on page 109 and incorporated herein by reference.

Changes in Internal Control Over Financial Reporting

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, 2008, 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 2009 annual meeting of stockholders (the "2009 Proxy Statement") is incorporated herein by reference:

- "Item 1: Election of Directors – The Nominees";
- "Section 16(a) Beneficial Ownership Reporting Compliance";
- "Corporate Governance – Code of Ethics"; and
- "Corporate Governance – 2008/2009 Bank of America Committee Composition" and "– 2009/2010 Bank of America Committee Composition – Audit Committee"

Additional information required by Item 10 with respect to executive officers is set forth in Part I, Item 4A of this report. Information regarding the Corporation's directors is set forth in the 2009 Proxy Statement under the caption "The Nominees."

Item 11. Executive Compensation

Information included under the following captions in the 2009 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 2009 Proxy Statement is incorporated herein by reference:

- "Stock Ownership."

The following table presents information on equity compensation plans at December 31, 2008:

	Number of Shares to be Issued Under Outstanding Options and Rights [1,3]	Weighted Average Exercise Price of Outstanding Options [2]	Number of Shares Remaining Available for Future Issuance Under Equity Compensation Plans
Plans approved by shareholders	228,983,437	$40.41	234,641,282
Plan not approved by shareholders	—	—	—
Total equity compensation plans	228,983,437	$40.41	234,641,282

(1) Includes 16,950,873 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 20,396,493 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 $70.92 at December 31, 2008. Also, there were 49,634 outstanding restricted stock units granted to employees of predecessor companies assumed in mergers.

For additional information on Bank of America's equity compensation plans see *Note 17 – Stock-Based Compensation Plans* to the Consolidated Financial Statements beginning on page 165 which is incorporated herein by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

Information included under the following captions in the 2009 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 2009 Proxy Statement is incorporated herein by reference:

- "Item 2: Ratification of the Independent Registered Public Accounting Firm for 2009 – Fees to Independent Registered Public Accounting Firm for 2008 and 2007" and "– Pre-Approval Policies and Procedures."

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, 2008, 2007 and 2006
Consolidated Balance Sheet at December 31, 2008 and 2007
Consolidated Statement of Changes in Shareholders' Equity for the years ended December 31, 2008, 2007 and 2006
Consolidated Statement of Cash Flows for the years ended December 31, 2008, 2007 and 2006
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-5, including executive compensation plans and arrangements which are listed under Exhibit Nos. 10(a) through 10(tt)).

With the exception of the information expressly incorporated herein by reference, the 2009 Proxy Statement is not to be deemed filed as part of this Annual Report on Form 10-K.

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 27, 2009

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 Kenneth D. Lewis	Chairman, Chief Executive Officer, President and Director (Principal Executive Officer)	February 27, 2009
/s/ Joe L. Price Joe L. Price	Chief Financial Officer (Principal Financial Officer)	February 27, 2009
/s/ Craig R. Rosato Craig R. Rosato	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	February 27, 2009
/s/ William Barnet, III William Barnet, III	Director	February 27, 2009
/s/ Frank P. Bramble, Sr. Frank P. Bramble, Sr.	Director	February 27, 2009
/s/ Virgis W. Colbert Virgis W. Colbert	Director	February 27, 2009
/s/ John T. Collins John T. Collins	Director	February 27, 2009
/s/ Gary L. Countryman Gary L. Countryman	Director	February 27, 2009
/s/ Tommy R. Franks Tommy R. Franks	Director	February 27, 2009
/s/ Charles K. Gifford Charles K. Gifford	Director	February 27, 2009

Signature	Title	Date
*/s/ Monica C. Lozano Monica C. Lozano	Director	February 27, 2009
*/s/ Walter E. Massey Walter E. Massey	Director	February 27, 2009
*/s/ Thomas J. May Thomas J. May	Director	February 27, 2009
*/s/ Partricia E. Mitchell Patricia E. Mitchell	Director	February 27, 2009
*/s/ Joseph W. Prueher Joseph W. Prueher	Director	February 27, 2009
*/s/ Charles O. Rossotti Charles O. Rossotti	Director	February 27, 2009
*/s/ Thomas M. Ryan Thomas M. Ryan	Director	February 27, 2009
*/s/ O. Temple Sloan, Jr. O. Temple Sloan, Jr.	Director	February 27, 2009
*/s/ Robert L. Tillman Robert L. Tillman	Director	February 27, 2009
*/s/ Jackie M. Ward Jackie M. Ward	Director	February 27, 2009

*By: /s/ Teresa M. Brenner
Teresa M. Brenner
Attorney-in-Fact

INDEX TO EXHIBITS

Exhibit No.	Description
2(a)	Agreement and Plan of Merger dated as of September 15, 2008 by and between Merrill Lynch & Co., Inc. and the registrant, incorporated by reference to Exhibit 2.1 of registrant's Current Report on Form 8-K filed September 18, 2008.
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 3.2 of registrant's Current Report on Form 8-K filed December 15, 2008.
4(a)	Indenture dated as of January 1, 1995 between registrant (successor to NationsBank Corporation) and 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 4 7/8% Senior Notes, due 2013; 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 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, between registrant and U.S. Bank Trust National Association (successor to BankAmerica National Trust Company), 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, as Successor Trustee, incorporated by reference to Exhibit 4.4 of registrant's Current Report on Form 8-K filed June 14, 2001; Third Supplemental Indenture thereto dated as of July 28, 2004, between registrant and 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; Fourth Supplemental Indenture thereto dated as of April 28, 2006 between the registrant and 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); and Fifth Supplemental Indenture dated as of December 1, 2008 between the registrant and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4.1 of registrant's Current Report on Form 8-K filed December 5, 2008.
(b)	Indenture dated as of January 1, 1995 between registrant (successor to NationsBank Corporation) and 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 4.5 of registrant's Registration Statement on Form S-3 (Registration No. 33-57533); First Supplemental Indenture thereto dated as of August 28, 1998, between registrant and The Bank of New York, 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, between registrant and The Bank of New York Trust Company, N.A. (successor to The Bank of New York), incorporated by reference to Exhibit 4.3 of registrant's Registration Statement on Form S-4 (Registration No. 333-141361).
(c)	Amended and Restated Agency Agreement dated as of July 25, 2008, among the registrant, The Bank of New York Mellon, The Bank of New York (Luxembourg) S.A., incorporated by reference to Exhibit 4.1 of the registrant's Current Report on Form 8-K filed July 31, 2008.
(d)	Amended and Restated Senior Indenture dated as of July 1, 2001 between registrant and 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. 333-65750).
(e)	Amended and Restated Subordinated Indenture dated as of July 1, 2001 between registrant and 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. 333-65750).
(f)	Restated Indenture dated as of November 1, 2001 between registrant and 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).
(g)	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 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 filed December 14, 2001.

Exhibit No.	Description
(h)	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 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 filed January 31, 2002.
(i)	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 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 filed August 9, 2002.
(j)	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 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 filed April 30, 2003.
(k)	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 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 filed November 3, 2004.
(l)	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 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 filed March 9, 2005.
(m)	Seventh Supplemental Indenture dated as of August 10, 2005 to the Restated Indenture dated as of November 1, 2001 between the registrant and 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 registrant's Current Report on Form 8-K filed August 11, 2005.
(n)	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 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 filed August 26, 2005.
(o)	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 pursuant to which registrant issued its 6 1/4% Junior Subordinated Notes due 2055, incorporated by reference to Exhibit 4(bb) of registrant's 2006 Annual Report on Form 10-K (the "2006 10-K").
(p)	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 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.
(q)	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 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.
(r)	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 filed February 16, 2007.
(s)	Fourteenth 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 Fixed Rate Junior Subordinated Notes due 2043, incorporated by reference to Exhibit 4.7 of registrant's Current Report on Form 8-K filed February 16, 2007.
(t)	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 filed June 1, 2007.
(u)	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.
(v)	Australian and New Zealand Medium Term Note Program Deed Poll dated July 12, 2007 granted by the registrant, incorporated by reference to Exhibit 4(ccc) of the registrant's 2007 Annual Report on Form 10-K (the "2007 10-K").
(w)	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.
(x)	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.
(y)	Supplement to Global Agency Agreement dated as of December 19, 2008 among Bank of America, N.A., Deutsche Bank Trust Company Americas, Deutsche Bank AG, London Branch and Deutsche Bank Luxembourg S.A.
(z)	Amended and Restated Agency Agreement dated as of December 5, 2008 among B of A Issuance B.V., the registrant, The Bank of New York Mellon and The Bank of New York (Luxembourg) S.A.

Exhibit No.	Description
	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, 2009.*
(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, 2009.*
(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.*
(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 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 registrant's 2004 Annual Report on Form 10-K (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 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, incorporated by reference to Exhibit 10(i) of the registrant's 2007 10-K, and Amendment thereto dated December 17, 2008, incorporated by reference to Appendix F of Part I to the document included in registrant's Registration Statement on Form S-4/A (Registration No. 333-153771).*
(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)	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.*
(l)	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.*
(m)	FleetBoston Amended and Restated 1992 Stock Option and Restricted Stock Plan, incorporated by reference to Exhibit 10(s) of the 2004 10-K.*

Exhibit No.	Description
(n)	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.*
(o)	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.*
(p)	Retirement Income Assurance Plan for Legacy Fleet, as amended and restated effective January 1, 2009.*
(q)	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.*
(r)	Trust Agreement for the FleetBoston Executive Supplemental Plan, incorporated by reference to Exhibit 10(y) of the 2004 10-K.*
(s)	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.*
(t)	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.*
(u)	FleetBoston 1996 Long-Term Incentive Plan, incorporated by reference to Exhibit 10(bb) of the 2004 10-K.*
(v)	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.*
(w)	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.*
(x)	Description of BankBoston Supplemental Life Insurance Plan, incorporated by reference to Exhibit 10(ee) of the 2004 10-K.*
(y)	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.*
(z)	Description of BankBoston Supplemental Long-Term Disability Plan, incorporated by reference to Exhibit 10(gg) of the 2004 10-K.*
(aa)	BankBoston Director Stock Award Plan, incorporated by reference to Exhibit 10(hh) of the 2004 10-K.*
(bb)	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.*
(cc)	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.*
(dd)	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.*
(ee)	Description of BankBoston Director Retirement Benefits Exchange Program, incorporated by reference to Exhibit 10(ll) of the 2004 10-K.*
(ff)	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.*
(gg)	Form of Change in Control Agreement entered into with Charles K. Gifford, incorporated by reference to Exhibit 10(nn) of the 2004 10-K.*
(hh)	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.*
(ii)	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 January 26, 2005.*
(jj)	Amendment to various FleetBoston stock option awards, dated March 25, 2004, incorporated by reference to Exhibit 10(ss) of the 2004 10-K.*
(kk)	MBNA Corporation Supplemental Executive Retirement Plan, as amended and restated effective January 1, 2005.*
(ll)	Supplemental Executive Insurance Plan, as amended and restated effective January 1, 2005.*
(mm)	MBNA Corporation Executive Deferred Compensation Plan, as amended and restated effective January 1, 2005.*
(nn)	MBNA Corporation 1997 Long Term Incentive Plan, as amended effective April 24, 2000 and restated, as adjusted for July 2002 stock split and as further amended effective April 15, 2005 and restated, and Amendment thereto dated December 15, 2006.*
(oo)	Cancellation Agreement dated June 19, 2008 between Bank of America Corporation and Bruce L. Hammonds.*

Exhibit No.	Description
(pp)	Executive Non-Competition Agreement dated August 9, 1999 among Richard K. Struthers, MBNA Corporation and MBNA America Bank, N.A.*
(qq)	Agreement Regarding Participation in the MBNA Corporation Supplemental Executive Retirement Plan dated December 22, 2008 between Bank of America Corporation and Richard K. Struthers.*
(rr)	Merrill Lynch & Co., Inc. Employee Stock Compensation Plan.*
(ss)	Amendment to various plans as required to the extent necessary to comply with Section III of the Emergency Economic Stabilization Act of 2008 (EESA) and form of waiver for any changes to compensation or benefits required to comply with the EESA, all in connection with the registrant's October 26, 2008 participation in the U.S. Department of Treasury's Troubled Assets Relief Program.*
(tt)	Further amendment to various plans and further form of waiver for any changes to compensation or benefits in connection with the registrant's January 15, 2009 participation in the U.S. Department of Treasury's Troubled Assets Relief Program.*
(uu)	Letter Agreement, dated October 26, 2008, between the registrant and U.S. Department of the Treasury, with respect to the issuance and sale of registrant's Fixed Rate Cumulative Perpetual Preferred Stock, Series N and a warrant to purchase common stock, incorporated by reference to Exhibit 10.1 of registrant's Current Report on Form 8-K filed October 30, 2008.
(vv)	Letter Agreement, dated January 9, 2009, between the registrant and U.S. Department of the Treasury, with respect to the issuance and sale of registrant's Fixed Rate Cumulative Perpetual Preferred Stock, Series Q and a warrant to purchase common stock, incorporated by reference to Exhibit 10.1 of registrant's Current Report on Form 8-K filed January 13, 2009.
(ww)	Securities Purchase Agreement, dated January 15, 2009, between the registrant and U.S. Department of the Treasury, with respect to the issuance and sale of registrant's Fixed Rate Cumulative Perpetual Preferred Stock, Series R and a warrant to purchase common stock, incorporated by reference to Exhibit 10.1 of registrant's Current Report on Form 8-K filed January 22, 2009.
(xx)	Summary of Terms, dated January 15, 2009, incorporated by reference to Exhibit 10.2 of registrant's Current Report on Form 8-K filed January 22, 2009.
12	Ratio of Earnings to Fixed Charges. 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 is a management contract or a compensatory plan or arrangement.

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 29 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 1. 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 2. 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 3. 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 4. 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 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 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 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 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 7. 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 8. 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 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 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 10. 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 11. 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 12. 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.

CERTIFICATE OF DESIGNATIONS
OF
FIXED-TO-FLOATING RATE
NON-CUMULATIVE PREFERRED STOCK, SERIES M
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, January 23, 2008 and April 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 April 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 M, 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 29th day of April, 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 M

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 M" (the "*Series M Preferred Stock*"). Each share of Series M Preferred Stock shall be identical in all respects to every other share of Series M Preferred Stock. Series M 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 M Preferred Stock shall be 160,000. 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 M 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 M Preferred Stock.

Section 3. Definitions. As used herein with respect to Series M 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 M 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 M 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 Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (i) the Corporation's 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, and (j) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series M 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 M 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 M 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 M Preferred Stock upon request and will be final and binding in the absence of manifest error.

Section 4. Dividends.

(a) Rate. Holders of Series M 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 M Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on each May 15 and November 15, beginning on November 15, 2008, and (y) for the Floating Rate Period, quarterly in arrears on each February 15, May 15, August 15, and November 15, beginning on August 15, 2018; 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 M 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 M Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate *per annum* equal to (1) 8.125%, for each Dividend Period from the issue date to, but excluding, May 15, 2018 (the "*Fixed Rate Period*"), and (2) Three-Month LIBOR plus a spread of 3.64%, for each Dividend Period from, and including, May 15, 2018 to the date of redemption of the Series M Preferred

Stock (the "*Floating Rate Period*"). The record date for payment of dividends on the Series M Preferred Stock shall be the last day of the calendar month immediately preceding the 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 M Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M 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 M Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series M 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 M 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 M 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 M Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on May 15, 2018, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series M 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 M 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 M Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series M Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series M 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 M 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 M Preferred Stock at the time outstanding, the shares of Series M Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series M Preferred Stock in proportion to the number of Series M 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 M 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 M 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 M Preferred Stock or any other class or series of preferred stock that ranks on parity with Series M 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 M 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 M Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series M 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 M Preferred Stock and any other class or series of our stock that ranks on parity with Series M 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 M 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 M Preferred Stock and any other class or series of preferred stock that ranks on parity with Series M 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 M 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 M 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 M Preferred Stock and any other class or series of preferred stock that ranks on parity with Series M 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 M 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 M 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 M Preferred Stock shall not have any rights of preemption or rights to convert such Series M 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 M 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 M 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 M 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 M 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 M Preferred Stock are not subject to the operation of a sinking fund.

CERTIFICATE OF DESIGNATIONS
OF
8.20% NON-CUMULATIVE PREFERRED STOCK, SERIES H
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, January 23, 2008 and April 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 May 21, 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 8.20% Non-Cumulative Preferred Stock, Series H, 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 22nd day of May, 2008.

BANK OF AMERICA CORPORATION

/s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

EXHIBIT A

CERTIFICATE OF DESIGNATIONS

OF

8.20% NON-CUMULATIVE PREFERRED STOCK, SERIES H

OF

BANK OF AMERICA CORPORATION

Section 1. Designation. The designation of the series of preferred stock shall be "8.20% Non-Cumulative Preferred Stock, Series H" (the "*Series H Preferred Stock*"). Each share of Series H Preferred Stock shall be identical in all respects to every other share of Series H Preferred Stock. Series H 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 H Preferred Stock shall be 124,200. 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 H 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 H Preferred Stock.

Section 3. Definitions. As used herein with respect to Series H 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 H 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, (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, (i) the Corporation's 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (j) the Corporation's Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, and (k) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series H 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 H 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 H Preferred Stock*" shall have the meaning set forth in Section 1 hereof.

Section 4. Dividends.

(a) Rate. Holders of Series H 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 at a rate per annum equal to 8.20% on the liquidation preference of $25,000 per share of Series H 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 declared and 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 H 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 H Preferred Stock will accrue on the liquidation preference of $25,000 per share at a rate per annum equal to 8.20%. The record date for payment of dividends on the Series H 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 H Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series H

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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H 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 H Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series H 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 H 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 H 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 H Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after the Dividend Payment Date on May 1, 2013, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series H 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 H 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 H Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series H Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series H 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 H 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 H Preferred Stock at the time outstanding, the shares of Series H Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series H Preferred Stock in proportion to the number of Series H 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 H 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 H 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 H Preferred Stock or any other class or series of preferred stock that ranks on parity with Series H 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, as to any class or series, for the equivalent of 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 H 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 H Preferred Stock and any other class or series of preferred stock that ranks on parity with the Series H 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 H Preferred Stock and any other class or series of our stock that ranks on parity with Series H 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 H 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 H Preferred Stock and any other class or series of preferred stock that ranks on parity with Series H 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 H 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 H 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 H Preferred Stock and any other class or series of preferred stock that ranks on parity with Series H Preferred Stock as to payment of dividends, if any, for at least four quarterly Dividend Periods, then the right of the holders of Series H 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 H 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. Preemptive Rights and Conversion. The holders of Series H Preferred Stock shall not have any preemptive rights or rights to convert such Series H 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 H 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 H 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 H 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 H Preferred Stock not issued or which have been 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 H Preferred Stock are not subject to the operation of a sinking fund.

CERTIFICATE OF DESIGNATIONS

OF

FIXED RATE CUMULATIVE PERPETUAL PREFERRED STOCK, SERIES N

OF

BANK OF AMERICA CORPORATION

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), in accordance with the provisions of Sections 141 and 151 of the General Corporation Law of the State of Delaware, does hereby certify:

At meetings duly convened and held by the board of directors of the Corporation (the "Board of Directors") on July 23, 2008 and October 15, 2008, the Board of Directors 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 of Directors to act on behalf of the Board of Directors in establishing the number of authorized shares, the dividend rate, the voting and other powers, designations, preferences and rights, and the qualifications, limitations and restrictions thereof, of such series of Preferred Stock.

Thereafter, on October 26, 2008, the Committee duly adopted the following resolution creating a series of 600,000 shares of Preferred Stock of the Corporation designated as "Fixed Rate Cumulative Perpetual Preferred Stock, Series N" by written consent

RESOLVED, that pursuant to the provisions of the certificate of incorporation and the bylaws of the Corporation and applicable law, and the resolutions adopted by the Board of Directors, a series of Preferred Stock, par value $0.01 per share, of the Corporation be, and hereby is, created, and that the designation and number of shares of such series, and the voting and other powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

Part 1. Designation and Number of Shares. There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the "Fixed Rate Cumulative Perpetual Preferred Stock, Series N" (the "Designated Preferred Stock"). The authorized number of shares of Designated Preferred Stock shall be 600,000.

Part 2. Standard Provisions. The Standard Provisions contained in Annex A attached hereto are incorporated herein by reference in their entirety and shall be deemed to be a part of this Certificate of Designations to the same extent as if such provisions had been set forth in full herein.

Part. 3. Definitions. The following terms are used in this Certificate of Designations (including the Standard Provisions in Annex A hereto) as defined below:

(a) "Common Stock" means the common stock, par value $0.01 per share, of the Corporation.

(b) "Dividend Payment Date" means February 15, May 15, August 15 and November 15 of each year.

(c) "Junior Stock" means the Common Stock, and any other class or series of stock of the Corporation the terms of which expressly provide that it ranks junior to Designated Preferred Stock as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Corporation.

(d) "Liquidation Amount" means $25,000 per share of Designated Preferred Stock.

(e) "Minimum Amount" means $3,750,000,000.

(f) "Parity Stock" means any class or series of stock of the Corporation (other than Designated Preferred Stock) the terms of which do not expressly provide that such class or series will rank senior or junior to Designated Preferred Stock as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Corporation (in each case without regard to whether dividends accrue cumulatively or non-cumulatively). Without limiting the foregoing, Parity Stock shall include the Corporation's (i) 7% Cumulative Redeemable Preferred Stock, Series B; (ii) 6.204% Non-Cumulative Preferred Stock, Series D; (iii) Floating Rate Non-Cumulative Preferred Stock, Series E; (iv) Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding); (v) Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding); (vi) 8.20% Non-Cumulative Preferred Stock, Series H; (vii) 6.625% Non-Cumulative Preferred Stock, Series I; (viii) 7.25% Non-Cumulative Preferred Stock, Series J; (ix) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K; (x) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L; and (xi) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M.

(g) "Signing Date" means October 26, 2008.

Part. 4. Certain Voting Matters. Holders of shares of Designated Preferred Stock will be entitled to one vote for each such share on any matter on which holders of Designated Preferred Stock are entitled to vote, including any action by written consent.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, Bank of America Corporation has caused this Certificate of Designations to be signed by Teresa M. Brenner, its Associate General Counsel, this 27th day of October, 2008.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

STANDARD PROVISIONS

Section 1. General Matters. Each share of Designated Preferred Stock shall be identical in all respects to every other share of Designated Preferred Stock. The Designated Preferred Stock shall be perpetual, subject to the provisions of Section 5 of these Standard Provisions that form a part of the Certificate of Designations. The Designated Preferred Stock shall rank equally with Parity Stock and shall rank senior to Junior Stock with respect to the payment of dividends and the distribution of assets in the event of any dissolution, liquidation or winding up of the Corporation.

Section 2. Standard Definitions. As used herein with respect to Designated Preferred Stock:

(a) "Applicable Dividend Rate" means (i) during the period from the Original Issue Date to, but excluding, the first day of the first Dividend Period commencing on or after the fifth anniversary of the Original Issue Date, 5% per annum and (ii) from and after the first day of the first Dividend Period commencing on or after the fifth anniversary of the Original Issue Date, 9% per annum.

(b) "Appropriate Federal Banking Agency" means the "appropriate Federal banking agency" with respect to the Corporation as defined in Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. Section 1813(q)), or any successor provision.

(c) "Business Combination" means a merger, consolidation, statutory share exchange or similar transaction that requires the approval of the Corporation's stockholders.

(d) "Business Day" means any day except Saturday, Sunday and any day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close.

(e) "Bylaws" means the bylaws of the Corporation, as they may be amended from time to time.

(f) "Certificate of Designations" means the Certificate of Designations or comparable instrument relating to the Designated Preferred Stock, of which these Standard Provisions form a part, as it may be amended from time to time.

(g) "Charter" means the Corporation's certificate or articles of incorporation, articles of association, or similar organizational document.

(h) "Dividend Period" has the meaning set forth in Section 3(a).

(i) "Dividend Record Date" has the meaning set forth in Section 3(a).

(j) "Liquidation Preference" has the meaning set forth in Section 4(a).

(k) "Original Issue Date" means the date on which shares of Designated Preferred Stock are first issued.

(l) "Preferred Director" has the meaning set forth in Section 7(b).

(m) "Preferred Stock" means any and all series of preferred stock of the Corporation, including the Designated Preferred Stock.

(n) "Qualified Equity Offering" means the sale and issuance for cash by the Corporation to persons other than the Corporation or any of its subsidiaries after the Original Issue Date of shares of perpetual Preferred Stock, Common Stock or any combination of such stock, that, in each case, qualify as and may be included in Tier 1 capital of the Corporation at the time of issuance under the applicable risk-based capital guidelines of the Corporation's Appropriate Federal Banking Agency (other than any such sales and issuances made pursuant to agreements or arrangements entered into, or pursuant to financing plans which were publicly announced, on or prior to October 13, 2008).

(o) "Share Dilution Amount" has the meaning set forth in Section 3(b).

(p) "Standard Provisions" mean these Standard Provisions that form a part of the Certificate of Designations relating to the Designated Preferred Stock.

(q) "Successor Preferred Stock" has the meaning set forth in Section 5(a).

(r) "Voting Parity Stock" means, with regard to any matter as to which the holders of Designated Preferred Stock are entitled to vote as specified in Sections 7(a) and 7(b) of these Standard Provisions that form a part of the Certificate of Designations, any and all series of Parity Stock upon which like voting rights have been conferred and are exercisable with respect to such matter.

Section 3. Dividends.

(a) Rate. Holders of Designated Preferred Stock shall be entitled to receive, on each share of Designated Preferred Stock if, as and when declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of assets legally available therefor, cumulative cash dividends with respect to each Dividend Period (as defined below) at a rate per annum equal to the Applicable Dividend Rate on (i) the Liquidation Amount per share of Designated Preferred Stock and (ii) the amount of accrued and unpaid dividends for any prior Dividend Period on such share of Designated Preferred Stock, if any. Such dividends shall begin to accrue and be cumulative from the Original Issue Date, shall compound on each subsequent Dividend Payment Date (*i.e.*, no dividends shall accrue on other dividends unless and until the first Dividend Payment Date for such other dividends has passed without such other dividends having been paid on such date) and shall be payable quarterly in arrears on each Dividend Payment Date, commencing with the first such Dividend Payment Date to occur at least 20 calendar days after the Original Issue Date. In the event that any Dividend Payment Date would otherwise fall on a day that is not a Business Day, the dividend payment due on that date will be postponed to the next day that is a Business Day and no additional dividends will accrue as a result of that postponement. The period from and including any Dividend Payment Date to, but

excluding, the next Dividend Payment Date is a "Dividend Period", provided that the initial Dividend Period shall be the period from and including the Original Issue Date to, but excluding, the next Dividend Payment Date.

Dividends that are payable on Designated Preferred Stock in respect of any Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of dividends payable on Designated Preferred Stock on any date prior to the end of a Dividend Period, and for the initial Dividend Period, shall be computed on the basis of a 360-day year consisting of twelve 30-day months, and actual days elapsed over a 30-day month.

Dividends that are payable on Designated Preferred Stock on any Dividend Payment Date will be payable to holders of record of Designated Preferred Stock as they appear on the stock register of the Corporation on the applicable record date, which shall be the 15th calendar day immediately preceding such Dividend Payment Date or such other record date fixed by the Board of Directors or any duly authorized committee of the Board of Directors that is not more than 60 nor less than 10 days prior to such Dividend Payment Date (each, a "Dividend Record Date"). Any such day that is a Dividend Record Date shall be a Dividend Record Date whether or not such day is a Business Day.

Holders of Designated Preferred Stock shall not be entitled to any dividends, whether payable in cash, securities or other property, other than dividends (if any) declared and payable on Designated Preferred Stock as specified in this Section 3 (subject to the other provisions of the Certificate of Designations).

(b) Priority of Dividends. So long as any share of Designated Preferred Stock remains outstanding, no dividend or distribution shall be declared or paid on the Common Stock or any other shares of Junior Stock (other than dividends payable solely in shares of Common Stock) or Parity Stock, subject to the immediately following paragraph in the case of Parity Stock, and no Common Stock, Junior Stock or Parity Stock shall be, directly or indirectly, purchased, redeemed or otherwise acquired for consideration by the Corporation or any of its subsidiaries unless all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 3(a) above, dividends on such amount), on all outstanding shares of Designated Preferred Stock have been or are contemporaneously declared and paid in full (or have been declared and a sum sufficient for the payment thereof has been set aside for the benefit of the holders of shares of Designated Preferred Stock on the applicable record date). The foregoing limitation shall not apply to (i) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with the administration of any employee benefit plan in the ordinary course of business (including purchases to offset the Share Dilution Amount (as defined below) pursuant to a publicly announced repurchase plan) and consistent with past practice, *provided* that any purchases to offset the Share Dilution Amount shall in no event exceed the Share Dilution Amount; (ii) purchases or other acquisitions by a broker-dealer subsidiary of the Corporation solely for the purpose of market-making, stabilization or customer facilitation transactions in Junior Stock or Parity Stock in the ordinary course of its business; (iii) purchases by a broker-dealer subsidiary of the Corporation of capital stock of the Corporation for resale pursuant to an offering by the Corporation of such capital stock underwritten by such broker-dealer subsidiary; (iv) any dividends or distributions of rights or Junior Stock in connection with a stockholders'

rights plan or any redemption or repurchase of rights pursuant to any stockholders' rights plan; (v) the acquisition by the Corporation or any of its subsidiaries of record ownership in Junior Stock or Parity Stock for the beneficial ownership of any other persons (other than the Corporation or any of its subsidiaries), including as trustees or custodians; and (vi) the exchange or conversion of Junior Stock for or into other Junior Stock or of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation amount) or Junior Stock, in each case, solely to the extent required pursuant to binding contractual agreements entered into prior to the Signing Date or any subsequent agreement for the accelerated exercise, settlement or exchange thereof for Common Stock. "Share Dilution Amount" means the increase in the number of diluted shares outstanding (determined in accordance with generally accepted accounting principles in the United States, and as measured from the date of the Corporation's consolidated financial statements most recently filed with the Securities and Exchange Commission prior to the Original Issue Date) resulting from the grant, vesting or exercise of equity-based compensation to employees and equitably adjusted for any stock split, stock dividend, reverse stock split, reclassification or similar transaction.

When dividends are not paid (or declared and a sum sufficient for payment thereof set aside for the benefit of the holders thereof on the applicable record date) on any Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within a Dividend Period related to such Dividend Payment Date) in full upon Designated Preferred Stock and any shares of Parity Stock, all dividends declared on Designated Preferred Stock and all such Parity Stock and payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the Dividend Period related to such Dividend Payment Date) shall be declared *pro rata* so that the respective amounts of such dividends declared shall bear the same ratio to each other as all accrued and unpaid dividends per share on the shares of Designated Preferred Stock (including, if applicable as provided in Section 3(a) above, dividends on such amount) and all Parity Stock payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the Dividend Period related to such Dividend Payment Date) (subject to their having been declared by the Board of Directors or a duly authorized committee of the Board of Directors out of legally available funds and including, in the case of Parity Stock that bears cumulative dividends, all accrued but unpaid dividends) bear to each other. If the Board of Directors or a duly authorized committee of the Board of Directors determines not to pay any dividend or a full dividend on a Dividend Payment Date, the Corporation will provide written notice to the holders of Designated Preferred Stock prior to such Dividend Payment Date.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, securities or other property) as may be determined by the Board of Directors or any duly authorized committee of the Board of Directors may be declared and paid on any securities, including Common Stock and other Junior Stock, from time to time out of any funds legally available for such payment, and holders of Designated Preferred Stock shall not be entitled to participate in any such dividends.

Section 4. Liquidation Rights.

(a) Voluntary or Involuntary Liquidation. In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Designated Preferred Stock shall be entitled to receive for each share of Designated Preferred Stock, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to stockholders of the Corporation, subject to the rights of any creditors of the Corporation, before any distribution of such assets or proceeds is made to or set aside for the holders of Common Stock and any other stock of the Corporation ranking junior to Designated Preferred Stock as to such distribution, payment in full in an amount equal to the sum of (i) the Liquidation Amount per share and (ii) the amount of any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount), whether or not declared, to the date of payment (such amounts collectively, the "Liquidation Preference").

(b) Partial Payment. If in any distribution described in Section 4(a) above the assets of the Corporation or proceeds thereof are not sufficient to pay in full the amounts payable with respect to all outstanding shares of Designated Preferred Stock and the corresponding amounts payable with respect of any other stock of the Corporation ranking equally with Designated Preferred Stock as to such distribution, holders of Designated Preferred Stock and the holders of such other stock shall share ratably in any such distribution in proportion to the full respective distributions to which they are entitled.

(c) Residual Distributions. If the Liquidation Preference has been paid in full to all holders of Designated Preferred Stock and the corresponding amounts payable with respect of any other stock of the Corporation ranking equally with Designated Preferred Stock as to such distribution has been paid in full, the holders of other stock of the Corporation shall be entitled to receive all remaining assets of the Corporation (or proceeds thereof) according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation. For purposes of this Section 4, the merger or consolidation of the Corporation with any other corporation or other entity, including a merger or consolidation in which the holders of Designated Preferred Stock receive cash, securities or other property for their shares, or the sale, lease or exchange (for cash, securities or other property) of all or substantially all of the assets of the Corporation, shall not constitute a liquidation, dissolution or winding up of the Corporation.

Section 5. Redemption.

(a) Optional Redemption. Except as provided below, the Designated Preferred Stock may not be redeemed prior to the first Dividend Payment Date falling on or after the third anniversary of the Original Issue Date. On or after the first Dividend Payment Date falling on or after the third anniversary of the Original Issue Date, the Corporation, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem, in whole or in part, at any time and from time to time, out of funds legally available therefor, the shares of Designated Preferred Stock at the time outstanding, upon notice given as provided in Section 5(c) below, at a redemption price equal to the sum of (i) the Liquidation Amount per share and (ii) except as otherwise provided below, any accrued and unpaid dividends (including, if applicable

as provided in Section 3(a) above, dividends on such amount) (regardless of whether any dividends are actually declared) to, but excluding, the date fixed for redemption.

Notwithstanding the foregoing, prior to the first Dividend Payment Date falling on or after the third anniversary of the Original Issue Date, the Corporation, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem, in whole or in part, at any time and from time to time, the shares of Designated Preferred Stock at the time outstanding, upon notice given as provided in Section 5(c) below, at a redemption price equal to the sum of (i) the Liquidation Amount per share and (ii) except as otherwise provided below, any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount) (regardless of whether any dividends are actually declared) to, but excluding, the date fixed for redemption; *provided* that (x) the Corporation (or any successor by Business Combination) has received aggregate gross proceeds of not less than the Minimum Amount (plus the "Minimum Amount" as defined in the relevant certificate of designations for each other outstanding series of preferred stock of such successor that was originally issued to the United States Department of the Treasury (the "Successor Preferred Stock") in connection with the Troubled Asset Relief Program Capital Purchase Program) from one or more Qualified Equity Offerings (including Qualified Equity Offerings of such successor), and (y) the aggregate redemption price of the Designated Preferred Stock (and any Successor Preferred Stock) redeemed pursuant to this paragraph may not exceed the aggregate net cash proceeds received by the Corporation (or any successor by Business Combination) from such Qualified Equity Offerings (including Qualified Equity Offerings of such successor).

The redemption price for any shares of Designated Preferred Stock shall be payable on the redemption date to the holder of such shares against surrender of the certificate(s) evidencing such shares to the Corporation or its agent. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the Dividend Record Date for a Dividend Period shall not be paid to the holder entitled to receive the redemption price on the redemption date, but rather shall be paid to the holder of record of the redeemed shares on such Dividend Record Date relating to the Dividend Payment Date as provided in Section 3 above.

(b) No Sinking Fund. The Designated Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Designated Preferred Stock will have no right to require redemption or repurchase of any shares of Designated Preferred Stock.

(c) Notice of Redemption. Notice of every redemption of shares of Designated Preferred Stock shall be given by first class mail, postage prepaid, addressed to the holders of record of the shares to be redeemed at their respective last addresses appearing on the books 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 Subsection 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 Designated Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Designated Preferred Stock. Notwithstanding the foregoing, if shares of Designated Preferred Stock are issued in book-entry form through The Depository Trust Corporation or any other similar facility, notice of

redemption may be given to the holders of Designated Preferred Stock at such time and in any manner permitted by such facility. Each notice of redemption given to a holder shall state: (1) the redemption date; (2) the number of shares of Designated Preferred Stock to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price.

(d) Partial Redemption. In case of any redemption of part of the shares of Designated Preferred Stock at the time outstanding, the shares to be redeemed shall be selected either *pro rata* or in such other manner as the Board of Directors or a duly authorized committee thereof may determine to be fair and equitable. Subject to the provisions hereof, the Board of Directors or a duly authorized committee thereof shall have full power and authority to prescribe the terms and conditions upon which shares of Designated Preferred Stock shall be redeemed from time to time. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

(e) 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 deposited by the Corporation, in trust for the *pro rata* benefit of the holders of the shares called for redemption, with a bank or trust company doing business in the Borough of Manhattan, The City of New York, and having a capital and surplus of at least $500 million and selected by the Board of Directors, so as to be and continue to be available solely therefor, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date dividends shall cease to accrue on all shares so called for redemption, all shares so called for redemption shall no longer be deemed outstanding 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, without interest. Any funds unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

(f) Status of Redeemed Shares. Shares of Designated Preferred Stock that are redeemed, repurchased or otherwise acquired by the Corporation shall revert to authorized but unissued shares of Preferred Stock (*provided* that any such cancelled shares of Designated Preferred Stock may be reissued only as shares of any series of Preferred Stock other than Designated Preferred Stock).

Section 6. Conversion. Holders of Designated Preferred Stock shares shall have no right to exchange or convert such shares into any other securities.

Section 7. Voting Rights.

(a) General. The holders of Designated Preferred Stock shall not have any voting rights except as set forth below or as otherwise from time to time required by law.

(b) Preferred Stock Directors. Whenever, at any time or times, dividends payable on the shares of Designated Preferred Stock have not been paid for an aggregate of six quarterly Dividend Periods or more, whether or not consecutive, the authorized number of directors of the Corporation shall automatically be increased by two and the holders of the Designated Preferred Stock shall have the right, with holders of shares of any one or more other classes or series of Voting Parity Stock outstanding at the time, voting together as a class, to elect two directors (hereinafter the *"*Preferred Directors" and each a *"*Preferred Director") to fill such newly created directorships at the Corporation's next annual meeting of stockholders (or at a special meeting called for that purpose prior to such next annual meeting) and at each subsequent annual meeting of stockholders until all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 3(a) above, dividends on such amount), on all outstanding shares of Designated Preferred Stock have been declared and paid in full at which time such right shall terminate with respect to the Designated Preferred Stock, except as herein or by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned; *provided* that it shall be a qualification for election for any Preferred Director that the election of such Preferred Director shall not cause the Corporation to violate any corporate governance requirements of any securities exchange or other trading facility on which securities of the Corporation may then be listed or traded that listed or traded companies must have a majority of independent directors. Upon any termination of the right of the holders of shares of Designated Preferred Stock and Voting Parity Stock as a class to vote for directors as provided above, the Preferred Directors shall cease to be qualified as directors, the term of office of all Preferred Directors then in office shall terminate immediately and the authorized number of directors shall be reduced by the number of Preferred Directors elected pursuant hereto. Any Preferred Director may be removed at any time, with or without cause, and any vacancy created thereby may be filled, only by the affirmative vote of the holders a majority of the shares of Designated Preferred Stock at the time outstanding voting separately as a class together with the holders of shares of Voting Parity Stock, to the extent the voting rights of such holders described above are then exercisable. If the office of any Preferred Director becomes vacant for any reason other than removal from office as aforesaid, the remaining Preferred Director may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred.

(c) Class Voting Rights as to Particular Matters. So long as any shares of Designated Preferred Stock are outstanding, in addition to any other vote or consent of stockholders required by law or by the Charter, the vote or consent of the holders of at least 66 $^{2}/_{3}$% of the shares of Designated Preferred Stock at the time outstanding, voting as a separate class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

(i) Authorization of Senior Stock. Any amendment or alteration of the Certificate of Designations for the Designated Preferred Stock or the Charter to authorize or create or increase the authorized amount of, or any issuance of, any shares of, or any securities convertible into or exchangeable or exercisable for shares of, any class or series of capital stock of the Corporation ranking senior to Designated Preferred Stock with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of the Corporation;

(ii) Amendment of Designated Preferred Stock. Any amendment, alteration or repeal of any provision of the Certificate of Designations for the Designated Preferred Stock or the Charter (including, unless no vote on such merger or consolidation is required by Section 7(c)(iii) below, any amendment, alteration or repeal by means of a merger, consolidation or otherwise) so as to adversely affect the rights, preferences, privileges or voting powers of the Designated Preferred Stock; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Designated Preferred Stock, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Designated Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, and limitations and restrictions thereof, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of Designated Preferred Stock immediately prior to such consummation, taken as a whole;

provided, *however*, that for all purposes of this Section 7(c), any increase in the amount of the authorized Preferred Stock, including any increase in the authorized amount of Designated Preferred Stock necessary to satisfy preemptive or similar rights granted by the Corporation to other persons prior to the Signing Date, or the creation and issuance, or an increase in the authorized or issued amount, whether pursuant to preemptive or similar rights or otherwise, of any other series of Preferred Stock, or any securities convertible into or exchangeable or exercisable for any other series of Preferred Stock, ranking equally with and/or junior to Designated Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up of the Corporation will not be deemed to adversely affect the rights, preferences, privileges or voting powers, and shall not require the affirmative vote or consent of, the holders of outstanding shares of the Designated Preferred Stock.

(d) Changes after Provision for Redemption. No vote or consent of the holders of Designated Preferred Stock shall be required pursuant to Section 7(c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding shares of the Designated Preferred Stock shall have been redeemed, or shall have been called for redemption upon proper notice and sufficient funds shall have been deposited in trust for such redemption, in each case pursuant to Section 5 above.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Designated Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules of the Board of Directors or any duly authorized committee of the Board of Directors, in its discretion, may adopt from time to

time, which rules and procedures shall conform to the requirements of the Charter, the Bylaws, and applicable law and the rules of any national securities exchange or other trading facility on which Designated Preferred Stock is listed or traded at the time.

Section 8. Record Holders. To the fullest extent permitted by applicable law, the Corporation and the transfer agent for Designated Preferred Stock may deem and treat the record holder of any share of Designated Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

Section 9. Notices. All notices or communications in respect of Designated Preferred Stock shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in this Certificate of Designations, in the Charter or Bylaws or by applicable law. Notwithstanding the foregoing, if shares of Designated Preferred Stock are issued in book-entry form through The Depository Trust Corporation or any similar facility, such notices may be given to the holders of Designated Preferred Stock in any manner permitted by such facility.

Section 10. No Preemptive Rights. No share of Designated Preferred Stock shall have any rights of preemption whatsoever as to any securities of the Corporation, or any warrants, rights or options issued or granted with respect thereto, regardless of how such securities, or such warrants, rights or options, may be designated, issued or granted.

Section 11. Replacement Certificates. The Corporation shall replace any mutilated certificate at the holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the holder's expense upon delivery to the Corporation of reasonably satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be reasonably required by the Corporation.

Section 12. Other Rights. The shares of Designated Preferred Stock shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Charter or as provided by applicable law.

CERTIFICATE OF AMENDMENT
TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
BANK OF AMERICA CORPORATION

Pursuant to Section 242
of the General Corporation Law of the State of Delaware

Bank of America Corporation, a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Company"), does hereby certify that:

1. The Amended and Restated Certificate of Incorporation of the Company is hereby amended by changing the number of shares of stock the Company is authorized to issue, so that, the first sentence of Article 3 thereof shall read as follows:

"3. The number of shares, par value $0.01 per share, the Company is authorized to issue is Ten Billion One Hundred Million (10,100,000,000), divided into the following classes:

Class	Number of Shares
Common	10,000,000,000
Preferred	100,000,000."

2. The foregoing amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company has caused this Certificate of Amendment to be executed by a duly authorized officer on this 9th day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

BANK OF AMERICA CORPORATION

CERTIFICATE OF DESIGNATIONS
Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 1
(Par Value $0.01 Per Share)

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors by 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, par value $0.01 per share (the "Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 1

(1) Number of Shares and Designation. 21,000 shares of the preferred stock, par value $0.01 per share, of the Corporation are hereby constituted as a series of preferred stock, par value $0.01 per share, designated as Floating Rate Non-Cumulative Preferred Stock, Series 1 (hereinafter called the "Preferred Stock, Series 1").

(2) Dividends. (a) The holders of shares of the Preferred Stock, Series 1, shall be entitled to receive, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), out of assets of the Corporation legally available under Delaware law for the payment of dividends, non-cumulative cash dividends at the rate set forth below in this Section (2) applied to the amount of $30,000 per share. Such dividends shall be payable quarterly, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), on February 28, May 28, August 28 and November 28 (the "Payment Dates ") commencing on February 28, 2009; provided that if any such Payment Date is not a New York Business Day and London Business Day, dividends (if declared) on the Preferred Stock, Series 1, will be paid on the immediately succeeding New York Business Day and London Business Day, without interest, unless such day falls in the next calendar month, in which case the Payment Date will be the immediately preceding New York Business Day and London Business Day. Each such dividend shall be payable to the holders of record of shares of the Preferred Stock, Series 1, as they appear on the stock register of the Corporation on such record dates, which shall be a date not more than 30 nor less than 10 days preceding the applicable Payment Dates, as shall be fixed by the Board of Directors of the Corporation (or a duly authorized committee thereof). "London Business Day" means a day other than a Saturday or Sunday on which dealings in deposits in U.S. dollars are transacted, or with respect to any future date are expected to be transacted, in the London interbank market. A "New York Business Day" means any day that is not a Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

(b) (i) Dividend periods ("Dividend Periods") shall commence on each Payment Date (other than the initial Dividend Period which shall be deemed to have commended

on November 28, 2008) and shall end on and include the calendar day next preceding the first day of the next Dividend Period. The dividend rate on the shares of Preferred Stock, Series 1 for each Dividend Period shall be a floating rate per annum equal to three-month U.S. dollar LIBOR plus 0.75%, but in no event will the rate be less than 3.00% per annum, of the $30,000 liquidation preference per share of Preferred Stock, Series 1.

LIBOR, with respect to a Dividend Period, means the rate (expressed as a percentage per annum) for deposits in U.S. dollars for a three month period that normally appears on Moneyline Telerate Page 3750, as displayed on page "BBAM" (British Bankers Association Official BBA LIBOR Fixings) in the Bloomberg Professional Service (or any other service that may replace Moneyline Telerate, Inc. on page BBAM or any other page that may replace page BBAM on the Bloomberg Professional Service or a successor service, in each case, for the purpose of displaying London interbank offered rates of major banks) as of 11:00 a.m. (London time) on the second London Business Day immediately preceding the first day of such Dividend Period.

If LIBOR cannot be determined as described above, the Corporation will select four major banks in the London interbank market. The Corporation will request that the principal London offices of those four selected banks provide their offered quotations to prime banks in the London interbank market at approximately 11:00 a.m., London time, on the second London Business Day immediately preceding the first day of such Dividend Period. These quotations will be for deposits in U.S. dollars for a three month period. Offered quotations must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time.

If two or more quotations are provided, LIBOR for the Dividend Period will be the arithmetic mean of the quotations. If fewer than two quotations are provided, the Corporation will select three major banks in New York City and will then determine LIBOR for the Dividend Period as the arithmetic mean of rates quoted by those three major banks in New York City to leading European banks at approximately 3:00 p.m., New York City time, on the second London Business Day immediately preceding the first day of such Dividend Period. The rates quoted will be for loans in U.S. dollars, for a three month period. Rates quoted must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time. If fewer than three New York City banks selected by the Corporation are quoting rates, LIBOR for the applicable period will be the same as for the immediately preceding Dividend Period.

(ii) The amount of dividends payable for each full Dividend Period (including the initial Dividend Period) for the Preferred Stock, Series 1, shall (if and when declared, as herein provided) be computed by dividing the dividend rate by four, rounded to the nearest one-hundredth of a percent, with five one-thousandths rounded upwards, and applying the resulting rate to the amount of $30,000 per share. The amount of dividends payable for any period shorter than a full Dividend Period on the Preferred Stock, Series 1, shall (if and when declared, as herein provided) be computed on the basis of 30-day months, a 360-day year and the actual number of days elapsed in any period of less than one month. The amount of dividends payable on the Preferred Stock, Series 1, shall be rounded to the nearest cent, with one-half cent being rounded upwards.

(c) So long as any shares of the Preferred Stock, Series 1 are outstanding, the Corporation may not declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to the preferred stock of the Corporation of any series and any other stock of the Corporation ranking, as to dividends, on a parity with the Preferred Stock, Series 1 unless for such Dividend Period full dividends on all outstanding shares of Preferred Stock, Series 1 have been declared, paid or set aside for payment. When dividends are not paid in full, as aforesaid, upon the shares of the Preferred Stock, Series 1, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends with the Preferred Stock, Series 1, all dividends declared upon shares of the Preferred Stock, Series 1, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends (whether cumulative or non-cumulative) shall be declared pro rata so that the amount of dividends declared per share on the Preferred Stock, Series 1, and all such other stock of the Corporation shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of the Preferred Stock, Series 1 (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior Dividend Periods) and all such other stock bear to each other.

(d) So long as any shares of the Preferred Stock, Series 1 are outstanding, the Corporation may not, at any time, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any Common Stock or any other stock of the Corporation ranking as to dividends or distribution of assets junior to the Preferred Stock, Series 1 unless full dividends on all outstanding shares of Preferred Stock, Series 1 has been declared, paid or set aside for payment for the immediately preceding Dividend Period (except for (x) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 1 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation, (y) redemptions or purchases of any rights pursuant to the Amended and Restated Rights Agreement, adopted on December 2, 1997 or any agreement that replaces such Amended and Restated Rights Agreement, or by conversion or exchange for the Corporation's capital stock ranking junior to Preferred Stock, Series 1 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation and (z) purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such capital stock); provided, however, that the foregoing dividend preference shall not be cumulative and shall not in any way create any claim or right in favor of the holders of Preferred Stock, Series 1 in the event that dividends have not been declared or paid on the Preferred Stock, Series 1 in respect of any prior Dividend Period. If the full dividend on the Preferred Stock, Series 1 is not paid for any Dividend Period, the holders of Preferred Stock, Series 1 will have no claim in respect of the unpaid amount so long as no dividend (other than those referred to above) is paid on the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 1 as to dividends and dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation.

(e) No dividends may be declared or paid or set aside for payment on any shares of Preferred Stock, Series 1 if at the same time any arrears exists in the payment of

dividends on any outstanding class or series of stock of the Corporation ranking, as to the payment of dividends, prior to the Preferred Stock, Series 1.

(f) Holders of shares of the Preferred Stock, Series 1, shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends, as herein provided, on the Preferred Stock, Series 1. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock, Series 1, which may be in arrears.

(3) Liquidation Preference. (a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any payment or distribution of the assets of the Corporation or proceeds thereof (whether capital or surplus) shall be made to or set apart for the holders of any series or class or classes of stock of the Corporation ranking junior to the Preferred Stock, Series 1, upon liquidation, dissolution, or winding up, the holders of the shares of the Preferred Stock, Series 1, shall be entitled to receive $30,000 per share plus an amount equal to declared and unpaid dividends, without accumulation of undeclared dividends. If, upon any liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation, or proceeds thereof, distributable among the holders of the shares of the Preferred Stock, Series 1, shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of preferred stock ranking, as to liquidation, dissolution or winding up, on a parity with the Preferred Stock, Series 1, then such assets, or the proceeds thereof, shall be distributed among the holders of shares of Preferred Stock, Series 1, and any such other preferred stock ratably in accordance with the respective amounts which would be payable on such shares of Preferred Stock, Series 1, and any such other preferred stock if all amounts payable thereon were paid in full. For the purposes of this Section (3), neither the sale, lease or exchange (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, nor the consolidation, merger or combination of the Corporation into or with one or more corporations or the consolidation, merger or combination of any other corporation or entity into or with the Corporation, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Corporation for purposes of this Section (3).

(b) After payment shall have been made in full to the holders of Preferred Stock, Series 1, as provided in this Section (3), the holders of Preferred Stock, Series 1 will not be entitled to any further participation in any distribution of assets of the Corporation. Subject to the rights of the holders of shares of any series or class or classes of stock ranking on a parity with or prior to the Preferred Stock, Series 1, upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Preferred Stock, Series 1, as provided in this Section (3), but not prior thereto, any other series or class or classes of stock ranking junior to the Preferred Stock, Series 1, shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Preferred Stock, Series 1, shall not be entitled to share therein.

(4) Redemption. (a) The Preferred Stock, Series 1, may not be redeemed prior to November 28, 2009. On and after November 28, 2009, the Corporation, at its option, may redeem shares of the Preferred Stock, Series 1, as a whole at any time or in part from time to

time, at a redemption price of $30,000 per share, together in each case with declared and unpaid dividends, without accumulation of any undeclared dividends. The Chief Financial Officer or the Treasurer may exercise the Corporation's right to redeem the Preferred Stock, Series 1 as a whole at any time without further action of the Board of Directors or a duly authorized committee thereof. The Corporation may only elect to redeem the Preferred Stock, Series 1 in part pursuant to a resolution by the Board of Directors or a duly authorized committee thereof.

(b) In the event the Corporation shall redeem shares of Preferred Stock, Series 1, 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: (1) the redemption date; (2) the number of shares of Preferred Stock, Series 1, to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price. 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) 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. The Corporation's obligation to provide moneys in accordance with the preceding sentence shall be deemed fulfilled if, on or before the redemption date, the Corporation shall deposit with a bank or trust company (which may be an affiliate of the Corporation) having an office in the Borough of Manhattan, City of New York, having a capital and surplus of at least $50,000,000, funds necessary for such redemption, in trust, with irrevocable instructions that such funds be applied to the redemption of the shares of Preferred Stock, Series 1, so called for redemption. Any interest accrued on such funds shall be paid to the Corporation from time to time. Any funds so deposited and unclaimed at the end of two years from such redemption date shall be released or repaid to the Corporation, after which the holder or holders of such shares of Preferred Stock, Series 1, so called for redemption shall look only to the Corporation for payment of the redemption price.

Upon surrender, in accordance with said notice, of the certificates for any such shares so redeemed (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 applicable redemption price aforesaid. If less than all the outstanding shares of Preferred Stock, Series 1, are to be redeemed, shares to be redeemed shall be selected by the Board of Directors of the Corporation (or a duly authorized committee thereof) from outstanding shares of Preferred Stock, Series 1, not previously called for redemption by lot or pro rata or by any other method determined by the Board of Directors of the Corporation (or a duly authorized committee thereof) to be equitable. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

The Preferred Stock, Series 1 will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Preferred Stock, Series 1 will have no right to require redemption of any shares of Preferred Stock, Series 1.

(5) Terms Dependent on Regulatory Changes. If, (a) after the date of the issuance of the Preferred Stock, Series 1, the Corporation (by election or otherwise) becomes subject to any law, rule, regulation or guidance (together, "Regulations") relating to its capital adequacy which Regulation (x) provides for a type or level of capital characterized as "Tier 1" in, or pursuant to Regulations of any governmental agency, authority or body having regulatory jurisdiction over the Corporation and implementing, the capital standards published by the Basel Committee on Banking Supervision, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or any other United States national governmental agency, authority or body, or (y) provides for a type or level of capital that in the judgment of the Board of Directors (or a duly authorized committee thereof) after consultation with legal counsel of recognized standing is substantially equivalent to such "Tier 1" capital (such capital described in either (x) or (y) is referred to below as "Tier 1 Capital"), and (b) the Board of Directors (or a duly authorized committee thereof) affirmatively elects to qualify the Preferred Stock, Series 1 for such Tier 1 Capital treatment without any sublimit or other quantitative restrictions on the inclusion of such Preferred Stock, Series 1 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) under such Regulations, then, upon such affirmative election, the terms of the Preferred Stock, Series 1 shall automatically be amended to reflect the following modifications (without any action or consent by the holders of the Preferred Stock, Series 1 or any other vote of stockholders of the Corporation):

(i) If and to the extent such modification is a Required Unrestricted Tier 1 Provision (as defined below), the Corporation's right to redeem the Preferred Stock, Series 1 on and after November 28, 2009 pursuant to Section 4 hereof shall be restricted (such restrictions including but not limited to any requirement that the Corporation receive prior approval for such redemption from any applicable governmental agency, authority or body or that such redemption be prohibited);

(ii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, the Corporation's right to make distributions with respect to, or redeem, purchase or acquire or make payments on, securities junior to the Preferred Stock, Series 1 (upon a non-payment of dividends on the Preferred Stock, Series 1) shall become subject to additional restrictions (other than those set forth in Section 2(d) hereof) pursuant to the terms of the Preferred Stock, Series 1; and

(iii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, any other new provisions or terms shall be added to the Preferred Stock, Series 1, or existing terms shall be modified; provided, however, that no such provision or term shall be added, and no such modification shall be made pursuant to the terms of this Section 5(iii), if it would alter or change the rights, powers or preferences of the shares of the Preferred Stock, Series 1 so as to affect the shares of the Preferred Stock, Series 1 adversely.

As used above, the term "Required Unrestricted Tier 1 Provision" means a term which is, in the written opinion of legal counsel of recognized standing and delivered to the Corporation, required for the Preferred Stock, Series 1 to be treated as Tier 1 Capital of the Corporation without any sublimit or other quantitative restriction on the inclusion of such Preferred Stock, Series 1 in Tier 1 Capital (other than any limitation requiring that common

equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) pursuant to the applicable Regulations. The Corporation shall provide notice to holders of any Preferred Stock, Series 1 of any such changes in the terms of the Preferred Stock, Series 1 made pursuant to the terms of this Section 5 on or about the date of effectiveness of any such modification and shall maintain a copy of such notice on file at the principal offices of the Corporation. A copy of the relevant Regulations shall also be on file at the principal offices of the Corporation and, upon request, will be made available to such holders.

(6) Voting Rights. The Preferred Stock, Series 1, shall have no voting rights, except as hereinafter set forth or as otherwise from time to time required by law.

The holders of the 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 Preferred Stock shall be entitled to 150 votes.

Whenever dividends payable on the Preferred Stock, Series 1, have not been declared or paid for such number of Dividend Periods, whether or not consecutive, which in the aggregate is equivalent to six Dividend Periods (a "Nonpayment"), the holders of outstanding shares of the Preferred Stock, Series 1, shall have the exclusive right, voting as a class with holders of shares of all other series of preferred stock ranking on a parity with the Preferred Stock, Series 1, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable (to the extent such other series of preferred stock are entitled to vote pursuant to the terms thereof), to vote for the election of two additional directors at the next annual meeting of stockholders and at each subsequent annual meeting of stockholders. At elections for such directors, each holder of the Preferred Stock, Series 1, shall be entitled to three votes for each share of Preferred Stock, Series 1 held (the holders of shares of any other series of preferred stock ranking on such a parity being entitled to such number of votes, if any, for each share of stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of Preferred Stock, Series 1, (either alone or together with the holders of shares of all other series of preferred stock ranking on such a parity) as hereinafter set forth. The right of such holders of such shares of the Preferred Stock, Series 1, voting as a class with holders of shares of all other series of preferred stock ranking on such a parity, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until all dividends on such shares of Preferred Stock, Series 1, shall have been paid in full for at least four Dividend Periods following the Nonpayment. Upon payment in full of such dividends, such voting rights shall terminate except as expressly provided by law, subject to re-vesting in the event of each and every subsequent Nonpayment in the payment of dividends as aforesaid.

Upon termination of the right of the holders of the Preferred Stock, Series 1, to vote for directors as provided in the previous paragraph, the term of office of all directors then in office elected by such holders will terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders

voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting rights shall have expired, the number of directors shall be such number as may be provided for in the By-laws irrespective of any increase made pursuant to the provisions hereof.

So long as any shares of the Preferred Stock, Series 1, remain outstanding, the affirmative vote or consent of the holders of at least two-thirds of the shares of the Preferred Stock, Series 1, outstanding at the time (voting as a class with all other series of preferred stock ranking on a parity with the Preferred Stock, Series 1, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable), given in person or by proxy, either in writing or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to the Preferred Stock, Series 1, with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up; or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended and Restated Certificate of Incorporation, as amended, or of the resolutions set forth in a Certificate of Designations for such Preferred Stock, Series 1, which would adversely affect any right, preference, privilege or voting power of the Preferred Stock, Series 1, or of the holders thereof;

provided, however, that any increase in the amount of issued Preferred Stock, Series 1 or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock, in each case ranking on a parity with or junior to the Preferred Stock, Series 1, with respect to the payment of dividends (whether such dividends were cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such rights, preferences, privileges or voting powers.

Without the consent of the holders of the Preferred Stock, Series 1, so long as such action does not adversely affect the interests of holders of Preferred Stock, Series 1, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock, Series 1:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in a Certificate of Designations for such Preferred Stock, Series 1 that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Preferred Stock, Series 1 that is not inconsistent with the provisions of a Certificate of Designations for such Preferred Stock, Series 1.

The rules and procedures for calling and conducting any meeting of the holders of Preferred Stock, Series 1 (including, without limitation, the fixing of a record date in connection

therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents, and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors of the Corporation, or a duly authorized committee thereof, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of any national securities exchange on which the Preferred Stock, Series 1 are listed at the time.

The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Preferred Stock, Series 1, shall have been redeemed or sufficient funds shall have been deposited in trust to effect such a redemption which is scheduled to be consummated within three months after the time that such rights would otherwise be exercisable.

(7) Record Holders. The Corporation and the transfer agent for the Preferred Stock, Series 1, may deem and treat the record holder of any share of such Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

(8) Ranking. Any class or classes of stock of the Corporation shall be deemed to rank:

(i) on a parity with the Preferred Stock, Series 1, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, Series 1, if the holders of such class of stock and the Preferred Stock, Series 1, shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates (whether cumulative or non-cumulative) or liquidation prices, without preference or priority one over the other; and

(ii) junior to the Preferred Stock, Series 1, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holders of Preferred Stock, Series 1, shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

(iii) The Shares of Preferred Stock of the Corporation designated “Floating Rate Non-Cumulative Preferred Stock, Series 2,” “6.375% Non-Cumulative Preferred Stock, Series 3,” “Floating Rate Non-Cumulative Preferred Stock, Series 4,” “Floating Rate Non-Cumulative Preferred Stock, Series 5,” “6.70% Non-Cumulative Perpetual Preferred Stock, Series 6,” “6.25% Non-Cumulative Perpetual Preferred Stock, Series 7,” “8.625% Non-Cumulative Preferred Stock, Series 8,” “Cumulative Redeemable Preferred Stock, Series B,” “Floating Rate Non-Cumulative Preferred Stock, Series E,” “6.204% Non-Cumulative Preferred Stock, Series D,” “Floating Rate Non-Cumulative Preferred Stock, Series F,” “Adjustable Rate Non-Cumulative Preferred Stock, Series G,” “8.20% Non-Cumulative Preferred Stock, Series H,” “6.625% Non-Cumulative Preferred Stock, Series I,” “7.25% Non-Cumulative Preferred Stock, Series J,” “7.25% Non-Cumulative Perpetual Convertible Preferred Stock,

Series L," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K," and "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M," and any other class or series of stock of the Corporation hereafter authorized that ranks on parity with the Preferred Stock, Series 1, as to dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, shall be deemed to rank on a parity with the shares of the Preferred Stock, Series 1, as to dividends and distribution of assets upon the liquidation, dissolution or winding up of the Corporation.

(9) Exclusion of Other Rights. Unless otherwise required by law, shares of Preferred Stock, Series 1, shall not have any rights, including preemptive rights, or preferences other than those specifically set forth herein or as provided by applicable law.

(10) Notices. All notices or communications unless otherwise specified in the By-laws of the Corporation or the Amended and Restated Certificate of Incorporation, as amended, shall be sufficiently given if in writing and delivered in person or by first class mail, postage prepaid. Notice shall be deemed given on the earlier of the date received or the date such notice is mailed.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

BANK OF AMERICA CORPORATION

CERTIFICATE OF DESIGNATIONS

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 2
(Par Value $0.01 Per Share)

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors by 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, par value $0.01 per share (the "Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 2

(1) Number of Shares and Designation. 37,000 shares of the preferred stock, par value $0.01 per share, of the Corporation are hereby constituted as a series of preferred stock, par value $0.01 per share, designated as Floating Rate Non-Cumulative Preferred Stock, Series 2 (hereinafter called the "Preferred Stock, Series 2").

(2) Dividends. (a) The holders of shares of the Preferred Stock, Series 2, shall be entitled to receive, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), out of assets of the Corporation legally available under Delaware law for the payment of dividends, non-cumulative cash dividends at the rate set forth below in this Section (2) applied to the amount of $30,000 per share. Such dividends shall be payable quarterly, in arrears, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), on February 28, May 28, August 28 and November 28 (the "Payment Dates"); provided that if any such Payment Date is not a New York Business Day and London Business Day, the Payment Date will be the next succeeding day that is a New York Business Day and London Business Day, unless such day falls in the next calendar month, in which case the Payment Date will be the immediately preceding New York Business Day and London Business Day. The dividend, if declared, for the initial Dividend Period (as defined below) shall be paid on February 28, 2009. Each such dividend shall be payable to the holders of record of shares of the Preferred Stock, Series 2, as they appear on the stock register of the Corporation on such record dates, which shall be a date not more than 30 days nor less than 10 days preceding the applicable Payment Dates, as shall be fixed by the Board of Directors of the Corporation (or a duly authorized committee thereof). "London Business Day" means a day other than a Saturday or Sunday on which dealings in deposits in U.S. dollars are transacted, or with respect to any future date are expected to be transacted, in the London interbank market. A "New York Business Day" means any day that is not a Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

(b) (i) Dividend periods ("Dividend Periods") shall commence on each Payment Date (other than the initial Dividend Period which shall be deemed to have commenced

on November 28, 2008) and shall end on and exclude the next succeeding Payment Date. The dividend rate on the shares of Preferred Stock, Series 2, for each Dividend Period shall be a floating rate *per annum* equal to three-month U.S. dollar LIBOR plus 0.65%, but in no event will the rate be less than 3.00% per annum, of the $30,000 liquidation preference per share of Preferred Stock, Series 2.

The "three-month U.S. dollar LIBOR", with respect to a Dividend Period, means the rate (expressed as a percentage per annum) for deposits in U.S. dollars for a three month period that normally appears on Moneyline Telerate Page 3750, as displayed on page "BBAM" (British Bankers Association Official BBA LIBOR Fixings) in the Bloomberg Professional Service (or any other service that may replace Moneyline Telerate, Inc. on page BBAM or any other page that may replace page BBAM on the Bloomberg Professional Service or a successor service, in each case, for the purpose of displaying London interbank offered rates of major banks) as of 11:00 a.m. (London time) on the second London Business Day immediately preceding the first day of such Dividend Period.

If three-month U.S. dollar LIBOR cannot be determined as described above, the Corporation will select four major banks in the London interbank market. The Corporation will request that the principal London offices of those four selected banks provide their offered quotations to prime banks in the London interbank market at approximately 11:00 a.m., London time, on the second London Business Day immediately preceding the first day of such Dividend Period. These quotations will be for deposits in U.S. dollars for a three month period. Offered quotations must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time.

If two or more quotations are provided, three-month U.S. dollar LIBOR for the Dividend Period will be the arithmetic mean of the quotations. If fewer than two quotations are provided, the Corporation will select three major banks in New York City and will then determine three-month U.S. dollar LIBOR for the Dividend Period as the arithmetic mean of rates quoted by those three major banks in New York City to leading European banks at approximately 3:00 p.m., New York City time, on the second London Business Day immediately preceding the first day of such Dividend Period. The rates quoted will be for loans in U.S. dollars, for a three month period. Rates quoted must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time. If fewer than three New York City banks selected by the Corporation are quoting rates, three-month U.S. dollar LIBOR for the applicable period will be the same as for the immediately preceding Dividend Period.

(ii) Dividends on the Preferred Stock, Series 2, shall (if and when declared, as herein provided) be computed on the basis of a 360-day year and the actual number of days elapsed in each Dividend Period. Accordingly, the amount of dividends payable per share for each Dividend Period (including the initial Dividend Period) for the Preferred Stock, Series 2 shall (if and when declared, as herein provided) equal the product of (i) the applicable dividend rate, (ii) $30,000 and (iii) a fraction (A) the numerator of which will be the actual number of days elapsed in such Dividend Period, and (B) the denominator of which will be 360. The amount of dividends payable on the Preferred Stock, Series 2, shall be rounded to the nearest cent, with one-half cent being rounded upwards.

(c) So long as any shares of the Preferred Stock, Series 2 are outstanding, the Corporation may not declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire (except for purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such stock), or make a liquidation payment with respect to the preferred stock of the Corporation of any series and any other stock of the Corporation ranking, as to dividends, on a parity with the Preferred Stock, Series 2 unless for such Dividend Period full dividends on all outstanding shares of Preferred Stock, Series 2 have been declared, paid or set aside for payment. When dividends are not paid in full, as aforesaid, upon the shares of the Preferred Stock, Series 2, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends with the Preferred Stock, Series 2, all dividends declared upon shares of the Preferred Stock, Series 2, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends (whether cumulative or non-cumulative) shall be declared *pro rata* so that the amount of dividends declared per share on the Preferred Stock, Series 2, and all such other stock of the Corporation shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of the Preferred Stock, Series 2 (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior Dividend Periods) and all such other stock bear to each other.

(d) So long as any shares of the Preferred Stock, Series 2 are outstanding, the Corporation may not, at any time, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any Common Stock or any other stock of the Corporation ranking as to dividends or distribution of assets junior to the Preferred Stock, Series 2 unless full dividends on all outstanding shares of Preferred Stock, Series 2 have been declared, paid or set aside for payment for the immediately preceding Dividend Period (except for (x) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 2 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation, (y) redemptions or purchases of any rights pursuant to the Amended and Restated Rights Agreement, adopted on December 2, 1997 or any agreement that replaces such Amended and Restated Rights Agreement, or by conversion or exchange for the Corporation's capital stock ranking junior to Preferred Stock, Series 2 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation and (z) purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such capital stock); provided, however, that the foregoing dividend preference shall not be cumulative and shall not in any way create any claim or right in favor of the holders of Preferred Stock, Series 2 in the event that dividends have not been declared or paid on the Preferred Stock, Series 2 in respect of any prior Dividend Period. If the full dividend on the Preferred Stock, Series 2 is not paid for any Dividend Period, the holders of Preferred Stock, Series 2 will have no claim in respect of the unpaid amount so long as no dividend (other than those referred to above) is paid on the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 2 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation.

(e) No dividends may be declared or paid or set aside for payment on any shares of Preferred Stock, Series 2 if at the same time any arrears exists in the payment of dividends on any outstanding class or series of stock of the Corporation ranking, as to the payment of dividends, prior to the Preferred Stock, Series 2.

(f) Holders of shares of the Preferred Stock, Series 2, shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends, as herein provided, on the Preferred Stock, Series 2. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock, Series 2, which may be in arrears.

(3) Liquidation Preference. (a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any payment or distribution of the assets of the Corporation or proceeds thereof (whether capital or surplus) shall be made to or set apart for the holders of any series or class or classes of stock of the Corporation ranking junior to the Preferred Stock, Series 2, upon liquidation, dissolution, or winding up, the holders of the shares of the Preferred Stock, Series 2, shall be entitled to receive $30,000 per share plus an amount equal to declared and unpaid dividends, without accumulation of undeclared dividends. If, upon any liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation, or proceeds thereof, distributable among the holders of the shares of the Preferred Stock, Series 2, shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of preferred stock ranking, as to liquidation, dissolution or winding up, on a parity with the Preferred Stock, Series 2, then such assets, or the proceeds thereof, shall be distributed among the holders of shares of Preferred Stock, Series 2, and any such other preferred stock ratably in accordance with the respective amounts which would be payable on such shares of Preferred Stock, Series 2, and any such other preferred stock if all amounts payable thereon were paid in full. For the purposes of this Section (3), neither the sale, lease or exchange (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, nor the consolidation, merger or combination of the Corporation into or with one or more corporations or the consolidation, merger or combination of any other corporation or entity into or with the Corporation, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Corporation for purposes of this Section (3).

(b) After payment shall have been made in full to the holders of Preferred Stock, Series 2, as provided in this Section (3), the holders of Preferred Stock, Series 2 will not be entitled to any further participation in any distribution of assets of the Corporation. Subject to the rights of the holders of shares of any series or class or classes of stock ranking on a parity with or prior to the Preferred Stock, Series 2, upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Preferred Stock, Series 2, as provided in this Section (3), but not prior thereto, any other series or class or classes of stock ranking junior to the Preferred Stock, Series 2, shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Preferred Stock, Series 2, shall not be entitled to share therein.

(4) Redemption. (a) The Preferred Stock, Series 2, may not be redeemed prior to November 28, 2009. On and after November 28, 2009, the Corporation, at its option, may redeem shares of the Preferred Stock, Series 2, as a whole at any time or in part from time to time, at a redemption price of $30,000 per share, together in each case with declared and unpaid dividends, without accumulation of any undeclared dividends. The Chief Financial Officer or the Treasurer may exercise the Corporation's right to redeem the Preferred Stock, Series 2 as a whole at any time without further action of the Board of Directors or a duly authorized committee thereof. The Corporation may only elect to redeem the Preferred Stock, Series 2 in part pursuant to a resolution by the Board of Directors or a duly authorized committee thereof.

(b) In the event the Corporation shall redeem shares of Preferred Stock, Series 2, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 days 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: (1) the redemption date; (2) the number of shares of Preferred Stock, Series 2, to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price. 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) 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. The Corporation's obligation to provide moneys in accordance with the preceding sentence shall be deemed fulfilled if, on or before the redemption date, the Corporation shall deposit with a bank or trust company (which may be an affiliate of the Corporation) having an office in the Borough of Manhattan, City of New York, having a capital and surplus of at least $50,000,000, funds necessary for such redemption, in trust, with irrevocable instructions that such funds be applied to the redemption of the shares of Preferred Stock, Series 2, so called for redemption. Any interest accrued on such funds shall be paid to the Corporation from time to time. Any funds so deposited and unclaimed at the end of two years from such redemption date shall be released or repaid to the Corporation, after which the holder or holders of such shares of Preferred Stock, Series 2, so called for redemption shall look only to the Corporation for payment of the redemption price.

Upon surrender, in accordance with said notice, of the certificates for any such shares so redeemed (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 applicable redemption price aforesaid. If less than all the outstanding shares of Preferred Stock, Series 2, are to be redeemed, shares to be redeemed shall be selected by the Board of Directors of the Corporation (or a duly authorized committee thereof) from outstanding shares of Preferred Stock, Series 2, not previously called for redemption by lot or *pro rata* or by any other method determined by the Board of Directors of the Corporation (or a duly authorized committee thereof) to be equitable. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

The Preferred Stock, Series 2 will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Preferred Stock, Series 2 will have no right to require redemption of any shares of Preferred Stock, Series 2.

(5) Terms Dependent on Regulatory Changes. If, (a) the Corporation (by election or otherwise) is subject to any law, rule, regulation or guidance (together, "Regulations") relating to its capital adequacy which Regulation (x) provides for a type or level of capital characterized as "Tier 1" in, or pursuant to Regulations of any governmental agency, authority or body having regulatory jurisdiction over the Corporation and implementing, the capital standards published by the Basel Committee on Banking Supervision, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or any other United States national governmental agency, authority or body, or (y) provides for a type or level of capital that in the judgment of the Board of Directors (or a duly authorized committee thereof) after consultation with legal counsel of recognized standing is substantially equivalent to such "Tier 1" capital (such capital described in either (x) or (y) is referred to below as "Tier 1 Capital"), and (b) the Board of Directors (or a duly authorized committee thereof) affirmatively elects to qualify the Preferred Stock, Series 2 for such Tier 1 Capital treatment without any sublimit or other quantitative restrictions on the inclusion of such Preferred Stock, Series 2 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) under such Regulations, then, upon such affirmative election, the terms of the Preferred Stock, Series 2 shall automatically be amended to reflect the following modifications (without any action or consent by the holders of the Preferred Stock, Series 2 or any other vote of stockholders of the Corporation):

(i) If and to the extent such modification is a Required Unrestricted Tier 1 Provision (as defined below), the Corporation's right to redeem the Preferred Stock, Series 2 on and after November 28, 2009 pursuant to Section 4 hereof shall be restricted (such restrictions including but not limited to any requirement that the Corporation receive prior approval for such redemption from any applicable governmental agency, authority or body or that such redemption be prohibited);

(ii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, the Corporation's right to make distributions with respect to, or redeem, purchase or acquire or make payments on, securities junior to the Preferred Stock, Series 2 (upon a non-payment of dividends on the Preferred Stock, Series 2) shall become subject to additional restrictions (other than those set forth in Section 2(d) hereof) pursuant to the terms of the Preferred Stock, Series 2; and

(iii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, any other new provisions or terms shall be added to the Preferred Stock, Series 2, or existing terms shall be modified; provided, however, that no such provision or term shall be added, and no such modification shall be made pursuant to the terms of this Section 5(iii), if it would alter or change the rights, powers or preferences of the shares of the Preferred Stock, Series 2 so as to affect the shares of the Preferred Stock, Series 2 adversely.

As used above, the term "Required Unrestricted Tier 1 Provision" means a term which is, in the written opinion of legal counsel of recognized standing and delivered to the Corporation,

required for the Preferred Stock, Series 2 to be treated as Tier 1 Capital of the Corporation without any sublimit or other quantitative restriction on the inclusion of such Preferred Stock, Series 2 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) pursuant to the applicable Regulations. The Corporation shall provide notice to holders of any Preferred Stock, Series 2 of any such changes in the terms of the Preferred Stock, Series 2 made pursuant to the terms of this Section 5 on or about the date of effectiveness of any such modification and shall maintain a copy of such notice on file at the principal offices of the Corporation. A copy of the relevant Regulations shall also be on file at the principal offices of the Corporation and, upon request, will be made available to such holders.

(6) Voting Rights. The Preferred Stock, Series 2, shall have no voting rights, except as hereinafter set forth or as otherwise from time to time required by law.

The holders of the 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 Preferred Stock shall be entitled to 150 votes.

Whenever dividends payable on the Preferred Stock, Series 2, have not been declared or paid for such number of Dividend Periods, whether or not consecutive, which in the aggregate is equivalent to six Dividend Periods (a "Nonpayment"), the holders of outstanding shares of the Preferred Stock, Series 2, shall have the exclusive right, voting as a class with holders of shares of all other series of preferred stock ranking on a parity with the Preferred Stock, Series 2, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable (to the extent such other series of preferred stock are entitled to vote pursuant to the terms thereof), to vote for the election of two additional directors at the next annual meeting of stockholders and at each subsequent annual meeting of stockholders on the terms set forth below. At elections for such directors, each holder of the Preferred Stock, Series 2, shall be entitled to three votes for each share of Preferred Stock, Series 2 held (the holders of shares of any other series of preferred stock ranking on such a parity being entitled to such number of votes, if any, for each share of stock held as may be granted to them).

Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of Preferred Stock, Series 2, (either alone or together with the holders of shares of all other series of preferred stock ranking on such a parity) as hereinafter set forth. The right of such holders of such shares of the Preferred Stock, Series 2, voting as a class with holders of shares of all other series of preferred stock ranking on such a parity, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until all dividends on such shares of Preferred Stock, Series 2, shall have been paid in full for at least four Dividend Periods following the Nonpayment. Upon payment in full of such dividends, such voting rights shall terminate except as expressly provided by law, subject to re-vesting in the event of each and every subsequent Nonpayment in the payment of dividends as aforesaid.

Upon termination of the right of the holders of the Preferred Stock, Series 2, to vote for directors as provided in the previous paragraph, the term of office of all directors then in office elected by such holders will terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting rights shall have expired, the number of directors shall be such number as may be provided for in the By-laws irrespective of any increase made pursuant to the provisions hereof.

So long as any shares of the Preferred Stock, Series 2, remain outstanding, the affirmative vote or consent of the holders of at least two-thirds of the shares of the Preferred Stock, Series 2, outstanding at the time (voting as a class with all other series of preferred stock ranking on a parity with the Preferred Stock, Series 2, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable), given in person or by proxy, either in writing or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to the Preferred Stock, Series 2, with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up; or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended and Restated Certificate of Incorporation, as amended, or of the resolutions set forth in a Certificate of Designations for such Preferred Stock, Series 2, which would adversely affect any right, preference, privilege or voting power of the Preferred Stock, Series 2, or of the holders thereof;

provided, however, that any increase in the amount of issued Preferred Stock, Series 2 or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock, in each case ranking on a parity with or junior to the Preferred Stock, Series 2, with respect to the payment of dividends (whether such dividends were cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such rights, preferences, privileges or voting powers.

Without the consent of the holders of the Preferred Stock, Series 2, so long as such action does not adversely affect the interests of holders of Preferred Stock, Series 2, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock, Series 2:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in a Certificate of Designations for such Preferred Stock, Series 2 that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising

with respect to the Preferred Stock, Series 2 that is not inconsistent with the provisions of a Certificate of Designations for such Preferred Stock, Series 2.

The rules and procedures for calling and conducting any meeting of the holders of Preferred Stock, Series 2 (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents, and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors of the Corporation, or a duly authorized committee thereof, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of any national securities exchange on which the Preferred Stock, Series 2 are listed at the time.

The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Preferred Stock, Series 2, shall have been redeemed or sufficient funds shall have been deposited in trust to effect such a redemption which is scheduled to be consummated within three months after the time that such rights would otherwise be exercisable.

(7) Record Holders. The Corporation and the transfer agent for the Preferred Stock, Series 2, may deem and treat the record holder of any share of such Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

(8) Ranking. Any class or classes of stock of the Corporation shall be deemed to rank:

(i) on a parity with the Preferred Stock, Series 2, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, Series 2, if the holders of such class of stock and the Preferred Stock, Series 2, shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates (whether cumulative or non-cumulative) or liquidation prices, without preference or priority one over the other; and

(ii) junior to the Preferred Stock, Series 2, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holders of Preferred Stock, Series 2, shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

(iii) The Shares of Preferred Stock of the Corporation designated “Floating Rate Non-Cumulative Preferred Stock, Series 1,” “6.375% Non-Cumulative Preferred Stock, Series 3,” “Floating Rate Non-Cumulative Preferred Stock, Series 4,” “Floating Rate Non-Cumulative Preferred Stock, Series 5,” “6.70% Non-Cumulative Perpetual Preferred Stock, Series 6,” “6.25% Non-Cumulative Perpetual Preferred Stock, Series 7,” “8.625% Non-Cumulative Preferred Stock, Series 8,” “Cumulative Redeemable Preferred Stock, Series B,”

"Floating Rate Non-Cumulative Preferred Stock, Series E," "6.204% Non-Cumulative Preferred Stock, Series D" "Floating Rate Non-Cumulative Preferred Stock, Series F," "Adjustable Rate Non-Cumulative Preferred Stock, Series G," "8.20% Non-Cumulative Preferred Stock, Series H," "6.625% Non-Cumulative Preferred Stock, Series I," "7.25% Non-Cumulative Preferred Stock, Series J," "7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K," and "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M," and any other class or series of stock of the Corporation hereafter authorized that ranks on parity with the Preferred Stock, Series 2, as to dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, shall be deemed to rank on a parity with the shares of the Preferred Stock, Series 2, as to dividends and distribution of assets upon the liquidation, dissolution or winding up of the Corporation.

(9) Exclusion of Other Rights. Unless otherwise required by law, shares of Preferred Stock, Series 2, shall not have any rights, including preemptive rights, or preferences other than those specifically set forth herein or as provided by applicable law.

(10) Notices. All notices or communications unless otherwise specified in the By-laws of the Corporation or the Amended and Restated Certificate of Incorporation, as amended, shall be sufficiently given if in writing and delivered in person or by first class mail, postage prepaid. Notice shall be deemed given on the earlier of the date received or the date such notice is mailed.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

BANK OF AMERICA CORPORATION

CERTIFICATE OF DESIGNATIONS

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

6.375% NON-CUMULATIVE PREFERRED STOCK, SERIES 3
(Par Value $0.01 Per Share)

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 December 9, 2008:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors by 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, par value $0.01 per share (the "Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

6.375% NON-CUMULATIVE PREFERRED STOCK, SERIES 3

(1) Number of Shares and Designation. 27,000 shares of the preferred stock, par value $0.01 per share, of the Corporation are hereby constituted as a series of preferred stock, par value $0.01 per share, designated as 6.375% Non-Cumulative Preferred Stock, Series 3 (hereinafter called the "Preferred Stock, Series 3").

(2) Dividends. (a) The holders of shares of the Preferred Stock, Series 3, shall be entitled to receive, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), out of assets of the Corporation legally available under Delaware law for the payment of dividends, non-cumulative cash dividends at the rate set forth below in this Section (2) applied to the amount of $30,000 per share. Such dividends shall be payable quarterly, in arrears, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), on February 28, May 28, August 28 and November 28 (the "Payment Dates") commencing on February 28, 2009; provided that if any such Payment Date is not a New York Business Day, the Payment Date will be the next succeeding day that is a New York Business Day. Each such dividend shall be payable to the holders of record of shares of the Preferred Stock, Series 3, as they appear on the stock register of the Corporation on such record dates, which shall be a date not more than 30 days nor less than 10 days preceding the applicable Payment Dates, as shall be fixed by the Board of Directors of the Corporation (or a duly authorized committee thereof). A "New York Business Day" means any day that is not a Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

(b) (i) Dividend periods ("Dividend Periods") shall commence on each Payment Date (other than the initial Dividend Period which shall be deemed to have commenced on November 28, 2008) and shall end on and exclude the next succeeding Payment Date. The dividend rate on the shares of Preferred Stock, Series 3, for each Dividend Period shall be 6.375% per annum, of the $30,000 liquidation preference per share of Preferred Stock, Series 3.

(ii) The amount of dividends payable for each full Dividend Period (including the initial Dividend Period) for the Preferred Stock, Series 3, shall be computed by dividing the dividend rate of 6.375% per annum by four and applying the resulting rate to the amount of $30,000 per share. The amount of dividends payable for any period shorter than a full Dividend Period on the Preferred Stock, Series 3, shall be computed on the basis of 30-day months, a 360-day year and the actual number of days elapsed in any period of less than one month. The amount of dividends payable on the Preferred Stock, Series 3, shall be rounded to the nearest cent, with one-half cent being rounded upwards.

(c) So long as any shares of the Preferred Stock, Series 3 are outstanding, the Corporation may not declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire (except for purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such stock), or make a liquidation payment with respect to the preferred stock of the Corporation of any series and any other stock of the Corporation ranking, as to dividends, on a parity with the Preferred Stock, Series 3 unless for such Dividend Period full dividends on all outstanding shares of Preferred Stock, Series 3 have been declared, paid or set aside for payment. When dividends are not paid in full, as aforesaid, upon the shares of the Preferred Stock, Series 3, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends with the Preferred Stock, Series 3, all dividends declared upon shares of the Preferred Stock, Series 3, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends (whether cumulative or non-cumulative) shall be declared pro rata so that the amount of dividends declared per share on the Preferred Stock, Series 3, and all such other stock of the Corporation shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of the Preferred Stock, Series 3 (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior Dividend Periods) and all such other stock bear to each other.

(d) So long as any shares of the Preferred Stock, Series 3 are outstanding, the Corporation may not, at any time, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any Common Stock or any other stock of the Corporation ranking as to dividends or distribution of assets junior to the Preferred Stock, Series 3 unless full dividends on all outstanding shares of Preferred Stock, Series 3 have been declared, paid or set aside for payment for the immediately preceding Dividend Period (except for (x) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 3 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation, (y) redemptions or purchases of any rights pursuant to the Amended and Restated Rights Agreement, adopted on December 2, 1997 or any agreement that replaces such Amended and Restated Rights Agreement, or by conversion or exchange for the Corporation's capital stock ranking junior to Preferred Stock, Series 3 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation and (z) purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such capital stock); provided, however, that the foregoing dividend preference shall not be cumulative and shall not

in any way create any claim or right in favor of the holders of Preferred Stock, Series 3 in the event that dividends have not been declared or paid on the Preferred Stock, Series 3 in respect of any prior Dividend Period. If the full dividend on the Preferred Stock, Series 3 is not paid for any Dividend Period, the holders of Preferred Stock, Series 3 will have no claim in respect of the unpaid amount so long as no dividend (other than those referred to above) is paid on the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 3 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation.

(e) No dividends may be declared or paid or set aside for payment on any shares of Preferred Stock, Series 3 if at the same time any arrears exists in the payment of dividends on any outstanding class or series of stock of the Corporation ranking, as to the payment of dividends, prior to the Preferred Stock, Series 3.

(f) Holders of shares of the Preferred Stock, Series 3, shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends, as herein provided, on the Preferred Stock, Series 3. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock, Series 3, which may be in arrears.

(3) Liquidation Preference. (a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any payment or distribution of the assets of the Corporation or proceeds thereof (whether capital or surplus) shall be made to or set apart for the holders of any series or class or classes of stock of the Corporation ranking junior to the Preferred Stock, Series 3, upon liquidation, dissolution, or winding up, the holders of the shares of the Preferred Stock, Series 3, shall be entitled to receive $30,000 per share plus an amount equal to declared and unpaid dividends, without accumulation of undeclared dividends. If, upon any liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation, or proceeds thereof, distributable among the holders of the shares of the Preferred Stock, Series 3, shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of preferred stock ranking, as to liquidation, dissolution or winding up, on a parity with the Preferred Stock, Series 3, then such assets, or the proceeds thereof, shall be distributed among the holders of shares of Preferred Stock, Series 3, and any such other preferred stock ratably in accordance with the respective amounts which would be payable on such shares of Preferred Stock, Series 3, and any such other preferred stock if all amounts payable thereon were paid in full. For the purposes of this Section (3), neither the sale, lease or exchange (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, nor the consolidation, merger or combination of the Corporation into or with one or more corporations or the consolidation, merger or combination of any other corporation or entity into or with the Corporation, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Corporation for purposes of this Section (3).

(b) After payment shall have been made in full to the holders of Preferred Stock, Series 3, as provided in this Section (3), the holders of Preferred Stock, Series 3 will not be entitled to any further participation in any distribution of assets of the Corporation. Subject to the rights of the holders of shares of any series or class or classes of stock ranking on a parity

with or prior to the Preferred Stock, Series 3, upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Preferred Stock, Series 3, as provided in this Section (3), but not prior thereto, any other series or class or classes of stock ranking junior to the Preferred Stock, Series 3, shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Preferred Stock, Series 3, shall not be entitled to share therein.

(4) Redemption. (a) The Preferred Stock, Series 3, may not be redeemed prior to November 28, 2010. On and after November 28, 2010, the Corporation, at its option, may redeem shares of the Preferred Stock, Series 3, as a whole at any time or in part from time to time, at a redemption price of $30,000 per share, together in each case with declared and unpaid dividends, without accumulation of any undeclared dividends. The Chief Financial Officer or the Treasurer may exercise the Corporation's right to redeem the Preferred Stock, Series 3 as a whole at any time without further action of the Board of Directors or a duly authorized committee thereof. The Corporation may only elect to redeem the Preferred Stock, Series 3 in part pursuant to a resolution by the Board of Directors or a duly authorized committee thereof.

(b) In the event the Corporation shall redeem shares of Preferred Stock, Series 3, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 days 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: (1) the redemption date; (2) the number of shares of Preferred Stock, Series 3, to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price. 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) 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. The Corporation's obligation to provide moneys in accordance with the preceding sentence shall be deemed fulfilled if, on or before the redemption date, the Corporation shall deposit with a bank or trust company (which may be an affiliate of the Corporation) having an office in the Borough of Manhattan, City of New York, having a capital and surplus of at least $50,000,000, funds necessary for such redemption, in trust, with irrevocable instructions that such funds be applied to the redemption of the shares of Preferred Stock, Series 3, so called for redemption. Any interest accrued on such funds shall be paid to the Corporation from time to time. Any funds so deposited and unclaimed at the end of two years from such redemption date shall be released or repaid to the Corporation, after which the holder or holders of such shares of Preferred Stock, Series 3, so called for redemption shall look only to the Corporation for payment of the redemption price.

Upon surrender, in accordance with said notice, of the certificates for any such shares so redeemed (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 applicable redemption price aforesaid. If less than all the outstanding shares

of Preferred Stock, Series 3, are to be redeemed, shares to be redeemed shall be selected by the Board of Directors of the Corporation (or a duly authorized committee thereof) from outstanding shares of Preferred Stock, Series 3, not previously called for redemption by lot or pro rata or by any other method determined by the Board of Directors of the Corporation (or a duly authorized committee thereof) to be equitable. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

The Preferred Stock, Series 3 will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Preferred Stock, Series 3 will have no right to require redemption of any shares of Preferred Stock, Series 3.

(5) Terms Dependent on Regulatory Changes. If, (a) the Corporation (by election or otherwise) is subject to any law, rule, regulation or guidance (together, "Regulations") relating to its capital adequacy which Regulation (x) provides for a type or level of capital characterized as "Tier 1" in, or pursuant to Regulations of any governmental agency, authority or body having regulatory jurisdiction over the Corporation and implementing, the capital standards published by the Basel Committee on Banking Supervision, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or any other United States national governmental agency, authority or body, or (y) provides for a type or level of capital that in the judgment of the Board of Directors (or a duly authorized committee thereof) after consultation with legal counsel of recognized standing is substantially equivalent to such "Tier 1" capital (such capital described in either (x) or (y) is referred to below as "Tier 1 Capital"), and (b) the Board of Directors (or a duly authorized committee thereof) affirmatively elects to qualify the Preferred Stock, Series 3 for such Tier 1 Capital treatment without any sublimit or other quantitative restrictions on the inclusion of such Preferred Stock, Series 3 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) under such Regulations, then, upon such affirmative election, the terms of the Preferred Stock, Series 3 shall automatically be amended to reflect the following modifications (without any action or consent by the holders of the Preferred Stock, Series 3 or any other vote of stockholders of the Corporation):

(i) If and to the extent such modification is a Required Unrestricted Tier 1 Provision (as defined below), the Corporation's right to redeem the Preferred Stock, Series 3 on and after November 28, 2010 pursuant to Section 3 hereof shall be restricted (such restrictions including but not limited to any requirement that the Corporation receive prior approval for such redemption from any applicable governmental agency, authority or body or that such redemption be prohibited);

(ii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, the Corporation's right to make distributions with respect to, or redeem, purchase or acquire or make payments on, securities junior to the Preferred Stock, Series 3 (upon a non-payment of dividends on the Preferred Stock, Series 3) shall become subject to additional restrictions (other than those set forth in Section 2(d) hereof) pursuant to the terms of the Preferred Stock, Series 3; and

(iii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, any other new provisions or terms shall be added to the Preferred Stock, Series 3, or existing terms shall be modified; provided, however, that no such provision or term shall be added, and no such modification shall be made pursuant to the terms of this Section 5(iii), if it would alter or change the rights, powers or preferences of the shares of the Preferred Stock, Series 3 so as to affect the shares of the Preferred Stock, Series 3 adversely.

As used above, the term "Required Unrestricted Tier 1 Provision" means a term which is, in the written opinion of legal counsel of recognized standing and delivered to the Corporation, required for the Preferred Stock, Series 3 to be treated as Tier 1 Capital of the Corporation without any sublimit or other quantitative restriction on the inclusion of such Preferred Stock, Series 3 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) pursuant to the applicable Regulations. The Corporation shall provide notice to holders of any Preferred Stock, Series 3 of any such changes in the terms of the Preferred Stock, Series 3 made pursuant to the terms of this Section 5 on or about the date of effectiveness of any such modification and shall maintain a copy of such notice on file at the principal offices of the Corporation. A copy of the relevant Regulations shall also be on file at the principal offices of the Corporation and, upon request, will be made available to such holders.

For the avoidance of doubt, "amend", "modify", "change" and words of similar effect used in this Section (5) mean that the Preferred Stock, Series 3 shall have such additional or different rights, powers and preferences, and such qualifications, limitations and restrictions as may be established by the Board of Directors (or a duly authorized committee thereof) pursuant to this Section (5), subject to the limitations set forth herein.

(6) Voting Rights. The Preferred Stock, Series 3, shall have no voting rights, except as hereinafter set forth or as otherwise from time to time required by law.

The holders of the 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 Preferred Stock shall be entitled to 150 votes.

Whenever dividends payable on the Preferred Stock, Series 3, have not been declared or paid for such number of Dividend Periods, whether or not consecutive, which in the aggregate is equivalent to six Dividend Periods (a "Nonpayment"), the holders of outstanding shares of the Preferred Stock, Series 3, shall have the exclusive right, voting as a class with holders of shares of all other series of preferred stock ranking on a parity with the Preferred Stock, Series 3, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable (to the extent such other series of preferred stock are entitled to vote pursuant to the terms thereof), to vote for the election of two additional directors at the next annual meeting of stockholders and at each subsequent annual meeting of stockholders on the terms set forth below. At elections for such directors, each holder of the Preferred Stock, Series 3, shall be entitled to three votes for each share of Preferred Stock, Series 3 held (the holders of shares of any other series of preferred stock ranking on such a parity being entitled to such number of votes, if any, for each share of

stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of Preferred Stock, Series 3, (either alone or together with the holders of shares of all other series of preferred stock ranking on such a parity) as hereinafter set forth. The right of such holders of such shares of the Preferred Stock, Series 3, voting as a class with holders of shares of all other series of preferred stock ranking on such a parity, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until all dividends on such shares of Preferred Stock, Series 3, shall have been paid in full for at least four Dividend Periods following the Nonpayment. Upon payment in full of such dividends, such voting rights shall terminate except as expressly provided by law, subject to re-vesting in the event of each and every subsequent Nonpayment in the payment of dividends as aforesaid.

Upon termination of the right of the holders of the Preferred Stock, Series 3, to vote for directors as provided in the previous paragraph, the term of office of all directors then in office elected by such holders will terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting rights shall have expired, the number of directors shall be such number as may be provided for in the By-laws irrespective of any increase made pursuant to the provisions hereof.

So long as any shares of the Preferred Stock, Series 3, remain outstanding, the affirmative vote or consent of the holders of at least two-thirds of the shares of the Preferred Stock, Series 3, outstanding at the time (voting as a class with all other series of preferred stock ranking on a parity with the Preferred Stock, Series 3, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable), given in person or by proxy, either in writing or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to the Preferred Stock, Series 3, with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up; or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended and Restated Certificate of Incorporation, as amended, or of the resolutions set forth in a Certificate of Designations for such Preferred Stock, Series 3, which would adversely affect any right, preference, privilege or voting power of the Preferred Stock, Series 3, or of the holders thereof;

provided, however, that any increase in the amount of issued Preferred Stock, Series 3 or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock, in each case ranking on a parity with or junior to the

Preferred Stock, Series 3, with respect to the payment of dividends (whether such dividends were cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such rights, preferences, privileges or voting powers.

Without the consent of the holders of the Preferred Stock, Series 3, so long as such action does not adversely affect the interests of holders of Preferred Stock, Series 3, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock, Series 3:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in a Certificate of Designations for such Preferred Stock, Series 3 that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Preferred Stock, Series 3 that is not inconsistent with the provisions of a Certificate of Designations for such Preferred Stock, Series 3.

The rules and procedures for calling and conducting any meeting of the holders of Preferred Stock, Series 3 (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents, and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors of the Corporation, or a duly authorized committee thereof, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of any national securities exchange on which the Preferred Stock, Series 3 are listed at the time.

The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Preferred Stock, Series 3, shall have been redeemed or sufficient funds shall have been deposited in trust to effect such a redemption which is scheduled to be consummated within three months after the time that such rights would otherwise be exercisable.

(7) Record Holders. The Corporation and the transfer agent for the Preferred Stock, Series 3, may deem and treat the record holder of any share of such Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

(8) Ranking. Any class or classes of stock of the Corporation shall be deemed to rank:

(i) on a parity with the Preferred Stock, Series 3, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, Series 3, if the holders of such class of stock and the Preferred Stock, Series 3, shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates (whether cumulative or non-cumulative) or liquidation prices, without preference or priority one over the other; and

(ii) junior to the Preferred Stock, Series 3, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holders of Preferred Stock, Series 3, shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

(iii) The Shares of Preferred Stock of the Corporation designated "Floating Rate Non-Cumulative Preferred Stock, Series 1," "Floating Rate Non-Cumulative Preferred Stock, Series 2," "Floating Rate Non-Cumulative Preferred Stock, Series 4," "Floating Rate Non-Cumulative Preferred Stock, Series 5," "6.70% Non-Cumulative Perpetual Preferred Stock, Series 6," "6.25% Non-Cumulative Perpetual Preferred Stock, Series 7," "8.625% Non-Cumulative Preferred Stock, Series 8," "Cumulative Redeemable Preferred Stock, Series B," "Floating Rate Non-Cumulative Preferred Stock, Series E," "6.204% Non-Cumulative Preferred Stock, Series D" "Floating Rate Non-Cumulative Preferred Stock, Series F," "Adjustable Rate Non-Cumulative Preferred Stock, Series G," "8.20% Non-Cumulative Preferred Stock, Series H," "6.625% Non-Cumulative Preferred Stock, Series I," "7.25% Non-Cumulative Preferred Stock, Series J," "7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K," and "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M," and any other class or series of stock of the Corporation hereafter authorized that ranks on parity with the Preferred Stock, Series 3, as to dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, shall be deemed to rank on a parity with the shares of the Preferred Stock, Series 3, as to dividends and distribution of assets upon the liquidation, dissolution or winding up of the Corporation.

(9) Exclusion of Other Rights. Unless otherwise required by law, shares of Preferred Stock, Series 3, shall not have any rights, including preemptive rights, or preferences other than those specifically set forth herein or as provided by applicable law.

(10) Notices. All notices or communications unless otherwise specified in the By-laws of the Corporation or the Amended and Restated Certificate of Incorporation, as amended, shall be sufficiently given if in writing and delivered in person or by first class mail, postage prepaid. Notice shall be deemed given on the earlier of the date received or the date such notice is mailed."

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

BANK OF AMERICA CORPORATION

CERTIFICATE OF DESIGNATIONS

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 4
(Par Value $0.01 Per Share)

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors by 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, par value $0.01 per share (the "Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 4

(1) Number of Shares and Designation. 20,000 shares of the preferred stock, par value $0.01 per share, of the Corporation are hereby constituted as a series of preferred stock, par value $0.01 per share, designated as Floating Rate Non-Cumulative Preferred Stock, Series 4 (hereinafter called the "Preferred Stock, Series 4").

(2) Dividends. (a) The holders of shares of the Preferred Stock, Series 4, shall be entitled to receive, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), out of assets of the Corporation legally available under Delaware law for the payment of dividends, non-cumulative cash dividends at the rate set forth below in this Section (2) applied to the amount of $30,000 per share. Such dividends shall be payable quarterly, in arrears, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), on February 28, May 28, August 28 and November 28 (the "Payment Dates") commencing on February 28, 2009; provided that if any such Payment Date is not a New York Business Day and London Business Day, the Payment Date will be the next succeeding day that is a New York Business Day and London Business Day, unless such day falls in the next calendar month, in which case the Payment Date will be the immediately preceding New York Business Day and London Business Day. Each such dividend shall be payable to the holders of record of shares of the Preferred Stock, Series 4, as they appear on the stock register of the Corporation on such record dates, which shall be a date not more than 30 days nor less than 10 days preceding the applicable Payment Dates, as shall be fixed by the Board of Directors of the Corporation (or a duly authorized committee thereof). "London Business Day" means a day other than a Saturday or Sunday on which dealings in deposits in U.S. dollars are transacted, or with respect to any future date are expected to be transacted, in the London interbank market. A "New York Business Day" means any day that is not a Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

(b) (i) Dividend periods ("Dividend Periods") shall commence on each Payment Date (other than the initial Dividend Period which shall be deemed to have commenced on November 28, 2008) and shall end on and exclude the next succeeding Payment Date. The

dividend rate on the shares of Preferred Stock, Series 4, for each Dividend Period shall be a floating rate *per annum* equal to three-month U.S. dollar LIBOR plus 0.75%, but in no event will the rate be less than 4.00% *per annum*, of the $30,000 liquidation preference per share of Preferred Stock, Series 4.

The "three-month U.S. dollar LIBOR", with respect to a Dividend Period, means the rate (expressed as a percentage *per annum*) for deposits in U.S. dollars for a three month period that normally appears on Moneyline Telerate Page 3750, as displayed on page "BBAM" (British Bankers Association Official BBA LIBOR Fixings) in the Bloomberg Professional Service (or any other service that may replace Moneyline Telerate, Inc. on page BBAM or any other page that may replace page BBAM on the Bloomberg Professional Service or a successor service, in each case, for the purpose of displaying London interbank offered rates of major banks) as of 11:00 a.m. (London time) on the second London Business Day immediately preceding the first day of such Dividend Period.

If three-month U.S. dollar LIBOR cannot be determined as described above, the Corporation will select four major banks in the London interbank market. The Corporation will request that the principal London offices of those four selected banks provide their offered quotations to prime banks in the London interbank market at approximately 11:00 a.m., London time, on the second London Business Day immediately preceding the first day of such Dividend Period. These quotations will be for deposits in U.S. dollars for a three month period. Offered quotations must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time.

If two or more quotations are provided, three-month U.S. dollar LIBOR for the Dividend Period will be the arithmetic mean of the quotations. If fewer than two quotations are provided, the Corporation will select three major banks in New York City and will then determine three-month U.S. dollar LIBOR for the Dividend Period as the arithmetic mean of rates quoted by those three major banks in New York City to leading European banks at approximately 3:00 p.m., New York City time, on the second London Business Day immediately preceding the first day of such Dividend Period. The rates quoted will be for loans in U.S. dollars, for a three month period. Rates quoted must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time. If fewer than three New York City banks selected by the Corporation are quoting rates, three-month U.S. dollar LIBOR for the applicable period will be the same as for the immediately preceding Dividend Period.

(ii) Dividends on the Preferred Stock, Series 4, shall (if and when declared, as herein provided) be computed on the basis of a 360-day year and the actual number of days elapsed in each Dividend Period. Accordingly, the amount of dividends payable per share for each Dividend Period (including the initial Dividend Period) for the Preferred Stock, Series 4 shall (if and when declared, as herein provided) equal the product of (i) the applicable dividend rate, (ii) $30,000 and (iii) a fraction (A) the numerator of which will be the actual number of days elapsed in such Dividend Period, and (B) the denominator of which will be 360. The amount of dividends payable on the Preferred Stock, Series 4, shall be rounded to the nearest cent, with one-half cent being rounded upwards.

(c) So long as any shares of the Preferred Stock, Series 4 are outstanding, the Corporation may not declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire (except for purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such stock), or make a liquidation payment with respect to the preferred stock of the Corporation of any series and any other stock of the Corporation ranking, as to dividends, on a parity with the Preferred Stock, Series 4 unless for such Dividend Period full dividends on all outstanding shares of Preferred Stock, Series 4 have been declared, paid or set aside for payment. When dividends are not paid in full, as aforesaid, upon the shares of the Preferred Stock, Series 4, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends with the Preferred Stock, Series 4, all dividends declared upon shares of the Preferred Stock, Series 4, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends (whether cumulative or non-cumulative) shall be declared *pro rata* so that the amount of dividends declared per share on the Preferred Stock, Series 4, and all such other stock of the Corporation shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of the Preferred Stock, Series 4 (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior Dividend Periods) and all such other stock bear to each other.

(d) So long as any shares of the Preferred Stock, Series 4 are outstanding, the Corporation may not, at any time, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any Common Stock or any other stock of the Corporation ranking as to dividends or distribution of assets junior to the Preferred Stock, Series 4 unless full dividends on all outstanding shares of Preferred Stock, Series 4 have been declared, paid or set aside for payment for the immediately preceding Dividend Period (except for (x) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 4 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation, (y) redemptions or purchases of any rights pursuant to the Amended and Restated Rights Agreement, adopted on December 2, 1997 or any agreement that replaces such Amended and Restated Rights Agreement, or by conversion or exchange for the Corporation's capital stock ranking junior to Preferred Stock, Series 4 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation and (z) purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such capital stock); provided, however, that the foregoing dividend preference shall not be cumulative and shall not in any way create any claim or right in favor of the holders of Preferred Stock, Series 4 in the event that dividends have not been declared or paid on the Preferred Stock, Series 4 in respect of any prior Dividend Period. If the full dividend on the Preferred Stock, Series 4 is not paid for any Dividend Period, the holders of Preferred Stock, Series 4 will have no claim in respect of the unpaid amount so long as no dividend (other than those referred to above) is paid on the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 4 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation.

(e) No dividends may be declared or paid or set aside for payment on any shares of Preferred Stock, Series 4 if at the same time any arrears exists in the payment of dividends on any outstanding class or series of stock of the Corporation ranking, as to the payment of dividends, prior to the Preferred Stock, Series 4.

(f) Holders of shares of the Preferred Stock, Series 4, shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends, as herein provided, on the Preferred Stock, Series 4. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock, Series 4, which may be in arrears.

(3) Liquidation Preference. (a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any payment or distribution of the assets of the Corporation or proceeds thereof (whether capital or surplus) shall be made to or set apart for the holders of any series or class or classes of stock of the Corporation ranking junior to the Preferred Stock, Series 4, upon liquidation, dissolution, or winding up, the holders of the shares of the Preferred Stock, Series 4, shall be entitled to receive $30,000 per share plus an amount equal to declared and unpaid dividends, without accumulation of undeclared dividends. If, upon any liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation, or proceeds thereof, distributable among the holders of the shares of the Preferred Stock, Series 4, shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of preferred stock ranking, as to liquidation, dissolution or winding up, on a parity with the Preferred Stock, Series 4, then such assets, or the proceeds thereof, shall be distributed among the holders of shares of Preferred Stock, Series 4, and any such other preferred stock ratably in accordance with the respective amounts which would be payable on such shares of Preferred Stock, Series 4, and any such other preferred stock if all amounts payable thereon were paid in full. For the purposes of this Section (3), neither the sale, lease or exchange (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, nor the consolidation, merger or combination of the Corporation into or with one or more corporations or the consolidation, merger or combination of any other corporation or entity into or with the Corporation, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Corporation for purposes of this Section (3).

(b) After payment shall have been made in full to the holders of Preferred Stock, Series 4, as provided in this Section (3), the holders of Preferred Stock, Series 4 will not be entitled to any further participation in any distribution of assets of the Corporation. Subject to the rights of the holders of shares of any series or class or classes of stock ranking on a parity with or prior to the Preferred Stock, Series 4, upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Preferred Stock, Series 4, as provided in this Section (3), but not prior thereto, any other series or class or classes of stock ranking junior to the Preferred Stock, Series 4, shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Preferred Stock, Series 4, shall not be entitled to share therein.

(4) Redemption. (a) The Preferred Stock, Series 4, may not be redeemed prior to November 28, 2010. On and after November 28, 2010, the Corporation, at its option, may redeem shares of the Preferred Stock, Series 4, as a whole at any time or in part from time to time, at a redemption price of $30,000 per share, together in each case with declared and unpaid dividends, without accumulation of any undeclared dividends. The Chief Financial Officer or the Treasurer may exercise the Corporation's right to redeem the Preferred Stock, Series 4 as a whole at any time without further action of the Board of Directors or a duly authorized committee thereof. The Corporation may only elect to redeem the Preferred Stock, Series 4 in part pursuant to a resolution by the Board of Directors or a duly authorized committee thereof.

(b) In the event the Corporation shall redeem shares of Preferred Stock, Series 4, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 days 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: (1) the redemption date; (2) the number of shares of Preferred Stock, Series 4, to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price. 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) 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. The Corporation's obligation to provide moneys in accordance with the preceding sentence shall be deemed fulfilled if, on or before the redemption date, the Corporation shall deposit with a bank or trust company (which may be an affiliate of the Corporation) having an office in the Borough of Manhattan, City of New York, having a capital and surplus of at least $50,000,000, funds necessary for such redemption, in trust, with irrevocable instructions that such funds be applied to the redemption of the shares of Preferred Stock, Series 4, so called for redemption. Any interest accrued on such funds shall be paid to the Corporation from time to time. Any funds so deposited and unclaimed at the end of two years from such redemption date shall be released or repaid to the Corporation, after which the holder or holders of such shares of Preferred Stock, Series 4, so called for redemption shall look only to the Corporation for payment of the redemption price.

Upon surrender, in accordance with said notice, of the certificates for any such shares so redeemed (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 applicable redemption price aforesaid. If less than all the outstanding shares of Preferred Stock, Series 4, are to be redeemed, shares to be redeemed shall be selected by the Board of Directors of the Corporation (or a duly authorized committee thereof) from outstanding shares of Preferred Stock, Series 4, not previously called for redemption by lot or *pro rata* or by any other method determined by the Board of Directors of the Corporation (or a duly authorized committee thereof) to be equitable. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

The Preferred Stock, Series 4 will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Preferred Stock, Series 4 will have no right to require redemption of any shares of Preferred Stock, Series 4.

(5) Terms Dependent on Regulatory Changes. If, (a) the Corporation (by election or otherwise) is subject to any law, rule, regulation or guidance (together, "Regulations") relating to its capital adequacy which Regulation (x) provides for a type or level of capital characterized as "Tier 1" in, or pursuant to Regulations of any governmental agency, authority or body having regulatory jurisdiction over the Corporation and implementing, the capital standards published by the Basel Committee on Banking Supervision, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or any other United States national governmental agency, authority or body, or (y) provides for a type or level of capital that in the judgment of the Board of Directors (or a duly authorized committee thereof) after consultation with legal counsel of recognized standing is substantially equivalent to such "Tier 1" capital (such capital described in either (x) or (y) is referred to below as "Tier 1 Capital"), and (b) the Board of Directors (or a duly authorized committee thereof) affirmatively elects to qualify the Preferred Stock, Series 4 for such Tier 1 Capital treatment without any sublimit or other quantitative restrictions on the inclusion of such Preferred Stock, Series 4 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) under such Regulations, then, upon such affirmative election, the terms of the Preferred Stock, Series 4 shall automatically be amended to reflect the following modifications (without any action or consent by the holders of the Preferred Stock, Series 4 or any other vote of stockholders of the Corporation):

(i) If and to the extent such modification is a Required Unrestricted Tier 1 Provision (as defined below), the Corporation's right to redeem the Preferred Stock, Series 4 on and after November 28, 2010 pursuant to Section 4 hereof shall be restricted (such restrictions including but not limited to any requirement that the Corporation receive prior approval for such redemption from any applicable governmental agency, authority or body or that such redemption be prohibited);

(ii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, the Corporation's right to make distributions with respect to, or redeem, purchase or acquire or make payments on, securities junior to the Preferred Stock, Series 4 (upon a non-payment of dividends on the Preferred Stock, Series 4) shall become subject to additional restrictions (other than those set forth in Section 2(d) hereof) pursuant to the terms of the Preferred Stock, Series 4; and

(iii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, any other new provisions or terms shall be added to the Preferred Stock, Series 4, or existing terms shall be modified; provided, however, that no such provision or term shall be added, and no such modification shall be made pursuant to the terms of this Section 5(iii), if it would alter or change the rights, powers or preferences of the shares of the Preferred Stock, Series 4 so as to affect the shares of the Preferred Stock, Series 4 adversely.

As used above, the term "Required Unrestricted Tier 1 Provision" means a term which is, in the written opinion of legal counsel of recognized standing and delivered to the Corporation, required for the Preferred Stock, Series 4 to be treated as Tier 1 Capital of the Corporation without any sublimit or other quantitative restriction on the inclusion of such Preferred Stock, Series 4 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) pursuant to the applicable Regulations. The Corporation shall provide notice to holders of any Preferred Stock, Series 4 of any such changes in the terms of the Preferred Stock, Series 4 made pursuant to the terms of this Section 5 on or about the date of effectiveness of any such modification and shall maintain a copy of such notice on file at the principal offices of the Corporation. A copy of the relevant Regulations shall also be on file at the principal offices of the Corporation and, upon request, will be made available to such holders.

For the avoidance of doubt, "amend", "modify", "change" and words of similar effect used in this Section (5) mean that the Preferred Stock, Series 4 shall have such additional or different rights, powers and preferences, and such qualifications, limitations and restrictions as may be established by the Board of directors (or a duly authorized committee thereof) pursuant to this Section (5), subject to the limitations set forth herein.

(6) Voting Rights. The Preferred Stock, Series 4, shall have no voting rights, except as hereinafter set forth or as otherwise from time to time required by law.

The holders of the 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 Preferred Stock shall be entitled to 150 votes.

Whenever dividends payable on the Preferred Stock, Series 4, have not been declared or paid for such number of Dividend Periods, whether or not consecutive, which in the aggregate is equivalent to six Dividend Periods (a "Nonpayment"), the holders of outstanding shares of the Preferred Stock, Series 4, shall have the exclusive right, voting as a class with holders of shares of all other series of preferred stock ranking on a parity with the Preferred Stock, Series 4, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable (to the extent such other series of preferred stock are entitled to vote pursuant to the terms thereof), to vote for the election of two additional directors at the next annual meeting of stockholders and at each subsequent annual meeting of stockholders on the terms set forth below. At elections for such directors, each holder of the Preferred Stock, Series 4, shall be entitled to three votes for each share of Preferred Stock, Series 4 held (the holders of shares of any other series of preferred stock ranking on such a parity being entitled to such number of votes, if any, for each share of stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of Preferred Stock, Series 4, (either alone or together with the holders of shares of all other series of preferred stock ranking on such a parity) as hereinafter set forth. The right of such holders of such shares of the Preferred Stock, Series 4, voting as a class with holders of shares of all other series of preferred stock ranking on such a parity, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until all dividends on such shares of Preferred Stock,

Series 4, shall have been paid in full for at least four Dividend Periods following the Nonpayment. Upon payment in full of such dividends, such voting rights shall terminate except as expressly provided by law, subject to re-vesting in the event of each and every subsequent Nonpayment in the payment of dividends as aforesaid.

Upon termination of the right of the holders of the Preferred Stock, Series 4, to vote for directors as provided in the previous paragraph, the term of office of all directors then in office elected by such holders will terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting rights shall have expired, the number of directors shall be such number as may be provided for in the By-laws irrespective of any increase made pursuant to the provisions hereof.

So long as any shares of the Preferred Stock, Series 4, remain outstanding, the affirmative vote or consent of the holders of at least two-thirds of the shares of the Preferred Stock, Series 4, outstanding at the time (voting as a class with all other series of preferred stock ranking on a parity with the Preferred Stock, Series 4, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable), given in person or by proxy, either in writing or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to the Preferred Stock, Series 4, with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up; or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended and Restated Certificate of Incorporation, as amended, or of the resolutions set forth in a Certificate of Designations for such Preferred Stock, Series 4, which would adversely affect any right, preference, privilege or voting power of the Preferred Stock, Series 4, or of the holders thereof; provided, however, that any increase in the amount of issued Preferred Stock, Series 4 or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock, in each case ranking on a parity with or junior to the Preferred Stock, Series 4, with respect to the payment of dividends (whether such dividends were cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such rights, preferences, privileges or voting powers.

Without the consent of the holders of the Preferred Stock, Series 4, so long as such action does not adversely affect the interests of holders of Preferred Stock, Series 4, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock, Series 4:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in a Certificate of Designations for such Preferred Stock, Series 4 that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Preferred Stock, Series 4 that is not inconsistent with the provisions of a Certificate of Designations for such Preferred Stock, Series 4.

The rules and procedures for calling and conducting any meeting of the holders of Preferred Stock, Series 4 (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents, and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors of the Corporation, or a duly authorized committee thereof, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of any national securities exchange on which the Preferred Stock, Series 4 are listed at the time.

The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Preferred Stock, Series 4, shall have been redeemed or sufficient funds shall have been deposited in trust to effect such a redemption which is scheduled to be consummated within three months after the time that such rights would otherwise be exercisable.

(7) Record Holders. The Corporation and the transfer agent for the Preferred Stock, Series 4, may deem and treat the record holder of any share of such Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

(8) Ranking. Any class or classes of stock of the Corporation shall be deemed to rank:

(i) on a parity with the Preferred Stock, Series 4, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, Series 4, if the holders of such class of stock and the Preferred Stock, Series 4, shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates (whether cumulative or non-cumulative) or liquidation prices, without preference or priority one over the other; and

(ii) junior to the Preferred Stock, Series 4, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holders of Preferred Stock, Series 4, shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

(iii) The Shares of Preferred Stock of the Corporation designated “Floating Rate Non-Cumulative Preferred Stock, Series 1” and “Floating Rate Non-Cumulative

Preferred Stock, Series 2" and the Shares of Preferred Stock of the Corporation designated "6.375% Non-Cumulative Preferred Stock, Series 3," "Floating Rate Non-Cumulative Preferred Stock, Series 5," "6.70% Non-Cumulative Perpetual Preferred Stock, Series 6," "6.25% Non-Cumulative Perpetual Preferred Stock, Series 7," "8.625% Non-Cumulative Preferred Stock, Series 8," "Cumulative Redeemable Preferred Stock, Series B," "Floating Rate Non-Cumulative Preferred Stock, Series E," "6.204% Non-Cumulative Preferred Stock, Series D" "Floating Rate Non-Cumulative Preferred Stock, Series F," "Adjustable Rate Non-Cumulative Preferred Stock, Series G," "8.20% Non-Cumulative Preferred Stock, Series H," "6.625% Non-Cumulative Preferred Stock, Series I," "7.25% Non-Cumulative Preferred Stock, Series J," "7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K," and "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M," and any other class or series of stock of the Corporation hereafter authorized that ranks on parity with the Preferred Stock, Series 4, as to dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, , shall be deemed to rank on a parity with the shares of the Preferred Stock, Series 4, as to dividends and distribution of assets upon the liquidation, dissolution or winding up of the Corporation.

(9) Exclusion of Other Rights. Unless otherwise required by law, shares of Preferred Stock, Series 4, shall not have any rights, including preemptive rights, or preferences other than those specifically set forth herein or as provided by applicable law.

(10) Notices. All notices or communications unless otherwise specified in the By-laws of the Corporation or the Amended and Restated Certificate of Incorporation, as amended, shall be sufficiently given if in writing and delivered in person or by first class mail, postage prepaid. Notice shall be deemed given on the earlier of the date received or the date such notice is mailed.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

BANK OF AMERICA CORPORATION

CERTIFICATE OF DESIGNATIONS
Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 5
(Par Value $0.01 Per Share)

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors by 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, par value $0.01 per share (the "Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

FLOATING RATE NON-CUMULATIVE PREFERRED STOCK, SERIES 5

(1) Number of Shares and Designation. 50,000 shares of the preferred stock, par value $0.01 per share, of the Corporation are hereby constituted as a series of preferred stock, par value $0.01 per share, designated as Floating Rate Non-Cumulative Preferred Stock, Series 5 (hereinafter called the "Preferred Stock, Series 5").

(2) Dividends. (a) The holders of shares of the Preferred Stock, Series 5, shall be entitled to receive, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), out of assets of the Corporation legally available under Delaware law for the payment of dividends, non-cumulative cash dividends at the rate set forth below in this Section (2) applied to the amount of $30,000 per share. Such dividends shall be payable quarterly, in arrears, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), on February 21, May 21, August 21 and November 21 (the "Payment Dates") commencing on February 21, 2009; provided that if any such Payment Date is not a New York Business Day and London Business Day, the Payment Date will be the next succeeding day that is a New York Business Day and London Business Day, unless such day falls in the next calendar month, in which case the Payment Date will be the immediately preceding New York Business Day and London Business Day. Each such dividend shall be payable to the holders of record of shares of the Preferred Stock, Series 5, as they appear on the stock register of the Corporation on such record dates, which shall be a date not more than 30 days nor less than 10 days preceding the applicable Payment Dates, as shall be fixed by the Board of Directors of the Corporation (or a duly authorized committee thereof). "London Business Day" means any day other than a Saturday or Sunday on which dealings in deposits in U.S. dollars are transacted, or with respect to any future date are expected to be transacted, in the London interbank market. A "New York Business Day" means any day that is not a Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

(b) (i) Dividend periods ("Dividend Periods") shall commence on each Payment Date (other than the initial Dividend Period which shall be deemed to have commenced on November 21, 2008) and shall end on and exclude the next succeeding Payment Date. The

dividend rate on the shares of Preferred Stock, Series 5 for each Dividend Period shall be a floating rate per annum equal to three-month U.S. dollar LIBOR plus .50%, but in no event will the rate be less than 4.00% per annum, of the $30,000 liquidation preference per share of Preferred Stock, Series 5.

The "three-month U.S. dollar LIBOR", with respect to a Dividend Period, means the rate (expressed as a percentage per annum) for deposits in U.S. dollars for a three month period that normally appears on Telerate Page 3750, as displayed on page "BBAM" (British Bankers Association Official BBA LIBOR Fixings) in the Bloomberg Professional Service (or any other service that may replace Telerate, Inc. on page BBAM or any other page that may replace page BBAM on the Bloomberg Professional Service or a successor service, in each case, for the purpose of displaying London interbank offered rates of major banks) as of 11:00 a.m. (London time) on the second London Business Day immediately preceding the first day of such Dividend Period.

If three-month U.S. dollar LIBOR cannot be determined as described above, the Corporation will select four major banks in the London interbank market. The Corporation will request that the principal London offices of those four selected banks provide their offered quotations to prime banks in the London interbank market at approximately 11:00 a.m., London time, on the second London Business Day immediately preceding the first day of such Dividend Period. These quotations will be for deposits in U.S. dollars for a three month period. Offered quotations must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time.

If two or more quotations are provided, three-month U.S. dollar LIBOR for the Dividend Period will be the arithmetic mean of the quotations. If fewer than two quotations are provided, the Corporation will select three major banks in New York City and will then determine three-month U.S. dollar LIBOR for the Dividend Period as the arithmetic mean of rates quoted by those three major banks in New York City to leading European banks at approximately 3:00 p.m., New York City time, on the second London Business Day immediately preceding the first day of such Dividend Period. The rates quoted will be for loans in U.S. dollars, for a three month period. Rates quoted must be based on a principal amount equal to an amount that is representative of a single transaction in U.S. dollars in the market at the time. If fewer than three New York City banks selected by the Corporation are quoting rates, three-month U.S. dollar LIBOR for the applicable period will be the same as for the immediately preceding Dividend Period.

(ii) Dividends on the Preferred Stock, Series 5, shall (if and when declared, as herein provided) be computed on the basis of a 360-day year and the actual number of days elapsed in each Dividend Period. Accordingly, the amount of dividends payable per share for each Dividend Period (including the initial Dividend Period) for the Preferred Stock, Series 5 shall (if and when declared, as herein provided) equal the product of (i) the applicable dividend rate, (ii) $30,000 and (iii) a fraction (A) the numerator of which will be the actual number of days elapsed in such Dividend Period, and (B) the denominator of which will be 360. The amount of dividends payable on the Preferred Stock, Series 5, shall be rounded to the nearest cent, with one-half cent being rounded upwards.

(c) So long as any shares of the Preferred Stock, Series 5 are outstanding, the Corporation may not declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire (except for purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such stock), or make a liquidation payment with respect to the preferred stock of the Corporation of any series and any other stock of the Corporation ranking, as to dividends, on a parity with the Preferred Stock, Series 5 unless for such Dividend Period full dividends on all outstanding shares of Preferred Stock, Series 5 have been declared, paid or set aside for payment. When dividends are not paid in full, as aforesaid, upon the shares of the Preferred Stock, Series 5, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends with the Preferred Stock, Series 5, all dividends declared upon shares of the Preferred Stock, Series 5, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends (whether cumulative or non-cumulative) shall be declared pro rata so that the amount of dividends declared per share on the Preferred Stock, Series 5, and all such other stock of the Corporation shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of the Preferred Stock, Series 5 (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior Dividend Periods) and all such other stock bear to each other.

(d) So long as any shares of the Preferred Stock, Series 5 are outstanding, the Corporation may not, at any time, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any Common Stock or any other stock of the Corporation ranking as to dividends or distribution of assets junior to the Preferred Stock, Series 5 unless full dividends on all outstanding shares of Preferred Stock, Series 5 have been declared, paid or set aside for payment for the immediately preceding Dividend Period (except for (x) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 5 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation, (y) redemptions or purchases of any rights pursuant to the Amended and Restated Rights Agreement, adopted on December 2, 1997 or any agreement that replaces such Amended and Restated Rights Agreement, or by conversion or exchange for the Corporation's capital stock ranking junior to Preferred Stock, Series 5 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation and (z) purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such capital stock); provided, however, that the foregoing dividend preference shall not be cumulative and shall not in any way create any claim or right in favor of the holders of Preferred Stock, Series 5 in the event that dividends have not been declared or paid on the Preferred Stock, Series 5 in respect of any prior Dividend Period. If the full dividend on the Preferred Stock, Series 5 is not paid for any Dividend Period, the holders of Preferred Stock, Series 5 will have no claim in respect of the unpaid amount so long as no dividend (other than those referred to above) is paid on the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 5 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation.

(e) No dividends may be declared or paid or set aside for payment on any shares of Preferred Stock, Series 5 if at the same time any arrears exists in the payment of dividends on any outstanding class or series of stock of the Corporation ranking, as to the payment of dividends, prior to the Preferred Stock, Series 5.

(f) Holders of shares of the Preferred Stock, Series 5, shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends, as herein provided, on the Preferred Stock, Series 5. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock, Series 5, which may be in arrears.

(3) Liquidation Preference. (a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any payment or distribution of the assets of the Corporation or proceeds thereof (whether capital or surplus) shall be made to or set apart for the holders of any series or class or classes of stock of the Corporation ranking junior to the Preferred Stock, Series 5, upon liquidation, dissolution, or winding up, the holders of the shares of the Preferred Stock, Series 5, shall be entitled to receive $30,000 per share plus an amount equal to declared and unpaid dividends, without accumulation of undeclared dividends. If, upon any liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation, or proceeds thereof, distributable among the holders of the shares of the Preferred Stock, Series 5, shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of preferred stock ranking, as to liquidation, dissolution or winding up, on a parity with the Preferred Stock, Series 5, then such assets, or the proceeds thereof, shall be distributed among the holders of shares of Preferred Stock, Series 5, and any such other preferred stock ratably in accordance with the respective amounts which would be payable on such shares of Preferred Stock, Series 5, and any such other preferred stock if all amounts payable thereon were paid in full. For the purposes of this Section (3), neither the sale, lease or exchange (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, nor the consolidation, merger or combination of the Corporation into or with one or more corporations or the consolidation, merger or combination of any other corporation or entity into or with the Corporation, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(b) After payment shall have been made in full to the holders of Preferred Stock, Series 5, as provided in this Section (3), the holders of Preferred Stock, Series 5 will not be entitled to any further participation in any distribution of assets of the Corporation. Subject to the rights of the holders of shares of any series or class or classes of stock ranking on a parity with or prior to the Preferred Stock, Series 5, upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Preferred Stock, Series 5, as provided in this Section (3), but not prior thereto, any other series or class or classes of stock ranking junior to the Preferred Stock, Series 5, shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Preferred Stock, Series 5, shall not be entitled to share therein.

(4) Redemption. (a) The Preferred Stock, Series 5, may not be redeemed prior to May 21, 2012. On and after May 21, 2012, the Corporation, at its option, may redeem shares of the Preferred Stock, Series 5, as a whole at any time or in part from time to time, at a redemption price of $30,000 per share, together in each case with declared and unpaid dividends, without accumulation of any undeclared dividends. The Chief Financial Officer or the Treasurer may exercise the Corporation's right to redeem the Preferred Stock, Series 5 as a whole at any time without further action of the Board of Directors or a duly authorized committee thereof. The Corporation may only elect to redeem the Preferred Stock, Series 5 in part pursuant to a resolution by the Board of Directors or a duly authorized committee thereof.

(b) In the event the Corporation shall redeem shares of Preferred Stock, Series 5, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 days 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: (1) the redemption date; (2) the number of shares of Preferred Stock, Series 5, to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price. 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) 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. The Corporation's obligation to provide moneys in accordance with the preceding sentence shall be deemed fulfilled if, on or before the redemption date, the Corporation shall deposit with a bank or trust company (which may be an affiliate of the Corporation) having an office in the Borough of Manhattan, City of New York, having a capital and surplus of at least $50,000,000, funds necessary for such redemption, in trust, with irrevocable instructions that such funds be applied to the redemption of the shares of Preferred Stock, Series 5, so called for redemption. Any interest accrued on such funds shall be paid to the Corporation from time to time. Any funds so deposited and unclaimed at the end of two years from such redemption date shall be released or repaid to the Corporation, after which the holder or holders of such shares of Preferred Stock, Series 5, so called for redemption shall look only to the Corporation for payment of the redemption price.

Upon surrender, in accordance with said notice, of the certificates for any such shares so redeemed (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 applicable redemption price aforesaid. If less than all the outstanding shares of Preferred Stock, Series 5, are to be redeemed, shares to be redeemed shall be selected by the Board of Directors of the Corporation (or a duly authorized committee thereof) from outstanding shares of Preferred Stock, Series 5, not previously called for redemption by lot or *pro rata* or by any other method determined by the Board of Directors of the Corporation (or a duly authorized committee thereof) to be equitable. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

The Preferred Stock, Series 5 will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Preferred Stock, Series 5 will have no right to require redemption of any shares of Preferred Stock, Series 5.

(5) Terms Dependent on Regulatory Changes. If, (a) the Corporation (by election or otherwise) is subject to any law, rule, regulation or guidance (together, "Regulations") relating to its capital adequacy which Regulation (x) provides for a type or level of capital characterized as "Tier 1" in, or pursuant to Regulations of any governmental agency, authority or body having regulatory jurisdiction over the Corporation and implementing, the capital standards published by the Basel Committee on Banking Supervision, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or any other United States national governmental agency, authority or body, or (y) provides for a type or level of capital that in the judgment of the Board of Directors (or a duly authorized committee thereof) after consultation with legal counsel of recognized standing is substantially equivalent to such "Tier 1" capital (such capital described in either (x) or (y) is referred to below as "Tier 1 Capital"), and (b) the Board of Directors (or a duly authorized committee thereof) affirmatively elects to qualify the Preferred Stock, Series 5 for such Tier 1 Capital treatment without any sublimit or other quantitative restrictions on the inclusion of such Preferred Stock, Series 5 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) under such Regulations, then, upon such affirmative election, the terms of the Preferred Stock, Series 5 shall automatically be amended to reflect the following modifications (without any action or consent by the holders of the Preferred Stock, Series 5 or any other vote of stockholders of the Corporation):

(i) If and to the extent such modification is a Required Unrestricted Tier 1 Provision (as defined below), the Corporation's right to redeem the Preferred Stock, Series 5 on and after May 21, 2012 pursuant to Section 5 hereof shall be restricted (such restrictions including but not limited to any requirement that the Corporation receive prior approval for such redemption from any applicable governmental agency, authority or body or that such redemption be prohibited);

(ii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, the Corporation's right to make distributions with respect to, or redeem, purchase or acquire or make payments on, securities junior to the Preferred Stock, Series 5 (upon a non-payment of dividends on the Preferred Stock, Series 5) shall become subject to additional restrictions (other than those set forth in Section 2(d) hereof) pursuant to the terms of the Preferred Stock, Series 5; and

(iii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, any other new provisions or terms shall be added to the Preferred Stock, Series 5, or existing terms shall be modified; provided, however, that no such provision or term shall be added, and no such modification shall be made pursuant to the terms of this Section 5(iii), if it would alter or change the rights, powers or preferences of the shares of the Preferred Stock, Series 5 so as to affect the shares of the Preferred Stock, Series 5 adversely.

As used above, the term "Required Unrestricted Tier 1 Provision" means a term which is, in the written opinion of legal counsel of recognized standing and delivered to the

Corporation, required for the Preferred Stock, Series 5 to be treated as Tier 1 Capital of the Corporation without any sublimit or other quantitative restriction on the inclusion of such Preferred Stock, Series 5 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) pursuant to the applicable Regulations. The Corporation shall provide notice to holders of any Preferred Stock, Series 5 of any such changes in the terms of the Preferred Stock, Series 5 made pursuant to the terms of this Section 5 on or about the date of effectiveness of any such modification and shall maintain a copy of such notice on file at the principal offices of the Corporation. A copy of the relevant Regulations shall also be on file at the principal offices of the Corporation and, upon request, will be made available to such holders.

For the avoidance of doubt, "amend", "modify", "change" and words of similar effect used in this Section (5) mean that the Preferred Stock, Series 5 shall have such additional or different rights, powers and preferences, and such qualifications, limitations and restrictions as may be established by the Board of Directors (or a duly authorized committee thereof) pursuant to this Section (5), subject to the limitations set forth herein.

(6) Voting Rights. The Preferred Stock, Series 5, shall have no voting rights, except as hereinafter set forth or as otherwise from time to time required by law.

The holders of the 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 Preferred Stock shall be entitled to 150 votes.

Whenever dividends payable on the Preferred Stock, Series 5, have not been declared or paid for such number of Dividend Periods, whether or not consecutive, which in the aggregate is equivalent to six Dividend Periods (a "Nonpayment"), the holders of outstanding shares of the Preferred Stock, Series 5, shall have the exclusive right, voting as a class with holders of shares of all other series of preferred stock ranking on a parity with the Preferred Stock, Series 5, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable (to the extent such other series of preferred stock are entitled to vote pursuant to the terms thereof), to vote for the election of two additional directors at the next annual meeting of stockholders and at each subsequent annual meeting of stockholders on the terms set forth below. At elections for such directors, each holder of the Preferred Stock, Series 5, shall be entitled to three votes for each share of Preferred Stock, Series 5 held (the holders of shares of any other series of preferred stock ranking on such a parity being entitled to such number of votes, if any, for each share of stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of Preferred Stock, Series 5, (either alone or together with the holders of shares of all other series of preferred stock ranking on such a parity) as hereinafter set forth. The right of such holders of such shares of the Preferred Stock, Series 5, voting as a class with holders of shares of all other series of preferred stock ranking on such a parity, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until all dividends on such shares of Preferred Stock, Series 5, shall have been paid in full for at least four Dividend

Periods following the Nonpayment. Upon payment in full of such dividends, such voting rights shall terminate except as expressly provided by law, subject to re-vesting in the event of each and every subsequent Nonpayment in the payment of dividends as aforesaid.

Upon termination of the right of the holders of the Preferred Stock, Series 5, to vote for directors as provided in the previous paragraph, the term of office of all directors then in office elected by such holders will terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting rights shall have expired, the number of directors shall be such number as may be provided for in the By-laws irrespective of any increase made pursuant to the provisions hereof.

So long as any shares of the Preferred Stock, Series 5, remain outstanding, the affirmative vote or consent of the holders of at least two-thirds of the shares of the Preferred Stock, Series 5, outstanding at the time (voting as a class with all other series of preferred stock ranking on a parity with the Preferred Stock, Series 5, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable), given in person or by proxy, either in writing or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to the Preferred Stock, Series 5, with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up; or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended and Restated Certificate of Incorporation, as amended, or of the resolutions set forth in a Certificate of Designations for such Preferred Stock, Series 5, which would adversely affect any right, preference, privilege or voting power of the Preferred Stock, Series 5, or of the holders thereof; provided, however, that any increase in the amount of issued Preferred Stock, Series 5 or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock, in each case ranking on a parity with or junior to the Preferred Stock, Series 5, with respect to the payment of dividends (whether such dividends were cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such rights, preferences, privileges or voting powers.

Without the consent of the holders of the Preferred Stock, Series 5, so long as such action does not adversely affect the interests of holders of Preferred Stock, Series 5, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock, Series 5:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in a Certificate of Designations for such Preferred Stock, Series 5 that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Preferred Stock, Series 5 that is not inconsistent with the provisions of a Certificate of Designations for such Preferred Stock, Series 5.

The rules and procedures for calling and conducting any meeting of the holders of Preferred Stock, Series 5 (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents, and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors of the Corporation, or a duly authorized committee thereof, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of any national securities exchange on which the Preferred Stock, Series 5 are listed at the time.

The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Preferred Stock, Series 5, shall have been redeemed or sufficient funds shall have been deposited in trust to effect such a redemption which is scheduled to be consummated within three months after the time that such rights would otherwise be exercisable.

(7) Record Holders. The Corporation and the transfer agent for the Preferred Stock, Series 5, may deem and treat the record holder of any share of such Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

(8) Ranking. Any class or classes of stock of the Corporation shall be deemed to rank:

(i) on a parity with the Preferred Stock, Series 5, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, Series 5, if the holders of such class of stock and the Preferred Stock, Series 5, shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates (whether cumulative or non-cumulative) or liquidation prices, without preference or priority one over the other; and

(ii) junior to the Preferred Stock, Series 5, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holders of Preferred Stock, Series 5, shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

(iii) The Shares of Preferred Stock of the Corporation designated “Floating Rate Non-Cumulative Preferred Stock, Series 1,” “Floating Rate Non-Cumulative

Preferred Stock, Series 2," "6.375% Non-Cumulative Preferred Stock, Series 3," "Floating Rate Non-Cumulative Preferred Stock, Series 4," "6.70% Non-Cumulative Perpetual Preferred Stock, Series 6," "6.25% Non-Cumulative Perpetual Preferred Stock, Series 7," "8.625% Non-Cumulative Preferred Stock, Series 8," "Cumulative Redeemable Preferred Stock, Series B," "Floating Rate Non-Cumulative Preferred Stock, Series E," "6.204% Non-Cumulative Preferred Stock, Series D" "Floating Rate Non-Cumulative Preferred Stock, Series F," "Adjustable Rate Non-Cumulative Preferred Stock, Series G," "8.20% Non-Cumulative Preferred Stock, Series H," "6.625% Non-Cumulative Preferred Stock, Series I," "7.25% Non-Cumulative Preferred Stock, Series J," "7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K," and "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M," and any other class or series of stock of the Corporation hereafter authorized that ranks on parity with the Preferred Stock, Series 5, as to dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, shall be deemed to rank on a parity with the shares of the Preferred Stock, Series 5, as to dividends and distribution of assets upon the liquidation, dissolution or winding up of the Corporation.

(9) Exclusion of Other Rights. Unless otherwise required by law, shares of Preferred Stock, Series 5, shall not have any rights, including preemptive rights, or preferences other than those specifically set forth herein or as provided by applicable law.

(10) Notices. All notices or communications unless otherwise specified in the By-laws of the Corporation or the Amended and Restated Certificate of Incorporation, as amended, shall be sufficiently given if in writing and delivered in person or by first class mail, postage prepaid. Notice shall be deemed given on the earlier of the date received or the date such notice is mailed.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

CERTIFICATE OF DESIGNATION
6.70% NONCUMULATIVE PERPETUAL PREFERRED STOCK, SERIES 6

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority vested in the Board of Directors by the Amended and Restated Certificate of Incorporation of the Corporation, the Board of Directors hereby creates a series of preferred stock of the Corporation's previously authorized preferred stock, par value $0.01 per share, such series to be designated 6.70% Noncumulative Perpetual Preferred Stock, Series 6, to consist of 65,000 shares (the "Series 6 Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

Section 1. Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of the Series 6 Preferred Stock at the time outstanding will be entitled to receive out of the assets of the Corporation available for distribution to stockholders, before any distribution of assets is made to holders of Common Stock or any other class of stock ranking junior to the Series 6 Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Corporation, liquidating distributions in the amount of $1,000 per share, plus any dividends declared thereon and not yet paid prior to the date of liquidation.

After payment of the full amount of the liquidating distributions to which they are entitled pursuant to the preceding paragraph, the holders of Series 6 Preferred Stock will have no right or claim to any of the remaining assets of the Corporation. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Corporation are insufficient to pay the full amount of the liquidating distributions on all outstanding Series 6 Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Corporation ranking on a parity with the Series 6 Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Corporation, then the holders of the Series 6 Preferred Stock and such other classes or series of capital stock ranking on a parity with the Series 6 Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

For the purposes of this Section 1, the consolidation or merger of the Corporation with or into any other entity, or the sale, lease or conveyance of all or substantially all of the property or business of the Corporation, shall not be deemed to constitute the liquidation, dissolution or winding up of the Corporation.

Section 2. Dividends.

(a) Payment of Dividends. Holders of Series 6 Preferred Stock shall be entitled to receive, if, when and as authorized and declared by the Board of Directors, out of assets of the Corporation legally available therefor, cash dividends at an annual rate of 6.70% of the $1,000 liquidation preference per share (equivalent to $67.00 per share per annum), and no more. Such noncumulative cash dividends shall be payable, if authorized and declared, quarterly on March 30, June 30, September 30 and December 30 of each year, or, if any such day is not a Business Day (as defined herein), on the preceding Business Day (each such date, "Dividend Payment Date"). Each authorized and declared dividend shall be payable to holders of record of the Series 6 Preferred Stock as they appear on the stock books of the Corporation at the close of business on such record date, not more than 45 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board of Directors (each such date, a "Record Date"); provided, however, that if the date fixed for redemption of any of the Series 6 Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "Dividend Period") shall commence on and include the first day of each Dividend Payment Date (other than the initial Dividend Period which shall be deemed to have commenced on December 30, 2008), and shall end on and include the last day, of the quarterly period in which the corresponding Dividend Payment Date occurs.

The amount of dividends payable for any Dividend Period which, as to any share of Series 6 Preferred Stock (determined by reference to the issuance date and the redemption or retirement date thereof), is greater or less than a full Dividend Period shall be computed on the basis of the number of days elapsed in the period using a 360-day year composed of twelve 30-day months.

Holders of the Series 6 Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series 6 Preferred Stock authorized and declared by the Board of Directors that may be unpaid.

(b) Dividends Noncumulative. The right of holders of Series 6 Preferred Stock to receive dividends is noncumulative. Accordingly, if the Board of Directors does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series 6 Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Corporation shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Equity. If full dividends on the Series 6 Preferred Stock for a completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 2(c)) during the next subsequent Dividend Period with respect to the Common Stock or any other stock of the Corporation ranking junior to the Series 6 Preferred Stock as to dividends or amounts upon

liquidation, dissolution or winding up of the affairs of the Corporation (together with the Common Stock, "Junior Equity") or any stock on parity with the Series 6 Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Corporation ("Parity Stock"), nor shall any Junior Equity or Parity Stock be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Corporation (except by conversion into or exchange for other Junior Equity), until such time as dividends on all outstanding Series 6 Preferred Stock for at least four consecutive Dividend Periods have been paid in full.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series 6 Preferred Stock, all dividends declared on the Series 6 Preferred Stock and any other series ranking on a parity as to dividends with the Series 6 Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series 6 Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for such Dividend Period, per share of Series 6 Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each other series ranking on a parity as to dividends with the Series 6 Preferred Stock bear to each other.

(d) So long as any shares of Series 6 Preferred Stock are outstanding, the Corporation shall not authorize or issue any class or series of stock with a preference as to payment of distributions or amounts upon liquidation, dissolution or winding up that is senior in right to the preferences of the Series 6 Preferred Stock as to payment of distributions or amounts upon liquidation, dissolution or winding up.

(e) Any reference to "dividends" or "distributions" in this Section 2 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Corporation.

Section 3. Optional Redemption. The Series 6 Preferred Stock will not be redeemable prior to February 3, 2009. On or after February 3, 2009, the Series 6 Preferred Stock will be redeemable at the option of the Corporation, in whole or in part, at any time or from time to time, at a cash redemption price equal to the sum of the liquidation preference thereof plus the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the redemption occurs to the date of redemption.

In the event that fewer than all the outstanding shares of Series 6 Preferred Stock are to be redeemed, the number of shares of Series 6 Preferred Stock to be redeemed shall be determined by the Board of Directors, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board of Directors or by any other method as may be determined by the Board of Directors in its sole discretion to be equitable, provided that such method satisfies any applicable requirements of any securities exchange (if any) on which the shares of Series 6 Preferred Stock are then listed.

Unless full dividends on the Series 6 Preferred Stock in respect of the most recently completed Dividend Period have been or contemporaneously are declared and paid or full dividends have been declared and a sum sufficient for the payment thereof has been set apart for payment in respect of the most recently completed Dividend Period, no Series 6 Preferred Stock shall be redeemed unless all outstanding shares of Series 6 Preferred Stock are redeemed and the Corporation shall not purchase or otherwise acquire any Series 6 Preferred Stock; provided, however, that the Corporation may purchase or acquire Series 6 Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series 6 Preferred Stock.

The Corporation will give notice of redemption of the Series 6 Preferred Stock by publication in a newspaper of general circulation in the City of New York, such publication to be made once a week for two successive weeks commencing not less than 30 nor more than 60 days' prior to the redemption date. A failure to give such notice or any defect in the notice or in the Corporation's mailing will not affect the validity of the proceedings for the given redemption of any Series 6 Preferred Stock except as to the holder to whom notice was defective or not given. Each notice shall state: (i) the redemption date; (ii) the redemption price and (iii) the number of shares of Series 6 Preferred Stock to be redeemed.

A notice by the Corporation pursuant to this Section 3 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series 6 Preferred Stock at the holder's address as it appears in the records of the Corporation's transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice, to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of Series 6 Preferred Stock to be redeemed, (iii) the redemption price and (iv) the manner in which holders of Series 6 Preferred Stock called for redemption may obtain payment of the redemption price in respect of those shares.

Any shares of Series 6 Preferred Stock that are duly called for redemption pursuant to this Section 3 shall no longer be deemed to be outstanding for any purpose from and after that time that the Corporation shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series 6 Preferred Stock so called for redemption shall have no further rights as stockholders of the Corporation and in lieu thereof shall have only the right to receive the redemption price, without interest.

Series 6 Preferred Stock redeemed pursuant to this Section 3 or purchased or otherwise acquired for value by the Corporation shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Corporation at any time as shares of any series of Preferred Stock other than as Series 6 Preferred Stock.

Section 4. Voting Rights.

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series 6 Preferred Stock shall have no voting rights.

The holders of the Series 6 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 Series 6 Preferred Stock shall be entitled to 5 votes.

When the holders of Series 6 Preferred Stock are entitled to vote as a separate series, each Series 6 Preferred Stock will be entitled to 40 votes and may designate up to 40 proxies, with each such proxy having the right to vote a whole number of votes, totaling 40 votes per share of Series 6 Preferred Stock.

When the holders of Series 6 Preferred Stock are entitled to vote together as a class with all other series of Preferred Stock pursuant to subsection (b) of this Section 4 hereof, each share of Series 6 Preferred stock will be entitled to one vote.

(b) Right to Elect Directors. If, at the time of any annual meeting of the Corporation's stockholders for the election of directors, the Corporation has failed to pay or declare and set aside for payment all scheduled dividends during any six Dividend Periods (whether or not consecutive) on the Series 6 Preferred Stock, the number of directors then constituting the Board of Directors of the Corporation will be increased by two (if not already increased by two due to failure to pay or declare and set aside dividends on any series of Preferred Stock), and the holders of the Series 6 Preferred Stock, voting separately as a class with all other series of Preferred Stock then entitled by the terms of such Preferred Stock to vote for additional directors, will be entitled to elect such two additional directors to serve on the Corporation's Board of Directors at each such annual meeting. Each director elected by the holders of shares of the Preferred Stock (a "Preferred Director") shall continue to serve as such director until the payment of all dividends on the Preferred Stock for at least four consecutive Dividend Periods, including the Series 6 Preferred Stock. Any Preferred Director may be removed by, and shall not be removed except by, the vote of the holders of record of the outstanding Series 6 Preferred Stock entitled to vote, voting separately as a class with all other holders of all other series of Preferred Stock entitled to vote on the matter, at a meeting of the Corporation's stockholders, or of the holders of the Series 6 Preferred Stock and all other series of Preferred Stock so entitled to vote thereon, called for that purpose. As long as dividends on the Series 6 Preferred Stock shall not have been paid for the preceding quarterly Dividend Period, (i) any vacancy in the office of any Preferred Director may be filled (except as provided in the following clause (ii)) by any instrument in writing signed by the remaining Preferred Director and filed with the Corporation, and (ii) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding Series 6 Preferred Stock entitled to vote, voting together as a single class with the holders of all other series of Preferred Stock entitled to vote on the matter, at the same meeting at which such removal shall be voted. Each director appointed as aforesaid by the remaining Preferred Director shall be deemed, for all purposes hereof, to be Preferred Director. Any Preferred Director will

be deemed to be an Independent Director for purposes of the actions requiring the approval of a majority of the Independent Directors.

(c) Certain Voting Rights. The affirmative vote or consent of the holders of at least 67% of the outstanding voting power of each series of Preferred Stock of the Corporation, including the Series 6 Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Corporation other than a series which shall not have any right to object to such creation or (ii) alter or change the provisions of the Corporation's Amended and Restated Certificate of Incorporation (including the terms of the Series 6 Preferred Stock), including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Corporation; provided, however, that if such amendment shall not adversely affect all series of Preferred Stock of the Corporation, such amendment need only be approved by at least 67% of the voting power of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Corporation's Amended and Restated Certificate of Incorporation shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series 6 Preferred Stock, provided that: (x) the Series 6 Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series 6 Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series 6 Preferred Stock set forth herein. Additionally, an increase in the amount of the authorized Preferred Stock or the creation or issuance of any other series of Preferred Stock or an increase in the amount of authorized shares of any such series, in each case ranking on a parity with or junior to the Series 6 Preferred Stock with respect to payment of dividends or distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series 6 Preferred Stock.

Section 5. Independent Directors.

(a) Number; Definition. As long as any Series 6 Preferred Stock are outstanding, at least two directors on the Board of Directors shall be Independent Directors. As used herein, "Independent Director" means any director of the Corporation who is either (i) not a current officer or employee of the Corporation or (ii) a Preferred Director.

(b) Determination by Independent Directors. In determining whether any proposed action requiring their consent is in the best interests of the Corporation, the Independent Directors shall consider the interests of holders of both the Common Stock and the Preferred Stock, including, without limitation, the holders of the Series 6 Preferred Stock. In considering the interests of the holders of the Preferred Stock, including, without limitation, holders of the Series 6 Preferred Stock, the Independent Directors shall owe the same duties that the Independent Directors owe with respect to holders of shares of Common Stock.

Section 6. No Conversion Rights. The holders of Series 6 Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest in, the Corporation.

Section 7. No Sinking Fund. No sinking fund shall be established for the retirement or redemption of Series 6 Preferred Stock.

Section 8. Preemptive or Subscription Rights. No holder of Series 6 Preferred Stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation that it may issue or sell.

Section 9. No Other Rights. The Series 6 Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Corporation's Amended and Restated Certificate of Incorporation or as otherwise required by law.

Section 10. Compliance with Applicable Law. Declaration by the Board of Directors and payment by the Corporation of dividends to holders of the Series 6 Preferred Stock and repurchase, redemption or other acquisition by the Corporation (or another entity as provided in subsection (a) of Section 3 hereof) of Series 6 Preferred Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Corporation (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Corporation (or any such other entity) from time to time and (ii) agreements with federal or state regulatory or banking authorities with respect to the Corporation (or any such other entity) from time to time in effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

[*Signature Page to Certificate of Designations, Series 6*]

CERTIFICATE OF DESIGNATION
6.25% NONCUMULATIVE PERPETUAL PREFERRED STOCK, SERIES 7

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority vested in the Board of Directors by the Amended and Restated Certificate of Incorporation of the Corporation, the Board of Directors hereby creates a series of preferred stock of the Corporation's previously authorized preferred stock, par value $0.01 per share, such series to be designated 6.25% Noncumulative Perpetual Preferred Stock, Series 7, to consist of 50,000 shares (the "Series 7 Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

Section 1. Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of the Series 7 Preferred Stock at the time outstanding will be entitled to receive out of the assets of the Corporation available for distribution to stockholders, before any distribution of assets is made to holders of Common Stock or any other class of stock ranking junior to the Series 7 Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Corporation, liquidating distributions in the amount of $1,000 per share, plus any dividends declared thereon and not yet paid prior to the date of liquidation.

After payment of the full amount of the liquidating distributions to which they are entitled pursuant to the preceding paragraph, the holders of Series 7 Preferred Stock will have no right or claim to any of the remaining assets of the Corporation. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Corporation are insufficient to pay the full amount of the liquidating distributions on all outstanding Series 7 Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Corporation ranking on a parity with the Series 7 Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Corporation, then the holders of the Series 7 Preferred Stock and such other classes or series of capital stock ranking on a parity with the Series 7 Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

For the purposes of this Section 1, the consolidation or merger of the Corporation with or into any other entity, or the sale, lease or conveyance of all or substantially all of the property or business of the Corporation, shall not be deemed to constitute the liquidation, dissolution or winding up of the Corporation.

Section 2. Dividends.

(a) Payment of Dividends. Holders of Series 7 Preferred Stock shall be entitled to receive, if, when and as authorized and declared by the Board of Directors, out of assets of the Corporation legally available therefor, cash dividends at an annual rate of 6.25% of the $1,000 liquidation preference per share (equivalent to $62.50 per share per annum), and no more. Such noncumulative cash dividends shall be payable, if authorized and declared, quarterly on March 30, June 30, September 30 and December 30 of each year, or, if any such day is not a Business Day (as defined herein), on the preceding Business Day (each such date, "Dividend Payment Date"). Each authorized and declared dividend shall be payable to holders of record of the Series 7 Preferred Stock as they appear on the stock books of the Corporation at the close of business on such record date, not more than 30 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board of Directors (each such date, a "Record Date"); provided, however, that if the date fixed for redemption of any of the Series 7 Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "Dividend Period") shall commence on and include the first day of each Dividend Payment Date (other than the initial Dividend Period which shall be deemed to have commenced on December 30, 2008), and shall end on and include the last day, of the quarterly period in which the corresponding Dividend Payment Date occurs.

The amount of dividends payable for any Dividend Period which, as to any share of Series 7 Preferred Stock (determined by reference to the issuance date and the redemption or retirement date thereof), is greater or less than a full Dividend Period shall be computed on the basis of the number of days elapsed in the period using a 360-day year composed of twelve 30-day months.

Holders of the Series 7 Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series 7 Preferred Stock authorized and declared by the Board of Directors that may be unpaid.

(b) Dividends Noncumulative. The right of holders of Series 7 Preferred Stock to receive dividends is noncumulative. Accordingly, if the Board of Directors does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series 7 Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Corporation shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Equity. If full dividends on the Series 7 Preferred Stock for a completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 2(c)) during the next subsequent Dividend Period with respect to the Common Stock or any other stock of the Corporation ranking junior to the Series 7 Preferred Stock as to dividends or amounts upon

liquidation, dissolution or winding up of the affairs of the Corporation (together with the Common Stock, "Junior Equity") or any stock on parity with the Series 7 Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Corporation ("Parity Stock"), nor shall any Junior Equity or Parity Stock be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Corporation (except by conversion into or exchange for other Junior Equity), until such time as dividends on all outstanding Series 7 Preferred Stock for at least four consecutive Dividend Periods have been paid in full.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series 7 Preferred Stock, all dividends declared on the Series 7 Preferred Stock and any other series ranking on a parity as to dividends with the Series 7 Preferred Stock shall be distributed *pro rata* so that the amount of dividends declared per share on the Series 7 Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for such Dividend Period, per share of Series 7 Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each other series ranking on a parity as to dividends with the Series 7 Preferred Stock bear to each other.

(d) So long as any shares of Series 7 Preferred Stock are outstanding, the Corporation shall not authorize or issue any class or series of stock with a preference as to payment of distributions or amounts upon liquidation, dissolution or winding up that is senior in right to the preferences of the Series 7 Preferred Stock as to payment of distributions or amounts upon liquidation, dissolution or winding up.

(e) Any reference to "dividends" or "distributions" in this Section 2 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Corporation.

Section 3. Optional Redemption. The Series 7 Preferred Stock will not be redeemable prior to March 18, 2010. On or after March 18, 2010, the Series 7 Preferred Stock will be redeemable at the option of the Corporation, in whole or in part, at any time or from time to time, at a cash redemption price equal to the sum of the liquidation preference thereof plus the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the redemption occurs to the date of redemption.

In the event that fewer than all the outstanding shares of Series 7 Preferred Stock are to be redeemed, the number of shares of Series 7 Preferred Stock to be redeemed shall be determined by the Board of Directors, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board of Directors or by any other method as may be determined by the Board of Directors in its sole discretion to be equitable, provided that such method satisfies any applicable requirements of any securities exchange (if any) on which the shares of Series 7 Preferred Stock are then listed.

Unless full dividends on the Series 7 Preferred Stock in respect of the most recently completed Dividend Period have been or contemporaneously are declared and paid or full dividends have been declared and a sum sufficient for the payment thereof has been set apart for payment in respect of the most recently completed Dividend Period, no Series 7 Preferred Stock shall be redeemed unless all outstanding shares of Series 7 Preferred Stock are redeemed and the Corporation shall not purchase or otherwise acquire any Series 7 Preferred Stock; provided, however, that the Corporation may purchase or acquire Series 7 Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series 7 Preferred Stock.

The Corporation will give notice of redemption of the Series 7 Preferred Stock by publication in a newspaper of general circulation in the City of New York, such publication to be made once a week for two successive weeks commencing not less than 30 nor more than 60 days' prior to the redemption date. A failure to give such notice or any defect in the notice or in the Corporation's mailing will not affect the validity of the proceedings for the given redemption of any Series 7 Preferred Stock except as to the holder to whom notice was defective or not given. Each notice shall state: (i) the redemption date; (ii) the redemption price and (iii) the number of shares of Series 7 Preferred Stock to be redeemed.

A notice by the Corporation pursuant to this Section 3 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series 7 Preferred Stock at the holder's address as it appears in the records of the Corporation's transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice, to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of Series 7 Preferred Stock to be redeemed, (iii) the redemption price and (iv) the manner in which holders of Series 7 Preferred Stock called for redemption may obtain payment of the redemption price in respect of those shares.

Any shares of Series 7 Preferred Stock that are duly called for redemption pursuant to this Section 3 shall no longer be deemed to be outstanding for any purpose from and after that time that the Corporation shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series 7 Preferred Stock so called for redemption shall have no further rights as stockholders of the Corporation and in lieu thereof shall have only the right to receive the redemption price, without interest.

Series 7 Preferred Stock redeemed pursuant to this Section 3 or purchased or otherwise acquired for value by the Corporation shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Corporation at any time as shares of any series of Preferred Stock other than as Series 7 Preferred Stock.

Section 4. Voting Rights.

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series 7 Preferred Stock shall have no voting rights.

The holders of the Series 7 Preferred Stock shall be entitled to vote on all maters 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 Series 7 Preferred Stock shall be entitled to 5 votes.

When the holders of Series 7 Preferred Stock are entitled to vote as a separate series, each Series 7 Preferred Stock will be entitled to 40 votes and may designate up to 40 proxies, with each such proxy having the right to vote a whole number of votes, totaling 40 votes per share of Series 7 Preferred Stock.

When the holders of Series 7 Preferred Stock are entitled to vote together as a class with all other series of Preferred Stock pursuant to subsection (b) of this Section 4 hereof, each share of Series 7 Preferred stock will be entitled to one vote.

(b) Right to Elect Directors. If, at the time of any annual meeting of the Corporation's stockholders for the election of directors, the Corporation has failed to pay or declare and set aside for payment all scheduled dividends during any six Dividend Periods (whether or not consecutive) on the Series 7 Preferred Stock, the number of directors then constituting the Board of Directors of the Corporation will be increased by two (if not already increased by two due to failure to pay or declare and set aside dividends on any series of Preferred Stock), and the holders of the Series 7 Preferred Stock, voting separately as a class with all other series of Preferred Stock then entitled by the terms of such Preferred Stock to vote for additional directors, will be entitled to elect such two additional directors to serve on the Corporation's Board of Directors at each such annual meeting. Each director elected by the holders of shares of the Preferred Stock (a "Preferred Director") shall continue to serve as such director until the payment of all dividends on the Preferred Stock for at least four consecutive Dividend Periods, including the Series 7 Preferred Stock. Any Preferred Director may be removed by, and shall not be removed except by, the vote of the holders of record of the outstanding Series 7 Preferred Stock entitled to vote, voting separately as a class with all other holders of all other series of Preferred Stock entitled to vote on the matter, at a meeting of the Corporation's stockholders, or of the holders of the Series 7 Preferred Stock and all other series of Preferred Stock so entitled to vote thereon, called for that purpose. As long as dividends on the Series 7 Preferred Stock shall not have been paid for the preceding quarterly Dividend Period, (i) any vacancy in the office of any Preferred Director may be filled (except as provided in the following clause (ii)) by any instrument in writing signed by the remaining Preferred Director and filed with the Corporation, and (ii) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding Series 7 Preferred Stock entitled to vote, voting together as a single class with the holders of all other series of Preferred Stock entitled to vote on the matter, at the same meeting at which such removal shall be voted. Each director appointed as aforesaid by the remaining Preferred Director shall be deemed, for all purposes hereof, to be Preferred Director. Any Preferred Director will

be deemed to be an Independent Director for purposes of the actions requiring the approval of a majority of the Independent Directors.

(c) Certain Voting Rights. The affirmative vote or consent of the holders of at least 67% of the outstanding voting power of each series of Preferred Stock of the Corporation, including the Series 7 Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Corporation other than a series which shall not have any right to object to such creation or (ii) alter or change the provisions of the Corporation's Amended and Restated Certificate of Incorporation (including the terms of the Series 7 Preferred Stock), including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Corporation; provided, however, that if such amendment shall not adversely affect all series of Preferred Stock of the Corporation, such amendment need only be approved by at least 67% of the voting power of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Corporation's Amended and Restated Certificate of Incorporation shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series 7 Preferred Stock, provided that: (x) the Series 7 Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series 7 Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series 7 Preferred Stock set forth herein. Additionally, an increase in the amount of the authorized Preferred Stock or the creation or issuance of any other series of Preferred Stock or an increase in the amount of authorized shares of any such series, in each case ranking on a parity with or junior to the Series 7 Preferred Stock with respect to payment of dividends or distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series 7 Preferred Stock.

Section 5. Independent Directors.

(a) Number; Definition. As long as any Series 7 Preferred Stock are outstanding, at least two directors on the Board of Directors shall be Independent Directors. As used herein, "Independent Director" means any director of the Corporation who is either (i) not a current officer or employee of the Corporation or (ii) a Preferred Director.

(b) Determination by Independent Directors. In determining whether any proposed action requiring their consent is in the best interests of the Corporation, the Independent Directors shall consider the interests of holders of both the Common Stock and the Preferred Stock, including, without limitation, the holders of the Series 7 Preferred Stock. In considering the interests of the holders of the Preferred Stock, including, without limitation, holders of the Series 7 Preferred Stock, the Independent Directors shall owe the same duties that the Independent Directors owe with respect to holders of shares of Common Stock.

Section 6. No Conversion Rights. The holders of Series 7 Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest in, the Corporation.

Section 7. No Sinking Fund. No sinking fund shall be established for the retirement or redemption of Series 7 Preferred Stock.

Section 8. Preemptive or Subscription Rights. No holder of Series 7 Preferred Stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation that it may issue or sell.

Section 9. No Other Rights. The Series 7 Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Corporation's Amended and Restated Certificate of Incorporation or as otherwise required by law.

Section 10. Compliance with Applicable Law. Declaration by the Board of Directors and payment by the Corporation of dividends to holders of the Series 7 Preferred Stock and repurchase, redemption or other acquisition by the Corporation (or another entity as provided in subsection (a) of Section 3 hereof) of Series 7 Preferred Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Corporation (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Corporation (or any such other entity) from time to time and (ii) agreements with federal or state regulatory or banking authorities with respect to the Corporation (or any such other entity) from time to time in effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORTION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

[*Signature Page to Certificate of Designations, Series 7*]

BANK OF AMERICA CORPORATION

CERTIFICATE OF DESIGNATIONS

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

8.625% NON-CUMULATIVE PREFERRED STOCK, SERIES 8
(Par Value $0.01 Per Share)

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 conferred by Section 151 of the General Corporation Law of the State of Delaware, at a meeting duly convened and held on December 9, 2008:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors by 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, par value $0.01 per share (the "Preferred Stock"), and hereby states the designation and number of shares thereof and establishes the voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as follows:

8.625% NON-CUMULATIVE PREFERRED STOCK, SERIES 8

(1) Number of Shares and Designation. 89,100 shares of the preferred stock, par value $0.01 per share, of the Corporation are hereby constituted as a series of preferred stock, par value $0.01 per share, designated as 8.625% Non-Cumulative Preferred Stock, Series 8 (hereinafter called the "Preferred Stock, Series 8").

(2) Dividends. (a) The holders of shares of the Preferred Stock, Series 8, shall be entitled to receive, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof), out of assets of the Corporation legally available under Delaware law for the payment of dividends, non-cumulative cash dividends at the rate set forth below in this Section (2) applied to the amount of $30,000 per share. Such dividends shall be payable in arrears, as, if and when declared by the Board of Directors of the Corporation (or a duly authorized committee thereof) quarterly, on February 28, May 28, August 28 and November 28 of each year (the "Payment Dates") commencing on February 28, 2009; provided that if any such Payment Date is not a New York Business Day, the Payment Date will be the next succeeding day that is a New York Business Day. Each such dividend shall be payable to the holders of record of shares of the Preferred Stock, Series 8, as they appear on the stock register of the Corporation on such record dates, which shall be a date not more than 30 days nor less than 10 days preceding the applicable Payment Dates, as shall be fixed by the Board of Directors of the Corporation (or a duly authorized committee thereof). A "New York Business Day" means any day that is not a Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

(b)(i) Dividend periods ("Dividend Periods") shall commence on each Payment Date (other than the initial Dividend Period which shall be deemed to have commenced on November 28, 2008) and shall end on and exclude the next succeeding Payment Date. The dividend rate on the shares of Preferred Stock, Series 8 for each Dividend Period shall be 8.625% per annum, of the $30,000 liquidation preference per share of Preferred Stock, Series 8.

(ii) The amount of dividends payable for each full Dividend Period (including the initial Dividend Period) for the Preferred Stock, Series 8, shall be computed by dividing the dividend rate of 8.625% per annum by four and applying the resulting rate to the amount of $30,000 per share. The amount of dividends payable for any period shorter than a full Dividend Period on the Preferred Stock, Series 8, shall be computed on the basis of 30-day months, a 360-day year and the actual number of days elapsed in any period of less than one month. The amount of dividends payable on the Preferred Stock, Series 8, shall be rounded to the nearest cent, with one-half cent being rounded upwards.

(c) So long as any shares of the Preferred Stock, Series 8 are outstanding, the Corporation may not declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire (except for purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such stock), or make a liquidation payment with respect to the preferred stock of the Corporation of any series and any other stock of the Corporation ranking, as to dividends, on a parity with the Preferred Stock, Series 8 unless for such Dividend Period full dividends on all outstanding shares of Preferred Stock, Series 8 have been declared, paid or set aside for payment. When dividends are not paid in full, as aforesaid, upon the shares of the Preferred Stock, Series 8, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends with the Preferred Stock, Series 8, all dividends declared upon shares of the Preferred Stock, Series 8, and any other preferred stock and other stock of the Corporation ranking on a parity as to dividends (whether cumulative or non-cumulative) shall be declared pro rata so that the amount of dividends declared per share on the Preferred Stock, Series 8, and all such other stock of the Corporation shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of the Preferred Stock, Series 8 (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior Dividend Periods) and all such other stock bear to each other.

(d) So long as any shares of the Preferred Stock, Series 8 are outstanding, the Corporation may not, at any time, declare or pay dividends on, make distributions with respect to, or redeem, purchase or acquire, or make a liquidation payment with respect to, any Common Stock or any other stock of the Corporation ranking as to dividends or distribution of assets junior to the Preferred Stock, Series 8 unless full dividends on all outstanding shares of Preferred Stock, Series 8 have been declared, paid or set aside for payment for the immediately preceding Dividend Period (except for (x) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 8 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation, (y) conversions or exchanges for the Corporation's capital stock ranking junior to Preferred Stock, Series 8 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation and (z) purchases by the Corporation or its affiliates in connection with transactions effected by or for the account of customers of the Corporation or customers of any of its subsidiaries or in connection with the distribution or trading of such capital stock); provided, however, that the foregoing dividend preference shall not be cumulative and shall not in any way create any claim or right in favor of the holders of Preferred Stock, Series 8 in the event that dividends have not been declared or paid on the Preferred Stock, Series 8 in respect of any prior Dividend Period. If

the full dividend on the Preferred Stock, Series 8 is not paid for any Dividend Period, the holders of Preferred Stock, Series 8 will have no claim in respect of the unpaid amount so long as no dividend (other than those referred to above) is paid on the Common Stock or other of the Corporation's capital stock ranking junior to Preferred Stock, Series 8 as to dividends and distribution of assets upon dissolution, liquidation or winding up of the Corporation.

(e) No dividends may be declared or paid or set aside for payment on any shares of Preferred Stock, Series 8 if at the same time any arrears exists in the payment of dividends on any outstanding class or series of stock of the Corporation ranking, as to the payment of dividends, prior to the Preferred Stock, Series 8.

(f) Holders of shares of the Preferred Stock, Series 8, shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends, as herein provided, on the Preferred Stock, Series 8. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Preferred Stock, Series 8, which may be in arrears.

(3) Liquidation Preference. (a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any payment or distribution of the assets of the Corporation or proceeds thereof (whether capital or surplus) shall be made to or set apart for the holders of any series or class or classes of stock of the Corporation ranking junior to the Preferred Stock, Series 8, upon liquidation, dissolution, or winding up, the holders of the shares of the Preferred Stock, Series 8, shall be entitled to receive $30,000 per share plus an amount equal to declared and unpaid dividends, without accumulation of undeclared dividends. If, upon any liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation, or proceeds thereof, distributable among the holders of the shares of the Preferred Stock, Series 8, shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of preferred stock ranking, as to liquidation, dissolution or winding up, on a parity with the Preferred Stock, Series 8, then such assets, or the proceeds thereof, shall be distributed among the holders of shares of Preferred Stock, Series 8, and any such other preferred stock ratably in accordance with the respective amounts which would be payable on such shares of Preferred Stock, Series 8, and any such other preferred stock if all amounts payable thereon were paid in full. For the purposes of this Section (3), neither the sale, lease or exchange (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, nor the consolidation, merger or combination of the Corporation into or with one or more corporations or the consolidation, merger or combination of any other corporation or entity into or with the Corporation, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(b) After payment shall have been made in full to the holders of Preferred Stock, Series 8, as provided in this Section (3), the holders of Preferred Stock, Series 8 will not be entitled to any further participation in any distribution of assets of the Corporation. Subject to the rights of the holders of shares of any series or class or classes of stock ranking on a parity with or prior to the Preferred Stock, Series 8, upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Preferred Stock, Series 8, as provided in this Section (3), but not

prior thereto, any other series or class or classes of stock ranking junior to the Preferred Stock, Series 8, shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Preferred Stock, Series 8, shall not be entitled to share therein.

(4) Redemption. (a) The Preferred Stock, Series 8, may not be redeemed prior to May 28, 2013. On and after May 28, 2013, the Corporation, at its option, may redeem shares of the Preferred Stock, Series 8, as a whole at any time or in part from time to time, at a redemption price of $30,000 per share, together in each case with declared and unpaid dividends, without accumulation of any undeclared dividends. The Chief Financial Officer or the Treasurer may exercise the Corporation's right to redeem the Preferred Stock, Series 8 as a whole at any time without further action of the Board of Directors or a duly authorized committee thereof. The Corporation may only elect to redeem the Preferred Stock, Series 8 in part pursuant to a resolution by the Board of Directors or a duly authorized committee thereof.

(b) In the event the Corporation shall redeem shares of Preferred Stock, Series 8, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than 30 days 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 Preferred Stock, Series 8, to be redeemed and, if less 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; and (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price. 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) 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. The Corporation's obligation to provide moneys in accordance with the preceding sentence shall be deemed fulfilled if, on or before the redemption date, the Corporation shall deposit with a bank or trust company (which may be an affiliate of the Corporation) having an office in the Borough of Manhattan, City of New York, having a capital and surplus of at least $50,000,000, funds necessary for such redemption, in trust, with irrevocable instructions that such funds be applied to the redemption of the shares of Preferred Stock, Series 8, so called for redemption. Any interest accrued on such funds shall be paid to the Corporation from time to time. Any funds so deposited and unclaimed at the end of two years from such redemption date shall be released or repaid to the Corporation, after which the holder or holders of such shares of Preferred Stock, Series 8, so called for redemption shall look only to the Corporation for payment of the redemption price.

Upon surrender, in accordance with said notice, of the certificates for any such shares so redeemed (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 applicable redemption price aforesaid. If less than all the outstanding shares of Preferred Stock, Series 8, are to be redeemed, shares to be redeemed shall be selected by the Board of Directors of the Corporation (or a duly authorized committee thereof) from outstanding shares of Preferred Stock, Series 8, not previously called for redemption by lot or pro rata or by

any other method determined by the Board of Directors of the Corporation (or a duly authorized committee thereof) to be equitable. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

The Preferred Stock, Series 8 will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Preferred Stock, Series 8 will have no right to require redemption of any shares of Preferred Stock, Series 8.

(5) Terms Dependent on Regulatory Changes. If, (a) the Corporation (by election or otherwise) is subject to any law, rule, regulation or guidance (together, "Regulations") relating to its capital adequacy which Regulation (x) provides for a type or level of capital characterized as "Tier 1" in, or pursuant to Regulations of any governmental agency, authority or body having regulatory jurisdiction over the Corporation and implementing, the capital standards published by the Basel Committee on Banking Supervision, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, or any other United States national governmental agency, authority or body, or (y) provides for a type or level of capital that in the judgment of the Board of Directors (or a duly authorized committee thereof) after consultation with legal counsel of recognized standing is substantially equivalent to such "Tier 1" capital (such capital described in either (x) or (y) is referred to below as "Tier 1 Capital"), and (b) the Board of Directors (or a duly authorized committee thereof) affirmatively elects to qualify the Preferred Stock, Series 8 for such Tier 1 Capital treatment without any sublimit or other quantitative restrictions on the inclusion of such Preferred Stock, Series 8 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) under such Regulations, then, upon such affirmative election, the terms of the Preferred Stock, Series 8 shall automatically be amended to reflect the following modifications (without any action or consent by the holders of the Preferred Stock, Series 8 or any other vote of stockholders of the Corporation):

(i) If and to the extent such modification is a Required Unrestricted Tier 1 Provision (as defined below), the Corporation's right to redeem the Preferred Stock, Series 8 on and after May 28, 2013 pursuant to Section (5) hereof shall be restricted (such restrictions including but not limited to any requirement that the Corporation receive prior approval for such redemption from any applicable governmental agency, authority or body or that such redemption be prohibited);

(ii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, the Corporation's right to make distributions with respect to, or redeem, purchase or acquire or make payments on, securities junior to the Preferred Stock, Series 8 (upon a non-payment of dividends on the Preferred Stock, Series 8) shall become subject to additional restrictions (other than those set forth in Section (2)(d) hereof) pursuant to the terms of the Preferred Stock, Series 8; and

(iii) If and to the extent such modification is a Required Unrestricted Tier 1 Provision, any other new provisions or terms shall be added to the Preferred Stock, Series 8, or existing terms shall be modified; provided, however, that no such provision or term shall be added, and no such modification shall be made pursuant to the terms of this Section (5)(iii), if it

would alter or change the rights, powers or preferences of the shares of the Preferred Stock, Series 8 so as to affect the shares of the Preferred Stock, Series 8 adversely.

As used above, the term "Required Unrestricted Tier 1 Provision" means a term which is, in the written opinion of legal counsel of recognized standing and delivered to the Corporation, required for the Preferred Stock, Series 8 to be treated as Tier 1 Capital of the Corporation without any sublimit or other quantitative restriction on the inclusion of such Preferred Stock, Series 8 in Tier 1 Capital (other than any limitation requiring that common equity or a specified form of common equity constitute the dominant form of Tier 1 Capital) pursuant to the applicable Regulations. The Corporation shall provide notice to holders of any Preferred Stock, Series 8 of any such changes in the terms of the Preferred Stock, Series 8 made pursuant to the terms of this Section (5) on or about the date of effectiveness of any such modification and shall maintain a copy of such notice on file at the principal offices of the Corporation. A copy of the relevant Regulations shall also be on file at the principal offices of the Corporation and, upon request, will be made available to such holders.

For the avoidance of doubt, "amend", "modify", "change" and words of similar effect used in this Section (5) mean that the Preferred Stock, Series 8 shall have such additional or different rights, powers and preferences, and such qualifications, limitations and restrictions as may be established by the Board of Directors (or a duly authorized committee thereof) pursuant to this Section (5), subject to the limitations set forth herein.

(6) Voting Rights. The Preferred Stock, Series 8, shall have no voting rights, except as hereinafter set forth or as otherwise from time to time required by law.

The holders of the 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 Preferred Stock shall be entitled to 150 votes.

Whenever dividends payable on the Preferred Stock, Series 8, have not been declared or paid for such number of Dividend Periods, whether or not consecutive, which in the aggregate is equivalent to six Dividend Periods (a "Nonpayment"), the holders of outstanding shares of the Preferred Stock, Series 8, shall have the exclusive right, voting as a class with holders of shares of all other series of preferred stock ranking on a parity with the Preferred Stock, Series 8, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable (to the extent such other series of preferred stock are entitled to vote pursuant to the terms thereof), to vote for the election of two additional directors to the Board of Directors of the Corporation at the next annual meeting of stockholders and at each subsequent annual meeting of stockholders on the terms set forth below. At elections for such directors, or on any other matters requiring their consent and approval, each holder of the Preferred Stock, Series 8, shall be entitled to three votes for each share of Preferred Stock, Series 8 held (the holders of shares of any other series of preferred stock ranking on such a parity being entitled to such number of votes, if any, for each share of stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such

outstanding shares of Preferred Stock, Series 8 (either alone or together with the holders of shares of all other series of preferred stock ranking on such a parity) as hereinafter set forth. The right of such holders of such shares of the Preferred Stock, Series 8, voting as a class with holders of shares of all other series of preferred stock ranking on such a parity, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until all dividends on such shares of Preferred Stock, Series 8, shall have been paid in full for at least four Dividend Periods following the Nonpayment. Upon payment in full of such dividends, such voting rights shall terminate except as expressly provided by law, subject to re-vesting in the event of each and every subsequent Nonpayment in the payment of dividends as aforesaid.

Upon termination of the right of the holders of the Preferred Stock, Series 8, to vote for directors as provided in the previous paragraph, the term of office of all directors then in office elected by such holders will terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting rights shall have expired, the number of directors shall be such number as may be provided for in the By-laws irrespective of any increase made pursuant to the provisions hereof.

So long as any shares of the Preferred Stock, Series 8, remain outstanding, the affirmative vote or consent of the holders of at least two-thirds of the shares of the Preferred Stock, Series 8, outstanding at the time (voting as a class with all other series of preferred stock ranking on a parity with the Preferred Stock, Series 8, either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable), given in person or by proxy, either in writing or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to the Preferred Stock, Series 8, with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up; or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended and Restated Certificate of Incorporation, as amended, or of the resolutions set forth in a Certificate of Designations for such Preferred Stock, Series 8, which would adversely affect any right, preference, privilege or voting power of the Preferred Stock, Series 8, or of the holders thereof;

provided, however, that (a) any increase in the amount of issued Preferred Stock, Series 8 or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock, in each case ranking on a parity with or junior to the Preferred Stock, Series 8, with respect to the payment of dividends (whether such dividends were cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up and (b) a conversion of the Offered Preferred Stock in a merger or consolidation

transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms substantially identical to the terms of the Offered Preferred Stock shall not be deemed to adversely affect such rights, preferences, privileges or voting powers.

Without the consent of the holders of the Preferred Stock, Series 8, so long as such action does not adversely affect the interests of holders of Preferred Stock, Series 8, the Corporation may amend, alter, supplement or repeal any terms of the Preferred Stock, Series 8:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in a Certificate of Designations for such Preferred Stock, Series 8 that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Preferred Stock, Series 8 that is not inconsistent with the provisions of a Certificate of Designations for such Preferred Stock, Series 8.

The rules and procedures for calling and conducting any meeting of the holders of Preferred Stock, Series 8 (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents, and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors of the Corporation, or a duly authorized committee thereof, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of any national securities exchange on which the Preferred Stock, Series 8 are listed at the time.

The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Preferred Stock, Series 8, shall have been redeemed or sufficient funds shall have been deposited in trust to effect such a redemption which is scheduled to be consummated within three months after the time that such rights would otherwise be exercisable.

(7) Record Holders. The Corporation and the transfer agent for the Preferred Stock, Series 8, may deem and treat the record holder of any share of such Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

(8) Ranking. Any class or classes of stock of the Corporation shall be deemed to rank:

(i) on a parity with the Preferred Stock, Series 8, as to dividends or as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share thereof be different from those of the Preferred Stock, Series 8, if the holders of such class of stock and the Preferred Stock, Series 8, shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates (whether cumulative or non-cumulative) or liquidation prices, without preference or priority one over the other; and

(ii) junior to the Preferred Stock, Series 8, as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such stock shall be Common Stock or if the holders of Preferred Stock, Series 8, shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation or winding up, as the case may be, in preference or priority to the holders of shares of such stock.

(iii) The Shares of Preferred Stock of the Corporation designated "Floating Rate Non-Cumulative Preferred Stock, Series 1," "Floating Rate Non-Cumulative Preferred Stock, Series 2," "6.375% Non-Cumulative Preferred Stock, Series 3," "Floating Rate Non-Cumulative Preferred Stock, Series 4," "Floating Rate Non-Cumulative Preferred Stock, Series 5," "6.70% Non-Cumulative Perpetual Preferred Stock, Series 6," "6.25% Non-Cumulative Perpetual Preferred Stock, Series 7," "Cumulative Redeemable Preferred Stock, Series B," "Floating Rate Non-Cumulative Preferred Stock, Series E," "6.204% Non-Cumulative Preferred Stock, Series D" "Floating Rate Non-Cumulative Preferred Stock, Series F," "Adjustable Rate Non-Cumulative Preferred Stock, Series G," "8.20% Non-Cumulative Preferred Stock, Series H," "6.625% Non-Cumulative Preferred Stock, Series I," "7.25% Non-Cumulative Preferred Stock, Series J," "7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K," "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M," and any other class or series of stock of the Corporation hereafter authorized that ranks on parity with the Preferred Stock, Series 8, as to dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, shall be deemed to rank on a parity with the shares of the Preferred Stock, Series 8, as to dividends and distribution of assets upon the liquidation, dissolution or winding up of the Corporation.

(9) Exclusion of Other Rights. Unless otherwise required by law, shares of Preferred Stock, Series 8, shall not have any rights, including preemptive rights, or preferences other than those specifically set forth herein or as provided by applicable law.

(10) Notices. All notices or communications unless otherwise specified in the By-laws of the Corporation or the Amended and Restated Certificate of Incorporation, as amended, shall be sufficiently given if in writing and delivered in person or by first class mail, postage prepaid. Notice shall be deemed given on the earlier of the date received or the date such notice is mailed."

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, does hereby affirm, under penalties of perjury, that this certificate is the act and deed of the Corporation and that the facts herein stated are true, and accordingly has hereunto set her hand this 31st day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Teresa M. Brenner
Name: Teresa M. Brenner
Title: Associate General Counsel

CERTIFICATE OF DESIGNATIONS

OF

FIXED RATE CUMULATIVE PERPETUAL PREFERRED STOCK, SERIES Q

OF

BANK OF AMERICA CORPORATION

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), in accordance with the provisions of Sections 141 and 151 of the General Corporation Law of the State of Delaware, does hereby certify:

At meetings duly convened and held by the board of directors of the Corporation (the "Board of Directors") on July 23, 2008 and October 15, 2008, the Board of Directors 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 of Directors to act on behalf of the Board of Directors in establishing the number of authorized shares, the dividend rate, the voting and other powers, designations, preferences and rights, and the qualifications, limitations and restrictions thereof, of such series of Preferred Stock.

Thereafter, on January 7, 2009, the Committee duly adopted the following resolution creating a series of 400,000 shares of Preferred Stock of the Corporation designated as "Fixed Rate Cumulative Perpetual Preferred Stock, Series Q" by written consent

RESOLVED, that pursuant to the provisions of the certificate of incorporation and the bylaws of the Corporation and applicable law, and the resolutions adopted by the Board of Directors, a series of Preferred Stock, par value $0.01 per share, of the Corporation be, and hereby is, created, and that the designation and number of shares of such series, and the voting and other powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

Part 1. Designation and Number of Shares. There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the "Fixed Rate Cumulative Perpetual Preferred Stock, Series Q" (the "Designated Preferred Stock"). The authorized number of shares of Designated Preferred Stock shall be 400,000.

Part 2. Standard Provisions. The Standard Provisions contained in Annex A attached hereto are incorporated herein by reference in their entirety and shall be deemed to be a part of this Certificate of Designations to the same extent as if such provisions had been set forth in full herein.

Part. 3. Definitions. The following terms are used in this Certificate of Designations (including the Standard Provisions in Annex A hereto) as defined below:

(a) "Common Stock" means the common stock, par value $0.01 per share, of the Corporation.

(b) "Dividend Payment Date" means February 15, May 15, August 15 and November 15 of each year.

(c) "Junior Stock" means the Common Stock, and any other class or series of stock of the Corporation the terms of which expressly provide that it ranks junior to Designated Preferred Stock as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Corporation.

(d) "Liquidation Amount" means $25,000 per share of Designated Preferred Stock.

(e) "Minimum Amount" means $2,500,000,000.

(f) "Parity Stock" means any class or series of stock of the Corporation (other than Designated Preferred Stock) the terms of which do not expressly provide that such class or series will rank senior or junior to Designated Preferred Stock as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Corporation (in each case without regard to whether dividends accrue cumulatively or non-cumulatively). Without limiting the foregoing, Parity Stock shall include the Corporation's (i) 7% Cumulative Redeemable Preferred Stock, Series B; (ii) 6.204% Non-Cumulative Preferred Stock, Series D; (iii) Floating Rate Non-Cumulative Preferred Stock, Series E; (iv) Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding); (v) Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding); (vi) 8.20% Non-Cumulative Preferred Stock, Series H; (vii) 6.625% Non-Cumulative Preferred Stock, Series I; (viii) 7.25% Non-Cumulative Preferred Stock, Series J; (ix) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K; (x) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L; (xi) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M; (xii) Fixed Rate Cumulative Perpetual Preferred Stock, Series N; (xiii) Floating Rate Non-Cumulative Preferred Stock, Series 1; (xiv) Floating Rate Non-Cumulative Preferred Stock, Series 2; (xv) 6.375% Non-Cumulative Preferred Stock, Series 3; (xvi) Floating Rate Non-Cumulative Preferred Stock, Series 4; (xvii) Floating Rate Non-Cumulative Preferred Stock, Series 5; (xviii) 6.70% Noncumulative Perpetual Preferred Stock, Series 6; (xix) 6.25% Noncumulative Perpetual Preferred Stock, Series 7; and (xx) 8.625% Non-Cumulative Preferred Stock, Series 8.

(g) "Signing Date" means October 26, 2008.

(h) "UST Preferred Stock" means the Corporation's Fixed Rate Cumulative Perpetual Preferred Stock, Series N.

Part. 4. Certain Voting Matters. Holders of shares of Designated Preferred Stock will be entitled to one vote for each such share on any matter on which holders of Designated Preferred Stock are entitled to vote, including any action by written consent.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, Bank of America Corporation has caused this Certificate of Designations to be signed by Teresa M. Brenner, its Associate General Counsel, this 7th day of January, 2009.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

ANNEX A

STANDARD PROVISIONS

Section 1. General Matters. Each share of Designated Preferred Stock shall be identical in all respects to every other share of Designated Preferred Stock. The Designated Preferred Stock shall be perpetual, subject to the provisions of Section 5 of these Standard Provisions that form a part of the Certificate of Designations. The Designated Preferred Stock shall rank equally with Parity Stock and shall rank senior to Junior Stock with respect to the payment of dividends and the distribution of assets in the event of any dissolution, liquidation or winding up of the Corporation.

Section 2. Standard Definitions. As used herein with respect to Designated Preferred Stock:

(a) "Applicable Dividend Rate" means (i) during the period from the Original Issue Date to, but excluding, the first day of the first Dividend Period commencing on or after the fifth anniversary of the Original Issue Date, 5% per annum and (ii) from and after the first day of the first Dividend Period commencing on or after the fifth anniversary of the Original Issue Date, 9% per annum.

(b) "Appropriate Federal Banking Agency" means the "appropriate Federal banking agency" with respect to the Corporation as defined in Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. Section 1813(q)), or any successor provision.

(c) "Business Combination" means a merger, consolidation, statutory share exchange or similar transaction that requires the approval of the Corporation's stockholders.

(d) "Business Day" means any day except Saturday, Sunday and any day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close.

(e) "Bylaws" means the bylaws of the Corporation, as they may be amended from time to time.

(f) "Certificate of Designations" means the Certificate of Designations or comparable instrument relating to the Designated Preferred Stock, of which these Standard Provisions form a part, as it may be amended from time to time.

(g) "Charter" means the Corporation's certificate or articles of incorporation, articles of association, or similar organizational document.

(h) "Dividend Period" has the meaning set forth in Section 3(a).

(i) "Dividend Record Date" has the meaning set forth in Section 3(a).

(j) "Liquidation Preference" has the meaning set forth in Section 4(a).

(k) "Original Issue Date" means the date on which shares of Designated Preferred Stock are first issued.

(l) "Preferred Director" has the meaning set forth in Section 7(b).

(m) "Preferred Stock" means any and all series of preferred stock of the Corporation, including the Designated Preferred Stock.

(n) "Qualified Equity Offering" means the sale and issuance for cash by the Corporation to persons other than the Corporation or any of its subsidiaries after the Original Issue Date of shares of perpetual Preferred Stock, Common Stock or any combination of such stock, that, in each case, qualify as and may be included in Tier 1 capital of the Corporation at the time of issuance under the applicable risk-based capital guidelines of the Corporation's Appropriate Federal Banking Agency (other than any such sales and issuances (i) made by the Corporation (or any successor by Business Combination) under the Troubled Asset Relief Program, (ii) to the extent such sales or issuances provided the basis for the redemption of other preferred stock of the Corporation that was originally issued by the Corporation (or any such successor) under the Troubled Asset Relief Program or (iii) made pursuant to agreements or arrangements entered into, or pursuant to financing plans which were publicly announced, on or prior to October 13, 2008).

(o) "Share Dilution Amount" has the meaning set forth in Section 3(b).

(p) "Standard Provisions" mean these Standard Provisions that form a part of the Certificate of Designations relating to the Designated Preferred Stock.

(q) "Successor Preferred Stock" has the meaning set forth in Section 5(a).

(r) "Voting Parity Stock" means, with regard to any matter as to which the holders of Designated Preferred Stock are entitled to vote as specified in Sections 7(a) and 7(b) of these Standard Provisions that form a part of the Certificate of Designations, any and all series of Parity Stock upon which like voting rights have been conferred and are exercisable with respect to such matter.

Section 3. Dividends.

(a) Rate. Holders of Designated Preferred Stock shall be entitled to receive, on each share of Designated Preferred Stock if, as and when declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of assets legally available therefor, cumulative cash dividends with respect to each Dividend Period (as defined below) at a rate per annum equal to the Applicable Dividend Rate on (i) the Liquidation Amount per share of Designated Preferred Stock and (ii) the amount of accrued and unpaid dividends for any prior Dividend Period on such share of Designated Preferred Stock, if any. Such dividends shall begin to accrue and be cumulative from the Original Issue Date, shall compound on each subsequent Dividend Payment Date (*i.e.*, no dividends shall accrue on other dividends unless and until the first Dividend Payment Date for such other dividends has passed without such other dividends having been paid on such date) and shall be payable quarterly in arrears on each Dividend Payment Date, commencing with the first such Dividend Payment Date to occur at least 20

calendar days after the Original Issue Date. In the event that any Dividend Payment Date would otherwise fall on a day that is not a Business Day, the dividend payment due on that date will be postponed to the next day that is a Business Day and no additional dividends will accrue as a result of that postponement. The period from and including any Dividend Payment Date to, but excluding, the next Dividend Payment Date is a "Dividend Period", provided that the initial Dividend Period shall be the period from and including the Original Issue Date to, but excluding, the next Dividend Payment Date.

Dividends that are payable on Designated Preferred Stock in respect of any Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of dividends payable on Designated Preferred Stock on any date prior to the end of a Dividend Period, and for the initial Dividend Period, shall be computed on the basis of a 360-day year consisting of twelve 30-day months, and actual days elapsed over a 30-day month.

Dividends that are payable on Designated Preferred Stock on any Dividend Payment Date will be payable to holders of record of Designated Preferred Stock as they appear on the stock register of the Corporation on the applicable record date, which shall be the 15th calendar day immediately preceding such Dividend Payment Date or such other record date fixed by the Board of Directors or any duly authorized committee of the Board of Directors that is not more than 60 nor less than 10 days prior to such Dividend Payment Date (each, a "Dividend Record Date"). Any such day that is a Dividend Record Date shall be a Dividend Record Date whether or not such day is a Business Day.

Holders of Designated Preferred Stock shall not be entitled to any dividends, whether payable in cash, securities or other property, other than dividends (if any) declared and payable on Designated Preferred Stock as specified in this Section 3 (subject to the other provisions of the Certificate of Designations).

(b) Priority of Dividends. So long as any share of Designated Preferred Stock remains outstanding, no dividend or distribution shall be declared or paid on the Common Stock or any other shares of Junior Stock (other than dividends payable solely in shares of Common Stock) or Parity Stock, subject to the immediately following paragraph in the case of Parity Stock, and no Common Stock, Junior Stock or Parity Stock shall be, directly or indirectly, purchased, redeemed or otherwise acquired for consideration by the Corporation or any of its subsidiaries unless all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 3(a) above, dividends on such amount), on all outstanding shares of Designated Preferred Stock have been or are contemporaneously declared and paid in full (or have been declared and a sum sufficient for the payment thereof has been set aside for the benefit of the holders of shares of Designated Preferred Stock on the applicable record date). The foregoing limitation shall not apply to (i) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with the administration of any employee benefit plan in the ordinary course of business (including purchases to offset the Share Dilution Amount (as defined below) pursuant to a publicly announced repurchase plan) and consistent with past practice, *provided* that any purchases to offset the Share Dilution Amount shall in no event exceed the Share Dilution Amount; (ii) purchases or other acquisitions by a broker-dealer subsidiary of the Corporation solely for the purpose of market-making, stabilization or customer facilitation transactions in

Junior Stock or Parity Stock in the ordinary course of its business; (iii) purchases by a broker-dealer subsidiary of the Corporation of capital stock of the Corporation for resale pursuant to an offering by the Corporation of such capital stock underwritten by such broker-dealer subsidiary; (iv) any dividends or distributions of rights or Junior Stock in connection with a stockholders' rights plan or any redemption or repurchase of rights pursuant to any stockholders' rights plan; (v) the acquisition by the Corporation or any of its subsidiaries of record ownership in Junior Stock or Parity Stock for the beneficial ownership of any other persons (other than the Corporation or any of its subsidiaries), including as trustees or custodians; and (vi) the exchange or conversion of Junior Stock for or into other Junior Stock or of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation amount) or Junior Stock, in each case, solely to the extent required pursuant to binding contractual agreements entered into prior to the Signing Date or any subsequent agreement for the accelerated exercise, settlement or exchange thereof for Common Stock. "Share Dilution Amount" means the increase in the number of diluted shares outstanding (determined in accordance with generally accepted accounting principles in the United States, and as measured from the date of the Corporation's consolidated financial statements most recently filed with the Securities and Exchange Commission prior to the Original Issue Date) resulting from the grant, vesting or exercise of equity-based compensation to employees and equitably adjusted for any stock split, stock dividend, reverse stock split, reclassification or similar transaction.

When dividends are not paid (or declared and a sum sufficient for payment thereof set aside for the benefit of the holders thereof on the applicable record date) on any Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within a Dividend Period related to such Dividend Payment Date) in full upon Designated Preferred Stock and any shares of Parity Stock, all dividends declared on Designated Preferred Stock and all such Parity Stock and payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the Dividend Period related to such Dividend Payment Date) shall be declared *pro rata* so that the respective amounts of such dividends declared shall bear the same ratio to each other as all accrued and unpaid dividends per share on the shares of Designated Preferred Stock (including, if applicable as provided in Section 3(a) above, dividends on such amount) and all Parity Stock payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the Dividend Period related to such Dividend Payment Date) (subject to their having been declared by the Board of Directors or a duly authorized committee of the Board of Directors out of legally available funds and including, in the case of Parity Stock that bears cumulative dividends, all accrued but unpaid dividends) bear to each other. If the Board of Directors or a duly authorized committee of the Board of Directors determines not to pay any dividend or a full dividend on a Dividend Payment Date, the Corporation will provide written notice to the holders of Designated Preferred Stock prior to such Dividend Payment Date.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, securities or other property) as may be determined by the Board of Directors or any duly authorized committee of the Board of Directors may be declared and paid on any securities, including Common Stock and other Junior Stock, from time to time out of any funds legally available for

such payment, and holders of Designated Preferred Stock shall not be entitled to participate in any such dividends.

Section 4. Liquidation Rights.

(a) Voluntary or Involuntary Liquidation. In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Designated Preferred Stock shall be entitled to receive for each share of Designated Preferred Stock, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to stockholders of the Corporation, subject to the rights of any creditors of the Corporation, before any distribution of such assets or proceeds is made to or set aside for the holders of Common Stock and any other stock of the Corporation ranking junior to Designated Preferred Stock as to such distribution, payment in full in an amount equal to the sum of (i) the Liquidation Amount per share and (ii) the amount of any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount), whether or not declared, to the date of payment (such amounts collectively, the "Liquidation Preference").

(b) Partial Payment. If in any distribution described in Section 4(a) above the assets of the Corporation or proceeds thereof are not sufficient to pay in full the amounts payable with respect to all outstanding shares of Designated Preferred Stock and the corresponding amounts payable with respect of any other stock of the Corporation ranking equally with Designated Preferred Stock as to such distribution, holders of Designated Preferred Stock and the holders of such other stock shall share ratably in any such distribution in proportion to the full respective distributions to which they are entitled.

(c) Residual Distributions. If the Liquidation Preference has been paid in full to all holders of Designated Preferred Stock and the corresponding amounts payable with respect of any other stock of the Corporation ranking equally with Designated Preferred Stock as to such distribution has been paid in full, the holders of other stock of the Corporation shall be entitled to receive all remaining assets of the Corporation (or proceeds thereof) according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation For purposes of this Section 4, the merger or consolidation of the Corporation with any other corporation or other entity, including a merger or consolidation in which the holders of Designated Preferred Stock receive cash, securities or other property for their shares, or the sale, lease or exchange (for cash, securities or other property) of all or substantially all of the assets of the Corporation, shall not constitute a liquidation, dissolution or winding up of the Corporation.

Section 5. Redemption.

(a) Optional Redemption. Except as provided below, the Designated Preferred Stock may not be redeemed prior to the later of (i) the first Dividend Payment Date falling on or after the third anniversary of the Original Issue Date and (ii) the date on which all outstanding shares of UST Preferred Stock have been redeemed, repurchased or otherwise acquired by the Corporation. On or after the later of (i) the first Dividend Payment Date falling on or after the

third anniversary of the Original Issue Date and (ii) the date on which all outstanding shares of UST Preferred Stock have been redeemed, repurchased or otherwise acquired by the Corporation, the Corporation, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem, in whole or in part, at any time and from time to time, out of funds legally available therefor, the shares of Designated Preferred Stock at the time outstanding, upon notice given as provided in Section 5(c) below, at a redemption price equal to the sum of (i) the Liquidation Amount per share and (ii) except as otherwise provided below, any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount) (regardless of whether any dividends are actually declared) to, but excluding, the date fixed for redemption.

Notwithstanding the foregoing, prior to the first Dividend Payment Date falling on or after the third anniversary of the Original Issue Date, the Corporation, at its option, subject to the approval of the Appropriate Federal Banking Agency and subject to the requirement that all outstanding shares of UST Preferred Stock shall previously have been redeemed, repurchased or otherwise acquired by the Corporation, may redeem, in whole or in part, at any time and from time to time, the shares of Designated Preferred Stock at the time outstanding, upon notice given as provided in Section 5(c) below, at a redemption price equal to the sum of (i) the Liquidation Amount per share and (ii) except as otherwise provided below, any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount) (regardless of whether any dividends are actually declared) to, but excluding, the date fixed for redemption; *provided* that (x) the Corporation (or any successor by Business Combination) has received aggregate gross proceeds of not less than the Minimum Amount (plus the "Minimum Amount" as defined in the relevant certificate of designations for each other outstanding series of preferred stock of such successor (the "Successor Preferred Stock") that was originally issued under the Troubled Asset Relief Program) from one or more Qualified Equity Offerings (including Qualified Equity Offerings of such successor), and (y) the aggregate redemption price of the Designated Preferred Stock (and any Successor Preferred Stock) redeemed pursuant to this paragraph may not exceed the aggregate net cash proceeds received by the Corporation (or any successor by Business Combination) from such Qualified Equity Offerings (including Qualified Equity Offerings of such successor).

The redemption price for any shares of Designated Preferred Stock shall be payable on the redemption date to the holder of such shares against surrender of the certificate(s) evidencing such shares to the Corporation or its agent. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the Dividend Record Date for a Dividend Period shall not be paid to the holder entitled to receive the redemption price on the redemption date, but rather shall be paid to the holder of record of the redeemed shares on such Dividend Record Date relating to the Dividend Payment Date as provided in Section 3 above.

(b) No Sinking Fund. The Designated Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Designated Preferred Stock will have no right to require redemption or repurchase of any shares of Designated Preferred Stock.

(c) Notice of Redemption. Notice of every redemption of shares of Designated Preferred Stock shall be given by first class mail, postage prepaid, addressed to the holders of

record of the shares to be redeemed at their respective last addresses appearing on the books 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 Subsection 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 Designated Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Designated Preferred Stock. Notwithstanding the foregoing, if shares of Designated Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Designated Preferred Stock at such time and in any manner permitted by such facility. Each notice of redemption given to a holder shall state: (1) the redemption date; (2) the number of shares of Designated Preferred Stock to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price.

(d) Partial Redemption. In case of any redemption of part of the shares of Designated Preferred Stock at the time outstanding, the shares to be redeemed shall be selected either *pro rata* or in such other manner as the Board of Directors or a duly authorized committee thereof may determine to be fair and equitable. Subject to the provisions hereof, the Board of Directors or a duly authorized committee thereof shall have full power and authority to prescribe the terms and conditions upon which shares of Designated Preferred Stock shall be redeemed from time to time. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

(e) 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 deposited by the Corporation, in trust for the *pro rata* benefit of the holders of the shares called for redemption, with a bank or trust company doing business in the Borough of Manhattan, The City of New York, and having a capital and surplus of at least $500 million and selected by the Board of Directors, so as to be and continue to be available solely therefor, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date dividends shall cease to accrue on all shares so called for redemption, all shares so called for redemption shall no longer be deemed outstanding 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, without interest. Any funds unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

(f) Status of Redeemed Shares. Shares of Designated Preferred Stock that are redeemed, repurchased or otherwise acquired by the Corporation shall revert to authorized but unissued shares of Preferred Stock (*provided* that any such cancelled shares of Designated Preferred Stock may be reissued only as shares of any series of Preferred Stock other than Designated Preferred Stock).

Section 6. Conversion. Holders of Designated Preferred Stock shares shall have no right to exchange or convert such shares into any other securities.

Section 7. Voting Rights.

(a) General. The holders of Designated Preferred Stock shall not have any voting rights except as set forth below or as otherwise from time to time required by law.

(b) Preferred Stock Directors. Whenever, at any time or times, dividends payable on the shares of Designated Preferred Stock have not been paid for an aggregate of six quarterly Dividend Periods or more, whether or not consecutive, the authorized number of directors of the Corporation shall automatically be increased by two and the holders of the Designated Preferred Stock shall have the right, with holders of shares of any one or more other classes or series of Voting Parity Stock outstanding at the time, voting together as a class, to elect two directors (hereinafter the "Preferred Directors" and each a "Preferred Director") to fill such newly created directorships at the Corporation's next annual meeting of stockholders (or at a special meeting called for that purpose prior to such next annual meeting) and at each subsequent annual meeting of stockholders until all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 3(a) above, dividends on such amount), on all outstanding shares of Designated Preferred Stock have been declared and paid in full at which time such right shall terminate with respect to the Designated Preferred Stock, except as herein or by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned; *provided* that it shall be a qualification for election for any Preferred Director that the election of such Preferred Director shall not cause the Corporation to violate any corporate governance requirements of any securities exchange or other trading facility on which securities of the Corporation may then be listed or traded that listed or traded companies must have a majority of independent directors. Upon any termination of the right of the holders of shares of Designated Preferred Stock and Voting Parity Stock as a class to vote for directors as provided above, the Preferred Directors shall cease to be qualified as directors, the term of office of all Preferred Directors then in office shall terminate immediately and the authorized number of directors shall be reduced by the number of Preferred Directors elected pursuant hereto. Any Preferred Director may be removed at any time, with or without cause, and any vacancy created thereby may be filled, only by the affirmative vote of the holders a majority of the shares of Designated Preferred Stock at the time outstanding voting separately as a class together with the holders of shares of Voting Parity Stock, to the extent the voting rights of such holders described above are then exercisable. If the office of any Preferred Director becomes vacant for any reason other than removal from office as aforesaid, the remaining Preferred Director may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred.

(c) Class Voting Rights as to Particular Matters. So long as any shares of Designated Preferred Stock are outstanding, in addition to any other vote or consent of stockholders required by law or by the Charter, the vote or consent of the holders of at least 66 2/3% of the shares of Designated Preferred Stock at the time outstanding, voting as a separate class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

(i) Authorization of Senior Stock. Any amendment or alteration of the Certificate of Designations for the Designated Preferred Stock or the Charter to authorize or create or increase the authorized amount of, or any issuance of, any shares of, or any securities convertible into or exchangeable or exercisable for shares of, any class or series of capital stock of the Corporation ranking senior to Designated Preferred Stock with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of the Corporation;

(ii) Amendment of Designated Preferred Stock. Any amendment, alteration or repeal of any provision of the Certificate of Designations for the Designated Preferred Stock or the Charter (including, unless no vote on such merger or consolidation is required by Section 7(c)(iii) below, any amendment, alteration or repeal by means of a merger, consolidation or otherwise) so as to adversely affect the rights, preferences, privileges or voting powers of the Designated Preferred Stock; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Designated Preferred Stock, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Designated Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, and limitations and restrictions thereof, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of Designated Preferred Stock immediately prior to such consummation, taken as a whole;

provided, *however*, that for all purposes of this Section 7(c), any increase in the amount of the authorized Preferred Stock, including any increase in the authorized amount of Designated Preferred Stock necessary to satisfy preemptive or similar rights granted by the Corporation to other persons prior to the Signing Date, or the creation and issuance, or an increase in the authorized or issued amount, whether pursuant to preemptive or similar rights or otherwise, of any other series of Preferred Stock, or any securities convertible into or exchangeable or exercisable for any other series of Preferred Stock, ranking equally with and/or junior to Designated Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up of the Corporation will not be deemed to adversely affect the rights, preferences, privileges or voting powers, and shall not require the affirmative vote or consent of, the holders of outstanding shares of the Designated Preferred Stock.

(d) Changes after Provision for Redemption. No vote or consent of the holders of Designated Preferred Stock shall be required pursuant to Section 7(c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding shares of the Designated Preferred Stock shall have been redeemed, or shall have

been called for redemption upon proper notice and sufficient funds shall have been deposited in trust for such redemption, in each case pursuant to Section 5 above.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Designated Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules of the Board of Directors or any duly authorized committee of the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Charter, the Bylaws, and applicable law and the rules of any national securities exchange or other trading facility on which Designated Preferred Stock is listed or traded at the time.

Section 8. Record Holders. To the fullest extent permitted by applicable law, the Corporation and the transfer agent for Designated Preferred Stock may deem and treat the record holder of any share of Designated Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

Section 9. Notices. All notices or communications in respect of Designated Preferred Stock shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in this Certificate of Designations, in the Charter or Bylaws or by applicable law. Notwithstanding the foregoing, if shares of Designated Preferred Stock are issued in book-entry form through The Depository Trust Company or any similar facility, such notices may be given to the holders of Designated Preferred Stock in any manner permitted by such facility.

Section 10. No Preemptive Rights. No share of Designated Preferred Stock shall have any rights of preemption whatsoever as to any securities of the Corporation, or any warrants, rights or options issued or granted with respect thereto, regardless of how such securities, or such warrants, rights or options, may be designated, issued or granted.

Section 11. Replacement Certificates. The Corporation shall replace any mutilated certificate at the holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the holder's expense upon delivery to the Corporation of reasonably satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be reasonably required by the Corporation.

Section 12. Other Rights. The shares of Designated Preferred Stock shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Charter or as provided by applicable law.

CERTIFICATE OF DESIGNATIONS

OF

FIXED RATE CUMULATIVE PERPETUAL PREFERRED STOCK, SERIES R

OF

BANK OF AMERICA CORPORATION

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware thereof, does hereby certify:

The board of directors of the Corporation (the "Board of Directors") or an applicable committee of the Board of Directors, in accordance with the certificate of incorporation and bylaws of the Corporation and applicable law, adopted the following resolution on January 16, 2009 creating a series of 800,000 shares of Preferred Stock of the Corporation designated as "Fixed Rate Cumulative Perpetual Preferred Stock, Series R".

RESOLVED, that pursuant to the provisions of the certificate of incorporation and the bylaws of the Corporation and applicable law, a series of Preferred Stock, par value $0.01 per share, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

Part 1. Designation and Number of Shares. There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the "Fixed Rate Cumulative Perpetual Preferred Stock, Series R" (the "Designated Preferred Stock"). The authorized number of shares of Designated Preferred Stock shall be 800,000.

Part 2. Standard Provisions. The Standard Provisions contained in Annex A attached hereto are incorporated herein by reference in their entirety and shall be deemed to be a part of this Certificate of Designations to the same extent as if such provisions had been set forth in full herein.

Part 3. Definitions. The following terms are used in this Certificate of Designations (including the Standard Provisions in Annex A hereto) as defined below:

(a) "Common Stock" means the common stock, par value $0.01 per share, of the Corporation.

(b) "Dividend Payment Date" means February 15, May 15, August 15 and November 15 of each year.

(c) "Junior Stock" means the Common Stock, and any other class or series of stock of the Corporation the terms of which expressly provide that it ranks junior to Designated Preferred Stock as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Corporation.

(d) "Liquidation Amount" means $25,000 per share of Designated Preferred Stock.

(e) "Parity Stock" means any class or series of stock of the Corporation (other than Designated Preferred Stock) the terms of which do not expressly provide that such class or series will rank senior or junior to Designated Preferred Stock as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Corporation (in each case without regard to whether dividends accrue cumulatively or non-cumulatively). Without limiting the foregoing, Parity Stock shall include the Corporation's (i) 7% Cumulative Redeemable Preferred Stock, Series B; (ii) 6.204% Non-Cumulative Preferred Stock, Series D; (iii) Floating Rate Non-Cumulative Preferred Stock, Series E; (iv) Floating Rate Non-Cumulative Preferred Stock, Series F (if and when issued and outstanding); (v) Adjustable Rate Non-Cumulative Preferred Stock, Series G (if and when issued and outstanding); (vi) 8.20% Non-Cumulative Preferred Stock, Series H; (vii) 6.625% Non-Cumulative Preferred Stock, Series I; (viii) 7.25% Non-Cumulative Preferred Stock, Series J; (ix) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K; (x) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L; (xi) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (xii) Fixed Rate Cumulative Perpetual Preferred Stock, Series N, (xiii) Floating Rate Non-Cumulative Preferred Stock, Series 1, (xiv) Floating Rate Non-Cumulative Preferred Stock, Series 2, (xv) 6.375% Non-Cumulative Preferred Stock, Series 3, (xvi) Floating Rate Non-Cumulative Preferred Stock, Series 4, (xvii) Floating Rate Non-Cumulative Preferred Stock, Series 5, (xviii) 6.70% Noncumulative Perpetual Preferred Stock, Series 6, (xix) 6.25% Noncumulative Perpetual Preferred Stock, Series 7, (xx) 8.625% Non-Cumulative Preferred Stock, Series 8, and (xxi) Fixed Rate Cumulative Perpetual Preferred Stock, Series Q.

(f) "Signing Date" means the Original Issue Date.

(g) "UST Preferred Stock" means the Corporation's Fixed Rate Cumulative Preferred Stock, Series N, and Fixed Rate Cumulative Preferred Stock, Series Q.

Part. 4. Certain Voting Matters. Holders of shares of Designated Preferred Stock will be entitled to one vote for each such share on any matter on which holders of Designated Preferred Stock are entitled to vote, including any action by written consent.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, Bank of America Corporation has caused this Certificate of Designations to be signed by Teresa M. Brenner, its Associate General Counsel, this 16th day of January, 2009.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER
Name: Teresa M. Brenner
Title: Associate General Counsel

ANNEX A

STANDARD PROVISIONS

Section 1. General Matters. Each share of Designated Preferred Stock shall be identical in all respects to every other share of Designated Preferred Stock. The Designated Preferred Stock shall be perpetual, subject to the provisions of Section 5 of these Standard Provisions that form a part of the Certificate of Designations. The Designated Preferred Stock shall rank equally with Parity Stock and shall rank senior to Junior Stock with respect to the payment of dividends and the distribution of assets in the event of any dissolution, liquidation or winding up of the Corporation.

Section 2. Standard Definitions. As used herein with respect to Designated Preferred Stock:

(a) "Appropriate Federal Banking Agency" means the "appropriate Federal banking agency" with respect to the Corporation as defined in Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. Section 1813(q)), or any successor provision.

(b) "Business Day" means any day except Saturday, Sunday and any day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close.

(c) "Bylaws" means the bylaws of the Corporation, as they may be amended from time to time.

(d) "Certificate of Designations" means the Certificate of Designations or comparable instrument relating to the Designated Preferred Stock, of which these Standard Provisions form a part, as it may be amended from time to time.

(e) "Charter" means the Corporation's certificate or articles of incorporation, articles of association, or similar organizational document.

(f) "Dividend Period" has the meaning set forth in Section 3(a).

(g) "Dividend Record Date" has the meaning set forth in Section 3(a).

(h) "Liquidation Preference" has the meaning set forth in Section 4(a).

(i) "Original Issue Date" means the date on which shares of Designated Preferred Stock are first issued.

(j) "Preferred Director" has the meaning set forth in Section 7(b).

(k) "Preferred Stock" means any and all series of preferred stock of the Corporation, including the Designated Preferred Stock.

(l) "Share Dilution Amount" has the meaning set forth in Section 3(b).

(m) "Standard Provisions" mean these Standard Provisions that form a part of the Certificate of Designations relating to the Designated Preferred Stock.

(n) "Voting Parity Stock" means, with regard to any matter as to which the holders of Designated Preferred Stock are entitled to vote as specified in Sections 7(a) and 7(b) of these Standard Provisions that form a part of the Certificate of Designations, any and all series of Parity Stock upon which like voting rights have been conferred and are exercisable with respect to such matter.

Section 3. Dividends.

(a) Rate. Holders of Designated Preferred Stock shall be entitled to receive, on each share of Designated Preferred Stock if, as and when declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of assets legally available therefor, cumulative cash dividends with respect to each Dividend Period (as defined below) at a per annum rate of 8.0% on (i) the Liquidation Amount per share of Designated Preferred Stock and (ii) the amount of accrued and unpaid dividends for any prior Dividend Period on such share of Designated Preferred Stock, if any. Such dividends shall begin to accrue and be cumulative from the Original Issue Date, shall compound on each subsequent Dividend Payment Date (*i.e.*, no dividends shall accrue on other dividends unless and until the first Dividend Payment Date for such other dividends has passed without such other dividends having been paid on such date) and shall be payable quarterly in arrears on each Dividend Payment Date, commencing with the first such Dividend Payment Date to occur at least 20 calendar days after the Original Issue Date. In the event that any Dividend Payment Date would otherwise fall on a day that is not a Business Day, the dividend payment due on that date will be postponed to the next day that is a Business Day and no additional dividends will accrue as a result of that postponement. The period from and including any Dividend Payment Date to, but excluding, the next Dividend Payment Date is a "Dividend Period", provided that the initial Dividend Period shall be the period from and including the Original Issue Date to, but excluding, the next Dividend Payment Date.

Dividends that are payable on Designated Preferred Stock in respect of any Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of dividends payable on Designated Preferred Stock on any date prior to the end of a Dividend Period, and for the initial Dividend Period, shall be computed on the basis of a 360-day year consisting of twelve 30-day months, and actual days elapsed over a 30-day month.

Dividends that are payable on Designated Preferred Stock on any Dividend Payment Date will be payable to holders of record of Designated Preferred Stock as they appear on the stock register of the Corporation on the applicable record date, which shall be the 15th calendar day immediately preceding such Dividend Payment Date or such other record date fixed by the Board of Directors or any duly authorized committee of the Board of Directors that is not more than 60 nor less than 10 days prior to such Dividend Payment Date (each, a "Dividend Record Date"). Any such day that is a Dividend Record Date shall be a Dividend Record Date whether or not such day is a Business Day.

Holders of Designated Preferred Stock shall not be entitled to any dividends, whether payable in cash, securities or other property, other than dividends (if any) declared and payable on Designated Preferred Stock as specified in this Section 3 (subject to the other provisions of the Certificate of Designations).

(b) Priority of Dividends. So long as any share of Designated Preferred Stock remains outstanding, no dividend or distribution shall be declared or paid on the Common Stock or any other shares of Junior Stock (other than dividends payable solely in shares of Common Stock) or Parity Stock, subject to the immediately following paragraph in the case of Parity Stock, and no Common Stock, Junior Stock or Parity Stock shall be, directly or indirectly, purchased, redeemed or otherwise acquired for consideration by the Corporation or any of its subsidiaries unless all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 3(a) above, dividends on such amount), on all outstanding shares of Designated Preferred Stock have been or are contemporaneously declared and paid in full (or have been declared and a sum sufficient for the payment thereof has been set aside for the benefit of the holders of shares of Designated Preferred Stock on the applicable record date). The foregoing limitation shall not apply to (i) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with the administration of any employee benefit plan in the ordinary course of business (including purchases to offset the Share Dilution Amount (as defined below) pursuant to a publicly announced repurchase plan) and consistent with past practice, provided that any purchases to offset the Share Dilution Amount shall in no event exceed the Share Dilution Amount; (ii) purchases or other acquisitions by a broker-dealer subsidiary of the Corporation solely for the purpose of market-making, stabilization or customer facilitation transactions in Junior Stock or Parity Stock in the ordinary course of its business; (iii) purchases by a broker-dealer subsidiary of the Corporation of capital stock of the Corporation for resale pursuant to an offering by the Corporation of such capital stock underwritten by such broker-dealer subsidiary; (iv) any dividends or distributions of rights or Junior Stock in connection with a stockholders' rights plan or any redemption or repurchase of rights pursuant to any stockholders' rights plan; (v) the acquisition by the Corporation or any of its subsidiaries of record ownership in Junior Stock or Parity Stock for the beneficial ownership of any other persons (other than the Corporation or any of its subsidiaries), including as trustees or custodians; and (vi) the exchange or conversion of Junior Stock for or into other Junior Stock or of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation amount) or Junior Stock, in each case, solely to the extent required pursuant to binding contractual agreements entered into prior to the Signing Date or any subsequent agreement for the accelerated exercise, settlement or exchange thereof for Common Stock. "Share Dilution Amount" means the increase in the number of diluted shares outstanding (determined in accordance with generally accepted accounting principles in the United States, and as measured from the date of the Corporation's consolidated financial statements most recently filed with the Securities and Exchange Commission prior to the Original Issue Date) resulting from the grant, vesting or exercise of equity-based compensation to employees and equitably adjusted for any stock split, stock dividend, reverse stock split, reclassification or similar transaction.

When dividends are not paid (or declared and a sum sufficient for payment thereof set aside for the benefit of the holders thereof on the applicable record date) on any Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different

from the Dividend Payment Dates, on a dividend payment date falling within a Dividend Period related to such Dividend Payment Date) in full upon Designated Preferred Stock and any shares of Parity Stock, all dividends declared on Designated Preferred Stock and all such Parity Stock and payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the Dividend Period related to such Dividend Payment Date) shall be declared *pro rata* so that the respective amounts of such dividends declared shall bear the same ratio to each other as all accrued and unpaid dividends per share on the shares of Designated Preferred Stock (including, if applicable as provided in Section 3(a) above, dividends on such amount) and all Parity Stock payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the Dividend Period related to such Dividend Payment Date) (subject to their having been declared by the Board of Directors or a duly authorized committee of the Board of Directors out of legally available funds and including, in the case of Parity Stock that bears cumulative dividends, all accrued but unpaid dividends) bear to each other. If the Board of Directors or a duly authorized committee of the Board of Directors determines not to pay any dividend or a full dividend on a Dividend Payment Date, the Corporation will provide written notice to the holders of Designated Preferred Stock prior to such Dividend Payment Date.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, securities or other property) as may be determined by the Board of Directors or any duly authorized committee of the Board of Directors may be declared and paid on any securities, including Common Stock and other Junior Stock, from time to time out of any funds legally available for such payment, and holders of Designated Preferred Stock shall not be entitled to participate in any such dividends.

Section 4. Liquidation Rights.

(a) Voluntary or Involuntary Liquidation. In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Designated Preferred Stock shall be entitled to receive for each share of Designated Preferred Stock, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to stockholders of the Corporation, subject to the rights of any creditors of the Corporation, before any distribution of such assets or proceeds is made to or set aside for the holders of Common Stock and any other stock of the Corporation ranking junior to Designated Preferred Stock as to such distribution, payment in full in an amount equal to the sum of (i) the Liquidation Amount per share and (ii) the amount of any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount), whether or not declared, to the date of payment (such amounts collectively, the "Liquidation Preference").

(b) Partial Payment. If in any distribution described in Section 4(a) above the assets of the Corporation or proceeds thereof are not sufficient to pay in full the amounts payable with respect to all outstanding shares of Designated Preferred Stock and the corresponding amounts payable with respect of any other stock of the Corporation ranking equally with Designated Preferred Stock as to such distribution, holders of Designated Preferred Stock and the

holders of such other stock shall share ratably in any such distribution in proportion to the full respective distributions to which they are entitled.

(c) Residual Distributions. If the Liquidation Preference has been paid in full to all holders of Designated Preferred Stock and the corresponding amounts payable with respect of any other stock of the Corporation ranking equally with Designated Preferred Stock as to such distribution has been paid in full, the holders of other stock of the Corporation shall be entitled to receive all remaining assets of the Corporation (or proceeds thereof) according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation For purposes of this Section 4, the merger or consolidation of the Corporation with any other corporation or other entity, including a merger or consolidation in which the holders of Designated Preferred Stock receive cash, securities or other property for their shares, or the sale, lease or exchange (for cash, securities or other property) of all or substantially all of the assets of the Corporation, shall not constitute a liquidation, dissolution or winding up of the Corporation.

Section 5. Redemption.

(a) Optional Redemption. The Designated Preferred Stock may not be redeemed prior to the date on which all outstanding shares of UST Preferred Stock have been redeemed, repurchased or otherwise acquired by the Corporation. On or after the date on which all outstanding shares of UST Preferred Stock have been redeemed, repurchased or otherwise acquired by the Corporation, the Corporation, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem, in whole or in part, at any time and from time to time, the shares of Designated Preferred Stock at the time outstanding, upon notice given as provided in Section 5(c) below, out of funds legally available therefor at a redemption price equal to the sum of (i) the Liquidation Amount per share and (ii) except as otherwise provided below, any accrued and unpaid dividends (including, if applicable as provided in Section 3(a) above, dividends on such amount) (regardless of whether any dividends are actually declared) to, but excluding, the date fixed for redemption; provided, however, that the Corporation, the holders of a majority of the aggregate Liquidation Amount and the United States Department of the Treasury (if at the time it holds any shares of the Designated Preferred Stock) may in the future discuss alternative consideration for effecting a redemption, including use of Common Stock.

The redemption price for any shares of Designated Preferred Stock shall be payable on the redemption date to the holder of such shares against surrender of the certificate(s) evidencing such shares to the Corporation or its agent. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the Dividend Record Date for a Dividend Period shall not be paid to the holder entitled to receive the redemption price on the redemption date, but rather shall be paid to the holder of record of the redeemed shares on such Dividend Record Date relating to the Dividend Payment Date as provided in Section 3 above.

(b) No Sinking Fund. The Designated Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Designated

Preferred Stock will have no right to require redemption or repurchase of any shares of Designated Preferred Stock.

(c) Notice of Redemption. Notice of every redemption of shares of Designated Preferred Stock shall be given by first class mail, postage prepaid, addressed to the holders of record of the shares to be redeemed at their respective last addresses appearing on the books 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 Subsection 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 Designated Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Designated Preferred Stock. Notwithstanding the foregoing, if shares of Designated Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Designated Preferred Stock at such time and in any manner permitted by such facility. Each notice of redemption given to a holder shall state: (1) the redemption date; (2) the number of shares of Designated Preferred Stock to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price; and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price.

(d) Partial Redemption. In case of any redemption of part of the shares of Designated Preferred Stock at the time outstanding, the shares to be redeemed shall be selected either *pro rata* or in such other manner as the Board of Directors or a duly authorized committee thereof may determine to be fair and equitable. Subject to the provisions hereof, the Board of Directors or a duly authorized committee thereof shall have full power and authority to prescribe the terms and conditions upon which shares of Designated Preferred Stock shall be redeemed from time to time. If fewer than all the shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof.

(e) 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 deposited by the Corporation, in trust for the *pro rata* benefit of the holders of the shares called for redemption, with a bank or trust company doing business in the Borough of Manhattan, The City of New York, and having a capital and surplus of at least $500 million and selected by the Board of Directors, so as to be and continue to be available solely therefor, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date dividends shall cease to accrue on all shares so called for redemption, all shares so called for redemption shall no longer be deemed outstanding 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, without interest. Any funds unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

(f) Status of Redeemed Shares. Shares of Designated Preferred Stock that are redeemed, repurchased or otherwise acquired by the Corporation shall revert to authorized but unissued shares of Preferred Stock (provided that any such cancelled shares of Designated Preferred Stock may be reissued only as shares of any series of Preferred Stock other than Designated Preferred Stock).

Section 6. Conversion. Holders of Designated Preferred Stock shares shall have no right to exchange or convert such shares into any other securities.

Section 7. Voting Rights.

(a) General. The holders of Designated Preferred Stock shall not have any voting rights except as set forth below or as otherwise from time to time required by law.

(b) Preferred Stock Directors. Whenever, at any time or times, dividends payable on the shares of Designated Preferred Stock have not been paid for an aggregate of six quarterly Dividend Periods or more, whether or not consecutive, the authorized number of directors of the Corporation shall automatically be increased by two and the holders of the Designated Preferred Stock shall have the right, with holders of shares of any one or more other classes or series of Voting Parity Stock outstanding at the time, voting together as a class, to elect two directors (hereinafter the "Preferred Directors" and each a "Preferred Director") to fill such newly created directorships at the Corporation's next annual meeting of stockholders (or at a special meeting called for that purpose prior to such next annual meeting) and at each subsequent annual meeting of stockholders until all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 3(a) above, dividends on such amount), on all outstanding shares of Designated Preferred Stock have been declared and paid in full at which time such right shall terminate with respect to the Designated Preferred Stock, except as herein or by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned; provided that it shall be a qualification for election for any Preferred Director that the election of such Preferred Director shall not cause the Corporation to violate any corporate governance requirements of any securities exchange or other trading facility on which securities of the Corporation may then be listed or traded that listed or traded companies must have a majority of independent directors. Upon any termination of the right of the holders of shares of Designated Preferred Stock and Voting Parity Stock as a class to vote for directors as provided above, the Preferred Directors shall cease to be qualified as directors, the term of office of all Preferred Directors then in office shall terminate immediately and the authorized number of directors shall be reduced by the number of Preferred Directors elected pursuant hereto. Any Preferred Director may be removed at any time, with or without cause, and any vacancy created thereby may be filled, only by the affirmative vote of the holders a majority of the shares of Designated Preferred Stock at the time outstanding voting separately as a class together with the holders of shares of Voting Parity Stock, to the extent the voting rights of such holders described above are then exercisable. If the office of any Preferred Director becomes vacant for any reason other than removal from office as aforesaid, the remaining Preferred Director may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred.

(c) Class Voting Rights as to Particular Matters. So long as any shares of Designated Preferred Stock are outstanding, in addition to any other vote or consent of stockholders required by law or by the Charter, the vote or consent of the holders of at least 66 2/3% of the shares of Designated Preferred Stock at the time outstanding, voting as a separate class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

(i) Authorization of Senior Stock. Any amendment or alteration of the Certificate of Designations for the Designated Preferred Stock or the Charter to authorize or create or increase the authorized amount of, or any issuance of, any shares of, or any securities convertible into or exchangeable or exercisable for shares of, any class or series of capital stock of the Corporation ranking senior to Designated Preferred Stock with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of the Corporation;

(ii) Amendment of Designated Preferred Stock. Any amendment, alteration or repeal of any provision of the Certificate of Designations for the Designated Preferred Stock or the Charter (including, unless no vote on such merger or consolidation is required by Section 7(c)(iii) below, any amendment, alteration or repeal by means of a merger, consolidation or otherwise) so as to adversely affect the rights, preferences, privileges or voting powers of the Designated Preferred Stock; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Designated Preferred Stock, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Designated Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, and limitations and restrictions thereof, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of Designated Preferred Stock immediately prior to such consummation, taken as a whole;

provided, however, that for all purposes of this Section 7(c), any increase in the amount of the authorized Preferred Stock, including any increase in the authorized amount of Designated Preferred Stock necessary to satisfy preemptive or similar rights granted by the Corporation to other persons prior to the Signing Date, or the creation and issuance, or an increase in the authorized or issued amount, whether pursuant to preemptive or similar rights or otherwise, of any other series of Preferred Stock, or any securities convertible into or exchangeable or exercisable for any other series of Preferred Stock, ranking equally with and/or junior to Designated Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and the distribution of assets upon liquidation, dissolution or winding up of the Corporation will not be deemed to adversely affect the rights, preferences,

privileges or voting powers, and shall not require the affirmative vote or consent of, the holders of outstanding shares of the Designated Preferred Stock.

(d) Changes after Provision for Redemption. No vote or consent of the holders of Designated Preferred Stock shall be required pursuant to Section 7(c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding shares of the Designated Preferred Stock shall have been redeemed, or shall have been called for redemption upon proper notice and sufficient funds shall have been deposited in trust for such redemption, in each case pursuant to Section 5 above.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Designated Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules of the Board of Directors or any duly authorized committee of the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Charter, the Bylaws, and applicable law and the rules of any national securities exchange or other trading facility on which Designated Preferred Stock is listed or traded at the time.

Section 8. Record Holders. To the fullest extent permitted by applicable law, the Corporation and the transfer agent for Designated Preferred Stock may deem and treat the record holder of any share of Designated Preferred Stock as the true and lawful owner thereof for all purposes, and neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

Section 9. Notices. All notices or communications in respect of Designated Preferred Stock shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in this Certificate of Designations, in the Charter or Bylaws or by applicable law. Notwithstanding the foregoing, if shares of Designated Preferred Stock are issued in book-entry form through The Depository Trust Company or any similar facility, such notices may be given to the holders of Designated Preferred Stock in any manner permitted by such facility.

Section 10. No Preemptive Rights. No share of Designated Preferred Stock shall have any rights of preemption whatsoever as to any securities of the Corporation, or any warrants, rights or options issued or granted with respect thereto, regardless of how such securities, or such warrants, rights or options, may be designated, issued or granted.

Section 11. Replacement Certificates. The Corporation shall replace any mutilated certificate at the holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the holder's expense upon delivery to the Corporation of reasonably satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be reasonably required by the Corporation.

Section 12. Other Rights. The shares of Designated Preferred Stock shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Charter or as provided by applicable law.

Exhibit 4(x)

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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Exhibits

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 LUXEMBOURG S.A

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

Exhibit A-1 to
Global Agency Agreement

[FORM OF REGISTERED GLOBAL NOTE]

BANK OF AMERICA, N.A.

REGISTERED GLOBAL BANK NOTE

[This Note is a global note within the meaning of the Global Agency Agreement dated as of July 25, 2007 (the "Agency Agreement") among Bank of America, N.A., as Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar and U.S. Paying Agent, 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 and is registered in the name of the Depository (as defined below) or a nominee of the Depository. This Note is not exchangeable for definitive or other Notes registered in the name of a person other than the Depository or its nominee, except in the limited circumstances described in the Agency Agreement, and no transfer of this Note (other than a transfer as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor depository or a nominee of such successor depository) may be registered except in the limited circumstances described in the Agency Agreement.

Unless this Note is presented by an authorized representative of The Depository Trust Company (the "Depository") (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer, exchange or payment, and this Note is registered in the name of CEDE & CO., or such other name as requested by an authorized representative of The Depository Trust Company, and unless any payment is made to CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, since the registered owner hereof, CEDE & CO., has an interest herein.][1]

[THIS NOTE HAS BEEN ISSUED WITH "ORIGINAL ISSUE DISCOUNT" FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE PRICE OF THIS NOTE IS U.S.$_____ PER U.S.1,000 OF PRINCIPAL AMOUNT DUE AT MATURITY; THE AMOUNT OF ORIGINAL ISSUE DISCOUNT IS U.S.$_____ PER U.S.$1,000 OF PRINCIPAL AMOUNT DUE AT MATURITY; THE DISCOUNT IS U.S.$_____ PER U.S.$1,000 OF PRINCIPAL AMOUNT DUE AT MATURITY; THE ISSUE DATE IS_____ AND THE YIELD TO MATURITY ON THE ISSUE DATE IS _____% PER ANNUM, COMPOUNDED [SEMI-ANNUALLY]. [THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ALLOCABLE TO THE SHORT INITIAL ACCRUAL PERIOD IS U.S.$_____ PER U.S.$1,000 OF PRINCIPAL AMOUNT DUE AT MATURITY; THE

[1] Modify in the case of all Registered Global Notes other than DTC Global Notes.

PRINCIPAL AMOUNT AND THE AMOUNT ALLOCABLE TO THE SHORT FINAL ACCRUAL PERIOD IS U.S.$_____ PER U.S.$1,000 OF PRINCIPAL AMOUNT DUE AT MATURITY, EACH DETERMINED ON THE BASIS OF A METHOD TAKING INTO ACCOUNT DAILY COMPOUNDING.]] [2]

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

IF THIS NOTE IS A SENIOR NOTE, AS INDICATED ON THE FACE HEREOF, THIS NOTE IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS NOTE RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.

IF THIS NOTE IS A SUBORDINATED NOTE, AS INDICATED ON THE FACE HEREOF, THIS NOTE A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.

THIS NOTE IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

THIS NOTE IS SOLD IN MINIMUM DENOMINATIONS AS NOTED HEREIN AND IN THE PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER ATTACHED HERETO AND CANNOT BE EXCHANGED FOR NOTES IN SMALLER DENOMINATIONS. EACH OWNER OF A BENEFICIAL INTEREST IN THIS NOTE IS REQUIRED TO HOLD A BENEFICIAL INTEREST OF A PRINCIPAL AMOUNT OF THIS NOTE EQUAL TO THE MINIMUM AUTHORIZED DENOMINATION AT ALL TIMES.

THIS NOTE IS OFFERED AND SOLD ONLY TO ACCREDITED INVESTORS AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND EACH PURCHASER OF A BENEFICIAL INTEREST IN THIS NOTE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED TO BANK OF AMERICA, N.A. THAT IT IS AN ACCREDITED INVESTOR AND THAT IT IS PURCHASING SUCH INTEREST FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER ACCREDITED INVESTOR.

[2] This legend is applicable for an original issue discount note, as specified in the Pricing Supplement and as described in Section 16 of the reverse side hereof. Omit the last sentence in the case of Notes that are issued and mature exactly on regularly scheduled interest payment dates.

No. R- **Registered**
CUSIP No.:
ISIN No.:
Common Code: **Principal Amount: [$]_____**

BANK OF AMERICA, N.A.
[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]
REGISTERED GLOBAL BANK NOTE

ORIGINAL ISSUE DATE[3]:

SPECIFIED CURRENCY:

- ☐ U.S. Dollars
- ☐ Other (specify):

☐ FIXED RATE NOTE
☐ FLOATING RATE NOTE
☐ INDEXED NOTE [See attached Rider]
☐ FLOATING RATE/FIXED RATE NOTE

☐ SENIOR NOTE
☐ SUBORDINATED NOTE

☐ This Note is an Extendible Note. [See attached Rider]

☐ This Note is an Extension of Maturity Note. [See attached Rider]

☐ This Note is an Amortizing Note.

BANK OF AMERICA, N.A., a national banking association organized under the laws of the United States (herein called the "Issuer," which term includes any successor corporation), for value received, hereby promises to pay to [CEDE & CO., as nominee for The Depository Trust Company], or its registered assigns, the principal amount specified above (or if this Note is designated as an Indexed Note above, the Principal Repayment Amount and/or the Supplemental Payment Amount calculated in accordance with the provisions set forth in the Pricing Supplement or Indexed Payment Rider, as applicable, attached hereto (referred to collectively as the "Pricing Supplement")) as adjusted in accordance with Schedule 1 hereto, on the Stated Maturity Date[4] specified above (except to the extent redeemed or repaid prior to the Stated Maturity Date), and to pay interest thereon (i) in accordance with the provisions set forth on the reverse hereof in Section 2(a), if this Note is designated as a "Fixed Rate Note" above, (ii) in accordance with the provisions set forth on the reverse hereof under the Section 2(b), if this Note

[3] The form provides that interest, if any, will accrue from the Original Issue Date. In the event a series of Notes is reopened, interest will accrue from the Original Issue Date for all tranches of Notes of that series. However, in the event a series of Notes is reopened, the authentication date for each tranche of Notes will be the date that tranche of Notes is settled, which may be different from the Original Issue Date.

[4] This form provides for Notes that will mature only on a specified date. If the Maturity of Notes of a series may be extended at the option of the holder, or if the Issuer may elect the extension of Maturity of the Notes of a series, the form, as used, will be modified by the applicable Rider attached to this Note to provide for additional terms relating to such renewal or extension, as the case may be, including the period or periods for which the Maturity may be extended, changes in the interest rate, if any, and requirements for notice.

is designated as a "Floating Rate Note" above, (iii) in accordance with the provisions set forth on the reverse hereof in Section 2(c), if this Note is designated as a "Floating Rate/Fixed Rate Note" above, or (iv) in accordance with the provisions set forth in the Pricing Supplement, if this Note is designated as an "Indexed Note" above, in each case as such provisions may be modified or supplemented by the terms and provisions set forth in the Pricing Supplement, and (to the extent that the payment of such interest shall be legally enforceable) to pay interest at the Default Rate per annum specified in the Pricing Supplement on any overdue principal and premium, if any, and on any overdue installment of interest. If no Default Rate is specified in the Pricing Supplement, the Default Rate shall be the fixed or floating Interest Rate or Interest Rates on this Note specified in the Pricing Supplement. "Maturity," when used herein, means the date on which the principal of this Note or an installment of principal becomes due and payable in full in accordance with the terms of this Note and of the Agency Agreement, whether at the Stated Maturity Date or by declaration of acceleration, call for redemption, prepayment at the holder's option or otherwise.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will be paid to the person in whose name this Note (or one or more predecessor Notes evidencing all or a portion of the same debt as this Note) is registered at the close of business on the date that is one business day prior to such Interest Payment Date (or, if this Note is in definitive form, the fifteenth calendar day immediately preceding such Interest Payment Date, unless otherwise specified on the face hereof) (the "Regular Record Date"); provided, however, that the first payment of interest on any Note with an Original Issue Date between a Regular Record Date and an Interest Payment Date or on an Interest Payment Date will be made on the Interest Payment Date following the next Regular Record Date to the person in whose name this Note is registered at the close of business on such next Regular Record Date; and provided, further, that interest payable at Maturity (the "Maturity Date") will be payable to the person to whom the principal hereof shall be payable. The principal so payable, and punctually paid or duly provided for, at Maturity will be paid to the person in whose name this Note (or one or more predecessor Notes evidencing all or a portion of the same debt as this Note) is registered at the close of business on the Maturity Date. Any such interest or principal not punctually paid or duly provided for shall be payable as provided in the Agency Agreement.

Payment of principal of, and premium, if any, and interest on, this Note due at Maturity will be made in immediately available funds upon presentation and surrender of this Note at the office of the applicable Paying Agent maintained for that purpose, and in accordance with the procedures of the depository or clearing system noted hereon; *provided*, that this Note is presented to such Paying Agent in time for such Paying Agent to make such payment in accordance with its normal procedures. Payments of interest on this Note (other than at Maturity) will be made by wire transfer to such account as has been appropriately designated to the applicable Paying Agent by the person entitled to such payments.

The Issuer will pay any administrative costs imposed by any bank in making payments in immediately available funds, but any tax, assessment or governmental charge imposed upon payments hereunder, including, without limitation, any withholding tax, will be borne by the holder hereof.

Reference is made to the further provisions of this Note set forth on the reverse hereof and in the Pricing Supplement attached hereto, which shall have the same effect as though fully set forth at this place. In the event of any conflict between the provisions contained herein or on the reverse hereof and the provisions contained in the Pricing Supplement attached hereto, the latter shall control. References herein to "this Note," "hereof," "herein" and comparable terms shall include the Pricing Supplement attached hereto.

Unless the certificate of authentication hereon has been executed by the applicable Registrar, by manual signature of an authorized signatory, this Note shall not be entitled to any benefit under the Agency Agreement or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, Bank of America, N.A. has caused this instrument to be duly executed on its behalf, by manual or facsimile signature.

Dated:_____

BANK OF AMERICA, N.A.

By: _____

Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Agency Agreement.

Dated:_____

[DEUTSCHE BANK TRUST COMPANY AMERICAS
as U.S. Registrar

By Deutsche Bank National Trust Company

By: _____
Authorized Signatory

By: _____
Authorized Signatory

[DEUTSCHE BANK LUXEMBOURG S.A.
as European Registrar

By: _____
Authorized Signatory

By: _____
Authorized Signatory

[ATTACH PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER, AS APPLICABLE]

[Reverse of Note]

BANK OF AMERICA, N.A.

(REGISTERED GLOBAL BANK NOTE)

SECTION 1. *General.* This Note is one of a duly authorized issue of senior or subordinated Notes of the Issuer, as indicated on the face hereof, issued and to be issued in one or more series under the Global Agency Agreement dated as of July 25, 2007 (the "Agency Agreement") among Bank of America, N.A., as Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar (the "U.S. Registrar") and U.S. Paying Agent (the "U.S. Paying Agent"), 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, a "Paying Agent") and London Issuing Agent (the "London Issuing Agent"), and 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," and together with the Registrars, the Paying Agents and the London Issuing Agent, the "Agents" and each, an "Agent"), to which Agency Agreement reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Agents thereunder and the holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms U.S. Registrar, U.S. Paying Agent, London Paying Agent, London Issuing Agent, European Registrar and European Transfer Agent shall include any additional or successor agents appointed in such capacities by the Issuer.

This Note is also one of the Notes issued pursuant to an Offering Circular dated July 25, 2007 for the offer and sale of up to U.S.$75,000,000,000 aggregate principal amount of senior and subordinated bank notes at any one time outstanding with maturities of 7 days or more from their respective dates of issue. The Notes may bear different dates, mature at different times, bear interest at different rates and vary in such other ways as are provided in the Agency Agreement, and the aggregate principal amount of bank notes to be offered under the program may be increased from time to time.

The Issuer has initially appointed [Deutsche Bank Trust Company Americas][Deutsche Bank AG, London Branch] to act as paying agent in respect of the Notes. This Note may be presented or surrendered for payment, and notices, designations or requests in respect of payments with respect to this Note may be served, at the office or agency of the applicable Paying Agent.

Subject to any fiscal or other laws and regulations applicable thereto in the place of payment, payments in a Specified Currency other than euro will be made by transfer to an account in the relevant Specified Currency maintained by the payee with, or by a check in such Specified Currency drawn on, a bank in the Principal Financial Center (as defined herein) of the country of such Specified Currency, and payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee.

Unless specified otherwise in the Pricing Supplement, this Note will not be subject to a sinking fund.

SECTION 2. *Interest Provisions*.

(a) Fixed Rate Notes. If this Note is designated as a "*Fixed Rate Note*" on the face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified above, except as provided on the face hereof, until payment of such principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from and including the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise specified in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to but excluding the relevant Interest Payment Date or Maturity Date, as the case may be.

Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity less than one year and is payable in U.S. dollars, interest (including payments for partial periods) will be computed and paid on the basis of the actual number of days elapsed divided by 360. Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity of one year or more and is payable in U.S. dollars, interest (including payments for partial periods) will be computed on the basis of a 360-day year of twelve 30-day months. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in a Specified Currency other than U.S. dollars, interest will be computed on the basis of the Actual/Actual (ISMA) Fixed Day Count Convention.

"**Actual/Actual (ISMA) Fixed Day Count Convention**" means:

(a) in the case of fixed-rate notes where the number of days in the relevant period from and including the most recent Interest Payment Date (or, if none, from and including the interest commencement date, which unless specified otherwise in the Pricing Supplement shall be the Original Issue Date) to, but excluding, the relevant payment date (referred to as the "**accrual period**") is equal to or shorter than the determination period (as defined below) during which the accrual period ends, the number of days in the accrual period divided by the product of (1) the number of days in that determination period and (2) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; or

(b) in the case of fixed-rate notes where the accrual period is longer than the determination period during which the accrual period ends, the sum of:

(1) the number of days in that accrual period falling in the determination period in which the accrual period begins divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; and

(2) the number of days in that accrual period falling in the next determination period divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year.

"**Determination period**" means the period from and including a determination date to but excluding the next determination date (including, where either the interest commencement date or the final Interest Payment Date is not a determination date, the period commencing on the first determination date prior to, and ending on the first determination date falling after, such date).

"**Determination date**" means each date specified in the Pricing Supplement or, if none is specified, each Interest Payment Date.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date or the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after such Interest Payment Date or the Maturity Date, as the case may be.

(b) Floating Rate Notes. If this Note is designated as a "*Floating Rate Note*" on face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified on the face hereof, unless the Original Issue Date occurs between a Regular Record Date (as defined below) and the next Interest Payment Date, in which case interest shall be payable commencing on the Interest Payment Date following the next Regular Record Date, at a rate per annum determined in accordance with the provisions hereof and the Pricing Supplement, until payment of such principal sum has been made or duly provided for. If this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from and including the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise provided in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to but excluding the relevant Interest Payment Date or Maturity Date, as the case may be (each such period, an "Interest Period").

As set forth in the Pricing Supplement, this Note may have either or both of the following: (i) a maximum numerical interest rate limitation, or ceiling, on the rate at which

interest may accrue during any Interest Period ("Maximum Interest Rate"); or (ii) a minimum numerical interest rate limitation, or floor, on the rate at which interest may accrue during any interest period ("Minimum Interest Rate"); provided, however, that the interest rate on this Note will in no event be higher than the maximum rate permitted by applicable law.

The Base Rate (as defined herein) with respect to this Note may be (i) the federal funds rate, (ii) the London interbank offered rate, or "LIBOR," (iii) the Euro-zone interbank offered rate, or "EURIBOR," (iv) the prime rate, (v) the treasury rate or (v) such other rate as is described in the Pricing Supplement.

Except as described below, this Note will bear interest at the rate determined by reference to the appropriate interest rate basis (the "Base Rate") and Index Maturity, each as specified in the Pricing Supplement, (i) plus or minus the Spread, if any, specified in the Pricing Supplement and/or (ii) multiplied by the Spread Multiplier, if any, specified in the Pricing Supplement. The interest rate in effect during an Interest Period will be the rate determined by the Calculation Agent specified in the Pricing Supplement on the "calculation date" by reference to the Interest Determination Date (as described below).

If "ISDA Rate" is specified in the Pricing Supplement, the rate of interest on this Note for each Interest Period will be the relevant ISDA Rate plus or minus the margin, if any, specified in the Pricing Supplement. Unless specified otherwise in the Pricing Supplement, "ISDA Rate" means, with respect to any Interest Period, the rate equal to the Floating Rate that would be determined by the Calculation Agent pursuant to an interest rate swap transaction if the Calculation Agent were acting as Calculation Agent for such swap transaction in accordance with the terms of an agreement in the form of any ISDA Master Agreement published by the International Swaps and Derivatives Association, Inc. (including any Annexes thereto, the "ISDA Agreement") and evidenced by a Confirmation (as defined in the ISDA Agreement) incorporating the 2006 ISDA definitions, as amended, updated, or replaced as at the issue date of the first tranche of bank notes of the relevant series (the "2006 ISDA Definitions") published by the International Swaps and Derivatives Association, Inc. and under which: (i) the Floating Rate Option is as specified in the Pricing Supplement; (ii) the Designated Maturity is the period specified in the Pricing Supplement; and (iii) the relevant Reset Date is either (a) if the applicable Floating Rate Option is based on LIBOR or EURIBOR for a currency, the first day of such interest period or (b) in any other case, as specified in the Pricing Supplement. Where "ISDA Rate" is specified, interest will be payable on each Interest Payment Date specified in the Pricing Supplement or, if no express Interest Payment Dates are specified, on each date which falls at the end of the number of months or other period specified as the interest period in the Pricing Supplement after the preceding Interest Payment Date (or after the Original Issue Date, in the case of the first such date). As used in this paragraph, "Floating Rate," "Calculation Agent," "Floating Rate Option," "Designated Maturity" and "Reset Date" have the meanings ascribed to those terms in the 2006 ISDA Definitions.

The "calculation date" pertaining to any Interest Determination Date will be the date by which the Calculation Agent specified in the Pricing Supplement computes the amount of interest owed on this Note for the related Interest Period. Unless otherwise specified in the Pricing Supplement, the "calculation date" will be the earlier of (a) the tenth calendar day after the related Interest Determination Date or, if that date is not a Business Day, the next succeeding

Business Day; or (b) the Business Day immediately preceding the applicable Interest Payment Date or the Stated Maturity Date or the date of redemption or the date of prepayment, as the case may be.

The interest rate in effect on each day shall be (a) if such day is an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to such Interest Reset Date or (b) if such day is not an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to the immediately preceding Interest Reset Date, provided that (i) the interest rate in effect from the Original Issue Date to the initial Interest Reset Date shall be the Initial Interest Rate specified in the Pricing Supplement, and (ii) the interest rate in effect for the 10 calendar days immediately prior to the Maturity Date shall be the rate in effect on the 10th calendar day preceding such Maturity Date. Unless otherwise specified herein or in the Pricing Supplement, if any Interest Reset Date specified in the Pricing Supplement (including the Initial Interest Reset Date, as specified in the Pricing Supplement) falls on a day that is not a Business Day, the Interest Reset Date will be postponed to the next day that is a Business Day, except that, unless otherwise specified in the Pricing Supplement, in the case of a LIBOR note or a EURIBOR note, if the next Business Day is in the next succeeding calendar month, the Interest Reset Date will be the immediately preceding Business Day. The Interest Reset Dates are subject to adjustment as described below.

Unless otherwise specified in the Pricing Supplement: (i) the "Interest Determination Date" with respect to any Note that has as its Base Rate the federal funds rate or the prime rate will be the Business Day immediately preceding the related Interest Reset Date; (ii) the "Interest Determination Date" with respect to any Note that has LIBOR as its Base Rate will be the second London Banking Day preceding the related Interest Reset Date, unless the Index Currency specified in the Pricing Supplement is Pounds Sterling, in which case the Interest Determination Date will be the Interest Reset Date; (iii) the "Interest Determination Date" with respect to any Note that has as its Base Rate the treasury rate will be the day of the week in which the related Interest Reset Date falls on which Treasury bills of the Index Maturity specified in the Pricing Supplement normally would be auctioned; provided, however, that if an auction is held on the Friday of the week preceding the related Interest Reset Date, the related "Interest Determination Date" shall be such preceding Friday; and provided, further, that if an auction is held on any Interest Reset Date then the Interest Reset Date shall instead be the first Business Day following such auction.

For a Note whose interest rate is determined by reference to two or more Base Rates, unless otherwise specified in the Pricing Supplement, the "Interest Determination Date" shall be the most recent Business Day that is at least two Business Days prior to the applicable Interest Reset Date for the Note on which each Base Rate is applicable.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date falls on a day that is not a Business Day, the related payment of interest will be made on the next succeeding Business Day. However, unless otherwise specified in the Pricing Supplement, if this Note has as its Base Rate LIBOR or EURIBOR, as described below, if an Interest Payment Date falls on a date that is not a Business Day, and the next Business Day is in the next calendar month, the Interest Payment Date will be the immediately preceding Business Day. In each such case, except for the Interest Payment Date falling on the Maturity Date, the Interest Periods and

the Interest Reset Dates will be adjusted accordingly to calculate the amount of interest payable on this Note. Unless otherwise specified in the Pricing Supplement, if the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after the Maturity Date.

Accrued interest on this Note is calculated by multiplying the principal amount of the Note by an accrued interest factor. The accrued interest factor is the sum of the interest factors calculated for each day in the period for which accrued interest is being calculated. Unless otherwise indicated in the Pricing Supplement, the daily interest factor will be computed on the basis of a 360-day year of twelve 30-day months if the Day Count Convention specified in the Pricing Supplement is "30/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 360 if the Day Count Convention specified in the Pricing Supplement is "Actual/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 365, or in the case of an Interest Payment Date falling in a leap year, 366, if the Day Count Convention specified in the Pricing Supplement is "Actual/Actual" for the period specified thereunder. If no Day Count Convention is specified in the Pricing Supplement, the daily interest factor will be computed and interest will be paid (including payments for partial periods) as follows: (i) for Notes that have as a Base Rate the federal funds rate, LIBOR, EURIBOR, the prime rate, or any other rate other than the treasury rate, as if "Actual/360" had been specified in the Pricing Supplement; and (ii) for Notes that have the treasury rate as a Base Rate, as if "Actual/Actual" had been specified in the Pricing Supplement.

All amounts used in or resulting from any calculation on this Note will be rounded to the nearest cent, if the Specified Currency is U.S. dollars, or to the nearest corresponding hundredth of a unit, if the Specified Currency is other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward. Unless otherwise specified in the Pricing Supplement, all percentages resulting from any calculation are rounded to the nearest one hundred-thousandth of a percent, with five one-millionths of a percentage point rounded upward. For example, 9.876545% (or .09876545) will be rounded to 9.87655% (or .0987655).

Notwithstanding the calculations determined as specified below, the interest rate hereon shall not be greater than the Maximum Interest Rate, if any, or less than the Minimum Interest Rate, if any, specified in the Pricing Supplement.

The Calculation Agent shall calculate the interest rate hereon in accordance with the procedures described below on or before each calculation date. At the request of the registered holder hereof, the Calculation Agent will provide to such holder the interest rate hereon then in effect and, if determined, the interest rate which will become effective as of the next Interest Reset Date.

Determination of LIBOR. LIBOR for any Interest Determination Date will be the arithmetic mean of the offered rates for deposits in the relevant Index Currency having the Index Maturity described in the Pricing Supplement, commencing on the related Interest Reset Date, as

the rates appear on the designated LIBOR page in the Pricing Supplement as of 11:00 A.M., London time, on that Interest Determination Date, if at least two offered rates appear on the designated LIBOR page, except that, if the designated LIBOR page only provides for a single rate, that single rate will be used.

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

- The Calculation Agent will select four major banks in the London interbank market, after consultation with us. On the Interest Determination Date, those four banks will be requested to provide their offered quotations for deposits in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to prime banks in the London interbank market at approximately 11:00 A.M., London time.

- If at least two quotations are provided, the Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.

- If fewer than two quotations are provided, the Calculation Agent will select, after consultation with us, three major banks in New York City. On the Interest Determination Date, those three banks will be requested to provide their offered quotations for loans in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to leading European banks at approximately 11:00 A.M., New York time. The Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.

- If fewer than three New York City banks selected by the Calculation Agent are quoting rates, LIBOR for that interest period will remain LIBOR then in effect on the Interest Determination Date.

Determination of EURIBOR. EURIBOR means, for any Interest Determination Date, the rate for deposits in euro as sponsored, calculated, and published jointly by the European Banking Federation and ACI—The Financial Market Association, or any company established by the joint sponsors for purposes of compiling and publishing those rates, having the Index Maturity specified in the Pricing Supplement, as that rate appears on the display on Reuters, or any successor service, on page EURIBOR01 or any other page as may replace such page ("**Reuters Page EURIBOR01**"), as of 11:00 A.M., Brussels time.

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

- If no offered rate appears on Reuters Page EURIBOR01 on an Interest Determination Date at approximately 11:00 A.M., Brussels time, then the Calculation Agent, after consultation with us, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in euro having the Index Maturity specified in the Pricing Supplement are offered to prime banks in the Euro-zone interbank market, and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that

time. If at least two quotations are provided, EURIBOR will be the arithmetic average of those quotations.

- If fewer than two quotations are provided, then the Calculation Agent, after consultation with us, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate offered by them, at approximately 11:00 A.M., Brussels time, on the Interest Determination Date, for loans in euro to prime banks in the Euro-zone interbank market for a period of time equivalent to the Index Maturity specified in the Pricing Supplement commencing on that Interest Reset Date and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least three quotations are provided, EURIBOR will be the arithmetic average of those quotations.

- If three quotations are not provided, EURIBOR for that Interest Determination Date will be equal to EURIBOR for the immediately preceding interest period.

"**Euro-zone**" means the region comprising Member States of the European Union that have adopted the euro as their single currency in accordance with the Treaty establishing European Community, as amended.

Determination of Treasury Rate. The "treasury rate" for any Interest Determination Date is the rate set at the auction of direct obligations of the United States (**Treasury bills**") having the Index Maturity described in the Pricing Supplement, as specified under the caption "Investment Rate" on the display on Reuters, or any successor service, on page USAUCTION 10/11 or any other page as may replace such page.

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

- If the rate is not displayed on Reuters by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate of Treasury bills as published in H.15 Daily Update, or another recognized electronic source for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Auction High."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the bond equivalent yield, as defined below, of the auction rate of the applicable Treasury bills as announced by the U.S. Department of the Treasury.

- If the alternative rate described in the paragraph immediately above is not announced by the U.S. Department of the Treasury, or if the auction is not held, the treasury rate will be the bond equivalent yield of the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15(519) under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15 Daily Update, or another recognized electronic

source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date calculated by the Calculation Agent as the bond equivalent yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 P.M., New York City time, on that Interest Determination Date, of three primary U.S. government securities dealers, selected by the Calculation Agent, after consultation with us, for the issue of Treasury bills with a remaining maturity closest to the particular Index Maturity.

- If the dealers selected by the Calculation Agent are not quoting as described in the paragraph immediately above, the treasury rate will be the treasury rate in effect on the particular Interest Determination Date.

The bond equivalent will be calculated using the following formula:

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

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

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

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

Determination of Federal Funds Rate. The "federal funds rate" for any Interest Determination Date will be as follows:

- if "**Federal Funds (Effective) Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds, as published in H.15(519) under the heading "Federal Funds (Effective)" and displayed on Reuters, or any successor service, on page FEDFUNDS1 or any other page as may replace the specified page on that service ("**Reuters Page FEDFUNDS1**"), or if such rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date or does not appear on Reuters Page FEDFUNDS1, the federal funds rate will be the rate on that Interest Determination Date, as published in H.15 Daily Update, or any other recognized electronic source for the purposes of displaying the applicable rate, under the caption "Federal Funds (Effective)." If the alternate rate described in the preceding sentence is not published in H.15 Daily Update, or other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S.

dollar federal funds, quoted prior to 9:00 A.M., New York City time, on the business day following that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if "**Federal Funds Open Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds transactions among member of the U.S. Federal Reserve System arranged by federal funds brokers on such day, under the heading "Federal Funds" for the applicable Index Maturity and opposite the caption "Open" and displayed on Reuters, or any successor service, on page 5 or any other page as may replace the specified page on that service ("**Reuters Page 5**"), or if such rate does not appear on Reuters Page 5 by 3:00 P.M., New York City time, on the related calculation date, the federal funds rate will be the rate on that Interest Determination Date displayed on FFPREBON Index page on Bloomberg L.P. ("**Bloomberg**"), which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg. If the alternate rate described in the preceding sentence is not displayed on FFPREBON Index page on Bloomberg, or any other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if "**Federal Funds Target Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds displayed on the FDTR Index page on Bloomberg. If such rate does not appear on the FDTR Index page on Bloomberg by 3:00 P.M., New York City time, on the calculation date, the federal funds rate for such Interest Determination Date will be the rate for that day appearing on Reuters, or any successor service, on page USFFTARGET= or any other page as may replace the specified page on that service ("**Reuters Page USFFTARGET=**"). If such rate does not appear on the FDTR Index page on Bloomberg or is not displayed on Reuters Page USFFTARGET= by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal

funds rate will be the federal funds rate then in effect on that Interest Determination Date.

Determination of Prime Rate. The "prime rate" for any Interest Determination Date is the prime rate or base lending rate on that date, as published in H.15(519) prior to 3:00 P.M., New York City time, on the related calculation date, under the heading "Bank Prime Loan."

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

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

- If the alternative rate described above is not published in H.15 Daily Update or another recognized electronic source by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the prime rate to be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters screen US PRIME 1, as defined below, as that bank's prime rate or base lending rate as in effect as of 11:00 A.M., New York City time, on that Interest Determination Date.

- If fewer than four rates appear on the Reuters screen US PRIME 1 for that Interest Determination Date, by 3:00 P.M., New York City time, then the Calculation Agent will determine the prime rate to be the average of the prime rates or base lending rates furnished in New York City by three substitute banks or trust companies (all organized under the laws of the United States or any of its states and having total equity capital of at least U.S.$500,000,000) selected by the Calculation Agent, after consultation with us.

- If the banks selected by the Calculation Agent are not quoting as described above, the prime rate will remain the prime rate then in effect on the Interest Determination Date.

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

(c) Floating Rate/Fixed Rate Notes. If this Note is designated as a "Floating Rate/Fixed Rate Note" on the face hereof, this Note may bear interest at a fixed rate for a specified period and at a floating rate for a specified period, in each case calculated as set forth in (a) and (b) above, as applicable, and in the Pricing Supplement.

SECTION 3. *Amortizing Notes*. If this Note is designated as an "Amortizing Note" on the face hereof, the Issuer will make payments combining principal and interest on the dates and in the amounts set forth in the table included in the Pricing Supplement. If this Note is an Amortizing Note, payments made hereon will be applied first to interest due and payable on each such payment date and then to the reduction of the Outstanding Face Amount. The term

"Outstanding Face Amount" means, at any time, the amount of unpaid principal hereof at such time.

SECTION 4. *Optional Redemption.* If so specified in the Pricing Supplement, this Note may be redeemed at the option of the Issuer on any date on and after the Initial Redemption Date, if any, specified in the Pricing Supplement (the "Redemption Date"). **IF NO INITIAL REDEMPTION DATE IS SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE REDEEMED AT THE OPTION OF THE ISSUER PRIOR TO THE STATED MATURITY DATE, EXCEPT AS PROVIDED BELOW IN THE EVENT THAT ANY ADDITIONAL AMOUNTS (AS DEFINED BELOW) ARE REQUIRED TO BE PAID BY THE ISSUER WITH RESPECT TO THIS NOTE.** If so specified in the Pricing Supplement, on and after the Initial Redemption Date, if any, this Note may be redeemed at any time in whole or from time to time in part at the option of the Issuer at the applicable Redemption Price (as defined below), together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the Redemption Date, on notice given not more than 60 nor less than 30 calendar days (unless specified otherwise in the Pricing Supplement) prior to the Redemption Date; provided, however, that in the event of redemption of this Note in part only, the unredeemed portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. $250,000 or its equivalent in the Specified Currency. In the event of redemption of this Note in part only, a new Note for the unredeemed portion hereof shall be issued in the name of the registered holder hereof upon the surrender of this Note or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Unless otherwise specified above, if less than all of the Notes with like tenor and terms are to be redeemed, the Notes to be redeemed shall be selected by the applicable Registrar by such method as such Registrar shall deem fair and appropriate. If this Note is redeemable at the option of the Issuer, then if so specified in the Pricing Supplement, the "Redemption Price" initially shall be the Initial Redemption Percentage specified in the Pricing Supplement of the principal amount of this Note to be redeemed and shall decline at each anniversary of the Initial Redemption Date by the Annual Redemption Percentage Reduction, if any, specified in the Pricing Supplement, of the principal amount to be redeemed until the Redemption Price is 100% of such principal amount.

From and after any redemption date, if monies for the redemption of this Note (or portion hereof) shall have been made available for redemption on such redemption date, this Note (or such portion hereof) shall cease to bear interest and the holder's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being redeemed (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed at the option of the Issuer prior to the Stated Maturity Date without the prior written approval of the United States Office of the Comptroller of the Currency (the "OCC") or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 5. *Optional Repayment.* If so specified in the Pricing Supplement, this Note will be repayable prior to the Stated Maturity Date at the option of the registered holder on the Optional Repayment Date(s), if any, specified in the Pricing Supplement. **IF NO OPTIONAL REPAYMENT DATES ARE SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE SO REPAID AT THE OPTION OF THE HOLDER HEREOF PRIOR TO THE STATED MATURITY DATE**. Unless otherwise specified in the Pricing Supplement, on any Optional Repayment Date, this Note shall be repayable in whole or in part at the option of the holder hereof at a repayment price equal to 100% of the principal amount to be repaid, together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the date of repayment; provided, however, that, in the event of repayment of this Note in part only, the unrepaid portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. $250,000 or its equivalent in the Specified Currency. For this Note to be repaid in whole or in part at the option of the holder hereof on any Optional Repayment Date, this Note must be received, with the form attached hereto entitled "Option to Elect Repayment" duly completed, by the applicable Paying Agent (as appropriate in accordance with such attached form), at the address set forth on such form or at such other address which the Issuer shall from time to time notify the holders of the Notes not more than 60 nor less than 30 days prior to such holder's Optional Repayment Date. In the event of repayment of this Note in part only, a new Note for the unrepaid portion hereof shall be issued in the name of the registered holder hereof upon the surrender hereof or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Exercise of such repayment option by the holder hereof shall be irrevocable.

From and after any Optional Repayment Date, if monies for the repayment of this Note (or portion hereof) shall have been made available for repayment on such Optional Repayment Date, this Note (or such portion hereof) shall cease to bear interest and the holder's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being repaid (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be repaid at the option of the holder prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 6. *Additional Amounts.* All payments of principal, premium, if any, and interest with respect to this Note will be made without withholding or deduction at source for, or on account of, any present or future taxes, fees, duties, assessments, or governmental charges of whatever nature imposed or levied by the United States or any political subdivision or taxing authority thereof or therein, except to the extent such withholding or deduction is required by (i) the laws (or any regulations or rulings promulgated thereunder) of the United States or any political subdivision or taxing authority thereof or therein or (ii) an official position regarding the

application, administration, interpretation, or enforcement of any such laws, regulations, or rulings (including, without limitation, a holding by a court of competent jurisdiction or by a taxing authority in the United States or any political subdivision thereof). If so specified in the Pricing Supplement, if a withholding or deduction at source is required, the Bank will, subject to the exceptions and limitations set forth below, pay to the beneficial owner of this Note that is a "non-U.S. person" (as defined below) additional amounts ("**Additional Amounts**") to ensure that every net payment on this Note will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. For this purpose, a "**net payment**" on this Note means a payment by the Issuer or any Paying Agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States (other than a territory or possession). These Additional Amounts will constitute additional interest on this Note. For this purpose, "**U.S. withholding tax**" means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding the Issuer's obligation, if so specified in the Pricing Supplement, to pay Additional Amounts, the Issuer will not be required to pay Additional Amounts in any of the circumstances described in items (1) through (13) below, unless specified otherwise in the Pricing Supplement.

(1) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- having a relationship with the United States as a citizen, resident, or otherwise;
- having had such a relationship in the past; or
- being considered as having had such a relationship.

(2) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- being treated as present in or engaged in a trade or business in the United States;
- being treated as having been present in or engaged in a trade or business in the United States in the past;
- having or having had a permanent establishment in the United States; or
- having or having had a qualified business unit which has the U.S. dollar as its functional currency.

(3) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being or having been a:

- personal holding company;
- foreign personal holding company;

- private foundation or other tax-exempt organization;
- passive foreign investment company;
- controlled foreign corporation; or
- corporation which has accumulated earnings to avoid U.S. federal income tax.

(4) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of the Issuer's stock entitled to vote.

(5) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being a bank extending credit under a loan agreement entered into in the ordinary course of business.

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

(6) Additional Amounts will not be payable to any beneficial owner of this Note that is:

- a fiduciary;
- a partnership;
- a limited liability company;
- another fiscally transparent entity; or
- not the sole beneficial owner of this Note or any portion of this Note.

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

(7) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner of this Note or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay Additional Amounts will apply only if

compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.

(8) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on this Note by the Issuer or any Paying Agent.

(9) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

(10) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner of this Note for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.

(11) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any:

- estate tax;
- inheritance tax;
- gift tax;
- sales tax;
- excise tax;
- transfer tax;
- wealth tax;
- personal property tax; or
- any similar tax, assessment, or other governmental charge.

(12) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any Paying Agent from a payment of principal or interest on the this Note if such payment can be made without such withholding by any other Paying Agent.

(13) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any combination of items (1) through (12) above.

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

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

SECTION 7. *Redemption for Tax Reasons.* If so specified in the Pricing Supplement, the Issuer may redeem this Note in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), after giving not less than 30 nor more than 60 calendar days' notice to the applicable Paying Agent and to the holder of this Note, if the Issuer has or will become obligated to pay Additional Amounts, as described above, as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United States having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of the Pricing Supplement, and the Issuer cannot avoid such obligation by taking reasonable measures available to it. 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 this Note were then due.

Before the Issuer delivers or publishes any notice of redemption for tax reasons, it will deliver to the applicable Paying Agent a certificate signed by the Issuer's chief financial officer or a senior vice president stating that it is entitled to redeem this Note and that the conditions precedent, if any, to redemption have occurred.

Unless otherwise specified in the Pricing Supplement, any Note redeemed for tax reasons will be redeemed at 100% of its principal amount (or, in the case of an Original Issue Discount Note, the amortized face amount hereof determined as of the date of redemption), together with any interest accrued up to, but excluding, the redemption date.

From and after any redemption date, if monies for the redemption of this Note shall have been made available for redemption on such redemption date, this Note shall cease to bear interest and the holder's only right with respect to this Note shall be to receive payment of the principal amount of the Note (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 8. *Modification and Waivers.* The Agency Agreement permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer thereunder. In addition, the terms and conditions of this Note may be modified, amended or supplemented by the Issuer, without the consent of the holder hereof: (i) to evidence succession of another party to the Issuer, and such party's assumption of the Issuer's obligations under this Note, upon the occurrence of a merger or consolidation, or transfer, sale or lease of assets as described below in Section 10; (ii) to add additional covenants, restrictions or conditions for the protection of the registered holder hereof; (iii) to cure ambiguities in this Note, or correct defects or inconsistencies in the provisions hereof; (iv) to reflect the replacement of any Agent, or the assumption, by the Issuer or any substitute Agent, of some or all of any such Agent's responsibilities under the Agency Agreement; (v) to evidence the replacement or change of address of DTC or such other depository or clearing system noted hereon; (vi) in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note, or upon prepayment or redemption of the Note, 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; (vii) in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note, to reflect any change in the Stated Maturity Date of the Note in accordance with the terms hereof; (viii) to reflect the issuance in exchange herefor, in accordance with the terms hereof, of one or more definitive and fully registered Notes; or (ix) to permit further issuances of bank notes in accordance with the terms of the distribution agreement among the Issuer and the selling agents party thereto. However, this Note may not be modified or amended without the express written consent of the holder and, if applicable, the OCC or other then primary federal regulator (to the extent such consent is required under applicable law or regulation), to: (i) change the Stated Maturity Date, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note; (ii) extend the time of payment for the premium, if any, or interest on this Note, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note; (iii) change the coin or currency in which the principal of, premium (if any), interest, or other amounts payable (if any) on this Note is payable; (iv) reduce the principal amount of this Note or the interest rate hereon, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed or upon prepayment or redemption as provided in this Note; (v) change the method of payment for this Note to other than wire transfer in immediately available funds; (vi) impair the right of the registered holder hereof to institute suit for the enforcement of payments or principal of, premium (if any), interest, or other amounts payable (if any) on this Note; (vii) change the definition of "Event of Default" below or otherwise eliminate or impair any remedy available hereunder upon the occurrence of any Event of Default; or (viii) modify the provisions governing the amendment of this Note. Any instrument given by or on behalf of the holder of this Note in connection with any consent to such modification, amendment or waiver shall be irrevocable once given and shall be conclusive and binding on all

subsequent holders of this Note. Any modifications, amendments or waiver to the Agency Agreement or the provisions of this Note made in accordance with the terms of the Agency Agreement or the terms hereof, as applicable, shall be conclusive and binding on all holders of Notes, whether or not notation of such modifications, amendments or waivers is made upon this Note.

Any action by the holder of this Note shall bind all future holders of this Note, and of any Note issued in exchange or substitution hereof or in place hereof, in respect of anything done or permitted by the Issuer or by the Agents in pursuance of such action.

Notes authenticated and delivered after the execution of any agreement modifying, amending or supplementing this Note may bear a notation in a form approved by the Issuer as to any matter provided for in such modification, amendment or supplement to the Agency Agreement or the Notes. New Notes so modified as to conform, in the opinion of the Issuer, to any provisions contained in any such modification, amendment or supplement may be prepared by the Issuer, authenticated by the applicable Registrar and delivered in exchange for this Note. Notes are deemed to be "outstanding" as of any date of determination if, as of any date of determination, they have been authenticated and delivered, except (i) those which have been redeemed in full in accordance with their terms and the Agency Agreement; (ii) 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 in the Agency Agreement (and, where appropriate, notice has been given to the holder of this Note in accordance with the terms hereof and of the Agency Agreement; (iii) those which have been canceled or delivered to the applicable Registrar for cancellation; or (iv) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes in accordance with their terms.

SECTION 9. *Obligations Unconditional.* No reference herein to the Agency Agreement and no provision of this Note or of the Agency Agreement shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of, premium, if any, and interest, if any, on this Note at the times, place and rate, and in the coin or currency, herein prescribed.

SECTION 10. *Successor to Issuer.* The Issuer may not consolidate or merge with or into any other person, or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless (i) the 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 Issuer 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 this Note, and the performance or observance of every provision of this Note on the part of the Issuer to be performed or observed; and (ii) immediately after giving effect to such transaction, no Event of Default with respect to the Issuer as set forth herein, and no event which, after notice or the lapse

of time or both, would become an Event of Default with respect to the Issuer, shall have happened and be continuing.

SECTION 11. *Authorized Denominations.* This Note, and any Note issued in exchange or substitution herefor or in place hereof, or upon registration of transfer, exchange or partial redemption or repayment of this Note, may be issued only in an Authorized Denomination as specified in the Pricing Supplement, or if no Authorized Denomination is so specified, in minimum denominations of U.S.$250,000 and any integral multiple of U.S.$1,000 in excess of U.S.$250,000 (or equivalent denominations in other currencies, subject to any other statutory or regulatory minimums).

SECTION 12. *Registration of Transfer.* The Issuer shall cause to be kept at the office of the U.S. Registrar at [Deutsche Bank Trust Company Americas, Global Transaction Banking, Trust and Securities Services, 60 Wall Street – 27th Floor, New York, New York 10005], or the office of the European Registrar at [2 Boulevard Konrad-Adenauer, L-1115 Luxembourg], as applicable, a register in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Notes issued in registered form and of transfers of such Notes. As provided in the Agency Agreement and subject to certain limitations as therein set forth, the transfer of this Note is registrable in the note register maintained by the applicable Registrar, upon surrender of this Note for registration of transfer at the office or agency of the applicable Registrar or any transfer agent maintained for that purpose, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the applicable Registrar (or such transfer agent) duly executed by, the holder hereof or its attorney duly authorized in writing, and thereupon one or more new Notes of this series, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

This Note may be exchanged in whole, but not in part, for security-printed definitive Notes, only if that exchange is permitted by applicable law and (i) if this Note is a DTC global note, DTC notifies the Issuer that it is unwilling or unable to continue as depository for the DTC global note or DTC ceases to be a clearing agency registered under the United States Securities Exchange Act of 1934, as amended, if so required by applicable law or regulation, and, in either case, a successor depository is not appointed by the Issuer within 90 days after receiving such notice or becoming aware that DTC is no longer so registered; or (ii) in the case of any other registered global note, if the Issuer is notified that any clearing system through which this Note is cleared and settled has been closed for business for a continuous period of 14 days (other than by reason of holidays, whether statutory, or otherwise) after the original issuance of the relevant bank notes or has announced an intention to cease business permanently or has in fact done so and no alternative clearance system approved by the applicable noteholders is available; or (iii) the Issuer, in its sole discretion, elects to issue definitive registered notes; or (iv) after the occurrence of an Event of Default with respect to this Note, beneficial owners representing a majority in principal amount of the Notes represented by this Note advise the relevant clearing system through its participants to cease acting as a depository for this Note.

In any such instance, an owner of a beneficial interest in this Note will be entitled to physical delivery in definitive form of Notes equal in principal amount to such beneficial interest

and to have such Notes registered in its name. Unless otherwise set forth above, Notes so issued in definitive form will be issued in authorized denominations only and will be issued in registered form only, without coupons.

No service charge shall be made for any such registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Issuer, the Agents, and any agent of the Issuer or any Agent may treat the person in whose name this Note is registered as the owner hereof for all purposes, whether not this Note be overdue, and neither the Issuer, the Agents nor any such agent shall be affected by notice to the contrary, except as required by applicable law.

SECTION 13. *Events of Default.*

(a) Senior Notes. If this Note is a Senior Note, as indicated on the face hereof, the following will be the only "Events of Default" with respect to this Senior Note: (a) a default in the payment of any interest upon this Senior Note when due, which continues for 30 calendar days; (b) a default in the payment of any principal of or premium, if any, upon this Senior Note when due; (c) a default in the performance of any covenant or agreement of the Issuer contained herein which, unless otherwise specified herein, continues for 90 calendar days; (d) 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, reorganization, 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 the Issuer's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (e) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry of 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 respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default with respect to this Senior Note shall occur and be continuing, the registered holder hereof may: (i) by written notice to the applicable Paying Agent declare the entire outstanding principal amount of this Senior Note, together with any unpaid interest and premium accrued hereon, to be immediately due and payable; (ii) institute a judicial proceeding of the enforcement of the terms hereof including the collection of all sums due and unpaid hereunder, and prosecute such proceeding to judgment or final decree, and enforce the same against the Issuer and collect monies adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer; and (iii) take such other action at law or in equity as may

appear necessary or desirable to collect and enforce this Senior Note; provided, however, that the registered holder hereof may waive any Event of Default that occurs with respect hereto.

(b) Subordinated Notes. If this Note is a Subordinated Note, as indicated on the face hereof, the following will be the only "Events of Default" with respect to this Subordinated Note: (a) 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, reorganization, 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 the Issuer's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (b) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry of 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 respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default with respect to this Subordinated Note shall occur and be continuing, and any prior written consent of the OCC is obtained before acceleration, the registered holder hereof may: (i) by written notice to the applicable Paying Agent declare the entire outstanding principal amount of this Subordinated Note, together with any unpaid interest and premium accrued hereon, to be immediately due and payable; (ii) institute a judicial proceeding of the enforcement of the terms hereof including the collection of all sums due and unpaid hereunder, and prosecute such proceeding to judgment or final decree, and enforce the same against the Issuer and collect monies adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer; and (iii) take such other action at law or in equity as may appear necessary or desirable to collect and enforce this Subordinated Note; provided, however, that the registered holder hereof may waive any Event of Default that occurs with respect hereto.

Payment of principal of, the interest accrued on or other amounts then payable on, this Subordinated Note may not be accelerated in the case of a default in the payment of principal, interest or other amounts then payable or the performance of any other covenant of the Issuer. Payment of the principal on, the interest accrued on or other amounts then payable on, this Subordinated Note may be accelerated only in the case of the bankruptcy or insolvency of the Issuer. Notwithstanding anything herein to the contrary, to the extent then required under applicable capital regulations of the OCC, no payment may be made on this Subordinated Note after an acceleration resulting from an Event of Default with respect to this Subordinated Note without the prior approval of the OCC.

SECTION 14. *Subordination.* If this Note is a Subordinated Note, as indicated on the face hereof, the indebtedness of the Issuer evidenced by this Subordinated Note, including the principal, premium (if any), interest, or other amounts payable (if any), shall be subordinate and

junior in right of payment to its obligation to its depositors, its obligations under bankers' acceptances and letters of credit, and its obligations to its other creditors, including its obligations to the United States Federal Reserve Bank, the United States Federal Deposit Insurance Corporation (the "FDIC"), and to any rights acquired by the FDIC as a result of loans made by the FDIC to the Issuer or the purchase or guarantee of any of the Issuer's assets by the FDIC pursuant to the provisions of 12 U.S.C. Sections 1823(c), (d) or (e), whether now outstanding or hereafter incurred. In the event of any insolvency, receivership, conservatorship, reorganization, readjustment of debt, marshaling of assets and liabilities or similar proceedings or any liquidation or winding up of or relating to the Issuer, whether voluntary or involuntary, all such obligations shall be entitled to be paid in full before any payment shall be made on account of the principal of, or premium (if any), interest, or other amounts payable (if any) on, this Subordinated Note. In the event of any such proceedings, after payment in full of all sums owing such prior obligations, the holder of this Subordinated Note, together with any obligations of the Issuer ranking on a parity with this Subordinated Note, shall be entitled to be paid from the remaining assets of the Issuer the unpaid principal hereof and any unpaid premium (if any), interest, and other amounts payable (if any) before any payment or other distribution, whether in cash, property, or otherwise, shall be made on account of any capital stock or any obligations of the Issuer ranking junior to this Subordinated Note.

Notwithstanding any other provisions of this Subordinated Note, including specifically those set forth in the sections relating to subordination, events of default and covenants of the Issuer, it is expressly understood and agreed that the OCC or any receiver or conservator of the Issuer appointed by the OCC as to its assets shall have the right in the performance of its legal duties, and as part of liquidation designed to protect or further the continued existence of the Issuer or the rights of any parties or agencies with an interest in, or claim against, the Issuer or its assets, to transfer or direct the transfer of the obligations of this Subordinated Note to any bank or bank holding company selected by such official which shall expressly assume the obligation of the due and punctual payment of the unpaid principal, and interest and premium, if any (and any other amounts payable), on this Subordinated Note and the due and punctual performance of all covenants and conditions; and the completion of such transfer and assumption shall serve to supersede and void any default, acceleration or subordination which may have occurred, or which may occur due to or related to such transaction, plan, transfer or assumption, pursuant to the provisions of this Subordinated Note, and shall serve to return the holder of this Subordinated Note to the same position, other than for substitution of the obligor, it would have occupied had no default, acceleration or subordination occurred; except that any interest, principal, or other amounts previously due, other than by reason of acceleration, and not paid, in the absence of a contrary agreement by the holder of this Subordinated Note, shall be deemed to be immediately due and payable as of the date of such transfer and assumption, together with the interest from its original due date at the rate provided for herein.

SECTION 15. *Specified Currency*. Unless otherwise provided herein or in the Pricing Supplement, the principal of, and premium, if any, and interest on, this Note are payable in the Specified Currency indicated on the face hereof (or, if such Specified Currency is not at the time of such payment legal tender for the payment of public and private debts, in (x) such other coin or currency of the country that issued such Specified Currency or (y) (if such Specified Currency

is the euro) the successor currency under applicable law, in each case as at the time of such payment is legal tender for the payment of debts.

In the event the Specified Currency indicated on the face hereof has been replaced by another currency (a "Replacement Currency"), any amount due pursuant to this Note may be repaid, at the option of the Issuer, in the Replacement Currency or in U.S. dollars, at a rate of exchange which takes into account the conversion, at the rate prevailing on the most recent date on which official conversion rates were quoted or set by the national government or other authority responsible for issuing the Replacement Currency, from the Specified Currency to the Replacement Currency and, if necessary, the conversion of the Replacement Currency into U.S. dollars at the rate prevailing on the date of such conversion. Notwithstanding the foregoing, if this Note originally was issued in a domestic currency of a state that is or subsequently becomes a Member State of the European Union, then this Note may be redenominated in euro, if subsequent to the issuance of this Note, such state participates in the European monetary union, as indicated in the Pricing Supplement. This Note may be redenominated as a matter of law whether or not the Pricing Supplement provides for redenomination.

If the Specified Currency indicated on the face hereof is other than U.S. dollars, if the Issuer determines that a payment hereon cannot be made in the Specified Currency due to restrictions imposed by the government of such currency or any agency or instrumentality thereof or any monetary authority in such country, such payment will be made outside the United States in U.S. dollars by a check drawn on or by credit or transfer to an account maintained by the holder hereof with a bank located outside the United States. The London Paying Agent, on receipt of the Issuer's written instructions and at the Issuer's expense, will give prompt notice to the beneficial holders of this Note if such determination is made. The amount of U.S. dollars to be paid in connection with any payment shall be the amount of U.S. dollars that could be purchased by the London Paying Agent with the amount of the Specified Currency payable on the date the payment is due, at the rate for sale in financial transactions of U.S. dollars (for delivery in the principal financial center of the Specified Currency two business days later) quoted by that bank at 10:00 A.M., local time in the Principal Financial Center of the Specified Currency on the second Business Day prior to the date the payment is due.

Any payment made under such circumstances in U.S. dollars, where the payment is required to be made in the Specified Currency, will not constitute an "Event of Default" with respect to this Note.

SECTION 16. *Original Issue Discount Note*. If this Note is identified as an Original Issue Discount Note in the Pricing Supplement, then unless otherwise specified therein, the amount payable to the holder of this Note in the event of redemption, repayment or acceleration of Maturity will be the Amortized Face Amount of this Note (as defined below) as of the date of such event. The "Amortized Face Amount" shall be the amount equal to (A) the Issue Price (as set forth in the Pricing Supplement) plus (B) the original issue discount amortized from the Original Issue Date to the date as of which the Amortized Face Amount is calculated, as specified in the Pricing Supplement.

SECTION 17. *Dual Currency Note*. If this Note is identified as a Dual Currency Note in the Pricing Supplement, the Issuer has the option of making each scheduled payment of principal

and interest, if any, due on this Note either in the Specified Currency designated on the face hereof or in the optional payment currency specified in the Pricing Supplement. If the Issuer elects to make a payment in the optional payment currency, the amount payable in such optional payment currency shall be determined using the exchange rate specified in the Pricing Supplement, on the terms specified in the Pricing Supplement.

SECTION 18. *Mutilated, Defaced, Destroyed, Lost or Stolen Notes.* In case this Note shall at any time become mutilated, defaced, destroyed, lost or stolen, and this Note or evidence of the loss, theft or destruction hereof satisfactory to the Issuer and the applicable Registrar and such other documents or proof as may be required by the Issuer and the applicable Registrar shall be delivered to the applicable Registrar, the applicable Registrar shall issue a new Note of like tenor and principal amount, having a serial number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Note or in lieu of the Note destroyed, lost or stolen but, in the case of any destroyed, lost or stolen Note, only upon receipt of evidence satisfactory to the Issuer and the applicable Registrar that this Note was destroyed, stolen or lost, and, if required, upon receipt of indemnity satisfactory to the Issuer and the applicable Registrar. Upon the issuance of any substituted Note, the Issuer may require the payment of a sum sufficient to cover all expenses and reasonable charges connected with the preparation and delivery of a new Note. If any Note which has matured or has been redeemed or repaid or is about to mature or to be redeemed or repaid shall become mutilated, defaced, destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Note, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Note) upon compliance by the holder with the provisions of this paragraph.

SECTION 19. *Miscellaneous*. No recourse shall be had for the payment of principal of (and premium, if any) or interest on, this Note for any claim based hereon, or otherwise in respect hereof, against any shareholder, employee, agent, officer or director, as such, past, present or future, of the Issuer or of any successor organization, either directly or through the Issuer or any successor organization, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

SECTION 20. *Defined Terms.* All terms used in this Note which are defined in the Agency Agreement and are not otherwise defined in this Note shall have the meanings assigned to them in the Agency Agreement.

Unless specified otherwise in the Pricing Supplement, "Business Day" means, a day that meets all the following requirements:

(a) for all Notes, is any weekday that is not a legal holiday in [New York, New York or] Charlotte, North Carolina, or any other place of payment of the applicable Note, and is not a date on which banking institutions in those cities are authorized or required by law or regulation to be closed;

(b) for any Note where the base rate is LIBOR (as defined in the Note), also is a day on which commercial banks are open for business (including dealings in the Index Currency specified in the Pricing Supplement) in London, England;

(c) for any Note denominated in euro or any Note where the base rate is EURIBOR (as defined in the Note), also is a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System or any successor is operating; and

(d) for any Note that has a Specified Currency other than U.S. dollars or euro, also is not 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).

Unless specified otherwise in the Pricing Supplement, "Principal Financial Center" means (i) the capital city of the country issuing the Specified Currency, except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the "Principal Financial Center" shall be 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.

SECTION 21. *GOVERNING LAW.* THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, NOTWITHSTANDING ANY OTHERWISE APPLICABLE CONFLICTS OF LAWS PROVISIONS AND ALL APPLICABLE UNITED STATES FEDERAL LAWS AND REGULATIONS.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	—	as tenants in common
TEN ENT	—	as tenants by the entireties
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT — _____ as Custodian for _____
(Cust) (Minor)
Under Uniform Gifts to Minors Act

_____
(State)

Additional abbreviations may also be used though not in the above list.

_____

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____/_____/_____

_____
Please print or type name and address, including zip code of assignee

_____

the within Note of BANK OF AMERICA, N.A. and all rights thereunder and does hereby irrevocably constitute and appoint

_____

_____Attorney

to transfer the said Note on the books of the within-named Issuer, with full power of substitution in the premises

Dated:_____

SIGNATURE GUARANTEED:

_____
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of this Note

Schedule 1

SCHEDULE OF TRANSFERS AND EXCHANGES

The following increases and decreases in the principal amount of this Note have been made:

Date of Transfer, Redemption or Repayment, as Applicable	Increase (Decrease) in Principal Amount of this Note Due to Transfer Among Global Notes or Redemption or Repayment of a Portion of Global Note	Principal Amount of this Note After Transfer, Redemption or Repayment	Notation made by or on behalf of the Issuer

[OPTION TO ELECT REPAYMENT]

The undersigned hereby irrevocably request(s) and instruct(s) the Issuer to repay this Note (or portion hereof specified below) pursuant to its terms at a price equal to the principal amount hereof together with interest to the repayment date, to the undersigned, at

(Please print or typewrite name and address of the undersigned)

For this Note to be repaid, the [U.S. Paying Agent must receive at Global Transaction Banking, Trust and Securities Services, 60 Wall Street – 27th Floor, New York, New York 10005,][London Paying Agent must receive at Deutsche Bank AG, London Branch, Winchester House, 1 Great Winchester Street, London EC2N 2DB, Attention: Trust and Securities Services], or at such other place or places of which the Issuer from time to time shall notify the registered holder of this Note, not more than 60 nor less than 30 calendar days prior to an Optional Repayment Date, if any, shown in the Pricing Supplement, this Note with this "Option to Elect Repayment" form duly completed.

If less than the entire principal amount of this Note is to be repaid, (a) specify the portion hereof which the registered holder elects to have repaid and (b) specify the portion hereof (which shall be a minimum amount equal to the minimum Authorized Denomination) which is not being repaid (in the absence of any such specification to the contrary, one such Note will be issued for the portion not being repaid).

Date: _____

NOTICE: The signature on this Option to Elect Repayment must correspond with the name as written upon the face of this Note in every particular, without alteration or enlargement or any change whatever.

Principal amount to be repaid, if amount to be repaid is less than the principal amount of this Note (principal amount remaining must be in the minimum authorized denomination or any authorized integral multiple in excess thereof): [U.S.$]_____

[U.S.$]_____

Amount to be Reissued (principal amount remaining must be in the minimum authorized denomination or any authorized integral multiples in excess thereof): [U.S.$]_____

☐ [Option To Use DTC Tender Procedures]
DTC Participant
Number:_____
DTC Participant
Name: _____
DTC Participant Telephone
Number: _____

Fill in registration of Notes if to be issued otherwise than to the registered holder:

Name_____

Address:_____

(Please print name and address including zip code)

SOCIAL SECURITY OR OTHER TAXPAYER ID NUMBER

[EXTENDIBLE NOTE RIDER]

The Issuer and the purchaser of this Note have agreed that this Note is an Extendible Note which initially matures on the Stated Maturity Date shown on the face hereof. Unless otherwise provided in the Pricing Supplement, at each Extension Date, as specified in the Pricing Supplement, the Maturity of this Note automatically will be extended to the corresponding New Maturity Date, as specified in the Pricing Supplement, until the Final Maturity Date specified in the Pricing Supplement, unless the registered holder of this Note elects to terminate the automatic extension of the Maturity of this Note or any portion hereof and delivers a completed "Extension Termination Notice" to the applicable Paying Agent (or any duly appointed paying agent) not less than 15 nor more than 30 calendar days prior to the applicable Extension Date. The "Extension Termination Notice" may specify that the automatic extension of Maturity of this Note is terminated with respect to all or a portion of the outstanding principal amount of the Note so long as the principal amount of the Note remaining outstanding after repayment is in at least an Authorized Denomination as specified in the Pricing Supplement, or if no Authorized Denomination is so specified, U.S. $250,000 or its equivalent in the applicable Specified Currency, unless otherwise specified in the Pricing Supplement. Upon timely delivery of such Extension Termination Notice, the term of the principal amount of this Note subject to such notice will be deemed automatically to mature on the Stated Maturity Date or the then applicable New Maturity Date, as the case may be. The remaining principal balance of such Note, if any, will be deemed to automatically be extended to the corresponding New Maturity Date but in no circumstances may such Maturity be extended beyond the Final Maturity Date set forth below. An election to terminate the automatic extension of the Maturity hereof shall be irrevocable and binding on each holder hereof. Notwithstanding any such extension, the interest rate applicable to this Note will continue to be calculated as set forth in this Note.

STATED MATURITY DATE:_____

FINAL MATURITY DATE:_____

Renewal Date(s)	New Maturity Date(s)

[EXTENSION OF MATURITY NOTE RIDER]

The Issuer and the purchaser of this Note have agreed that this Note is an Extension of Maturity Note, whereby the Issuer has the option to extend the maturity of this Note for one or more whole year periods, as specified in the Pricing Supplement (each, an "Extension Period"), up to but not beyond the Final Maturity Date specified in the Pricing Supplement, under the terms of this Note as supplemented by this Extension of Maturity Note Rider.

Unless otherwise specified in the Pricing Supplement, the following provisions will apply to an Extension of Maturity Note: The Issuer may exercise its option with respect hereto by delivery to the applicable Paying Agent a notice of such exercise at least 45, but not more than 60, calendar days prior to the Stated Maturity Date originally in effect with respect hereto or, if the Stated Maturity Date has already been extended, prior to the maturity date then in effect (each, an "Extended Maturity Date"). After such receipt and not later than 40 calendar days prior to the Stated Maturity Date or an Extended Maturity Date, as the case may be (each, an "Existing Maturity Date"), the applicable Paying Agent (or any duly appointed paying agent) will mail by first class mail, postage prepaid, to the registered holder hereof a notice (the "Extension Notice") relating to such extension period (the "Extension Period") setting forth (i) the election of the Issuer to extend the Maturity hereof, (ii) the new Extended Maturity Date, (iii) the interest rate applicable to the Extension Period (which interest rate may be higher during the Extension Period), and (iv) the provisions, if any, for redemption during the Extension Period, including the date or dates on which, the period or periods during which and the price or prices at which such redemption may occur during the Extension Period. Upon the mailing by the applicable Paying Agent (or any duly appointed paying agent) of an Extension Notice to the registered holder hereof, the maturity shall be extended automatically as set forth in the Extension Notice, and, except as modified by the Extension Notice and as described in the next paragraph, this Note will have the same terms as prior to the mailing of such Extension Notice.

Notwithstanding the foregoing, not later than 20 calendar days prior to the Existing Maturity Date hereof (or, if such date is not a Business Day, on the immediately succeeding Business Day), the Issuer, at its option, may revoke the interest rate provided for in the Extension Notice and establish a higher interest rate for the Extension Period by mailing or causing the applicable Paying Agent to mail notice of such higher interest rate, by first class mail, postage prepaid, to the registered holder hereof. Such notice shall be irrevocable. Thereafter, this Note will bear such higher interest rate for the Extension Period.

If the Issuer elects to extend the maturity hereof, the registered holder hereof will have the option to elect repayment hereof in whole or in part by the Issuer on the Existing Maturity Date then in effect at a price equal to the principal amount hereof plus any accrued and unpaid interest to such date. In order for this Note to be so repaid on the Existing Maturity Date, the Issuer must receive, at least 15 days but not more than 30 calendar days prior to the Existing Maturity Date then in effect with respect hereto: (i) this Note with the form "Option to Elect Repayment" below duly completed, or (ii) a telegram, telex, facsimile transmission, or a letter from a member of a national securities exchange, or the National Association of Securities Dealers, Inc., or a commercial bank or trust company in the United States, setting forth the name of the registered holder hereof, the principal amount hereof to be repaid, the certificate number,

or a description of the tenor and terms hereof, a statement that the option to elect repayment is being exercised thereby, and a guarantee that this Note, together with the duly completed form entitled "Option to Elect Repayment" attached hereto, will be received by the applicable Paying Agent not later than the fifth Business Day after the date of such telegram, telex, facsimile transmission, or letter; provided, however, that such telegram, telex, facsimile transmission, or letter shall only be effective if this Note and duly completed form are received by the applicable Paying Agent by such fifth Business Day. Such option may be exercised by the registered holder hereof for less than the aggregate principal amount hereof then outstanding, provided that the principal amount hereof remaining outstanding after repayment is at least an Authorized Denomination as specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, U.S. $250,000 or its equivalent in the applicable Specified Currency, unless otherwise specified in the Pricing Supplement.

Exhibit A-2 to
Global Agency Agreement

[FORM OF MASTER SHORT-TERM REGISTERED NOTE]

BANK OF AMERICA, N.A.

MASTER SHORT-TERM REGISTERED BANK NOTE

This Master Note is a global note within the meaning of the Global Agency Agreement dated as of July 25, 2007 (the "Agency Agreement") among Bank of America, N.A., as Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar and U.S. Paying Agent, 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 and is registered in the name of the Depository (as defined below) or a nominee of the Depository. This Master Note is not exchangeable for definitive or other Notes registered in the name of a person other than the Depository or its nominee, except in the limited circumstances described in the Agency Agreement and as provided below, and no transfer of this Master Note (other than a transfer as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor depository or a nominee of such successor depository) may be registered except in the limited circumstances described in the Agency Agreement.

Unless this Master Note is presented by an authorized representative of The Depository Trust Company (the "Depository") (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer, exchange or payment, and this Master Note is registered in the name of CEDE & CO., or such other name as requested by an authorized representative of The Depository Trust Company, and unless any payment is made to CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, since the registered owner hereof, CEDE & CO., has an interest herein.

NEITHER THIS MASTER NOTE NOR THE SECURITIES REPRESENTED HEREBY ARE SAVINGS ACCOUNTS OR DEPOSITS, AND THIS MASTER NOTE AND THE SECURITIES REPRESENTED HEREBY ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

IF THE SECURITIES REPRESENTED BY THIS MASTER NOTE ARE SENIOR NOTES, AS INDICATED IN THE UNDERLYING RECORDS (DEFINED HEREIN), SUCH SECURITIES ARE DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATIONS OF BANK OF AMERICA, N.A. SUCH OBLIGATIONS EVIDENCED BY THIS MASTER NOTE RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT

LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.

IF THE SECURITIES REPRESENTED BY THIS MASTER NOTE ARE SUBORDINATED NOTES, AS INDICATED IN THE UNDERLYING RECORDS, SUCH SECURITIES ARE DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATIONS OF BANK OF AMERICA, N.A., ARE SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND DEPOSITORS, AND ARE NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.

THE SECURITIES REPRESENTED BY THIS MASTER NOTE ARE NOT OBLIGATIONS OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

THE SECURITIES REPRESENTED BY THIS MASTER NOTE ARE SOLD IN MINIMUM DENOMINATIONS AS SPECIFIED IN THE UNDERLYING RECORDS AND NEITHER THIS MASTER NOTE NOR THE SECURITIES REPRESENTED HEREBY CAN BE EXCHANGED FOR NOTES IN SMALLER DENOMINATIONS. EACH OWNER OF A BENEFICIAL INTEREST IN THE SECURITIES REPRESENTED BY THIS MASTER NOTE IS REQUIRED TO HOLD A BENEFICIAL INTEREST OF A PRINCIPAL AMOUNT OF THE SECURITIES REPRESENTED BY THIS MASTER NOTE EQUAL TO THE MINIMUM AUTHORIZED DENOMINATION AT ALL TIMES.

THE SECURITIES REPRESENTED BY THIS MASTER NOTE ARE OFFERED AND SOLD ONLY TO ACCREDITED INVESTORS AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND EACH PURCHASER OF A BENEFICIAL INTEREST IN THE SECURITIES REPRESENTED BY THIS MASTER NOTE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED TO BANK OF AMERICA, N.A. THAT IT IS AN ACCREDITED INVESTOR AND THAT IT IS PURCHASING SUCH INTEREST FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER ACCREDITED INVESTOR.

Registered

Date of Issuance: _____

BANK OF AMERICA, N.A.
MASTER SHORT-TERM REGISTERED BANK NOTE

BANK OF AMERICA, N.A., a national banking association organized under the laws of the United States (herein called the "Issuer," which term includes any successor corporation), for value received, hereby promises to pay to CEDE & CO., as nominee for The Depository Trust Company, or its registered assigns, (i) the principal amount, together with accrued and unpaid interest thereon, if any, on the maturity date of each obligation (each, a "Note" and collectively, the "Notes") identified on the records of the Issuer (the "Underlying Records") as being evidenced by this Master Note, which Underlying Records are maintained by Deutsche Bank Trust Company Americas (the "U.S. Registrar and Paying Agent"); (ii) interest on the principal amount of each such obligation that is payable in installments, if any, on the due date of each installment, as specified in the Underlying Records; (iii) the principal amount of each such obligation that is payable in installments, if any, on the due date of each installment, as specified in the Underlying Records, and (iv) any other payments required to be paid under each such obligation, as specified in the Underlying Records. Interest shall be calculated at the rate and according to the calculation convention specified in the Underlying Records. Payments shall be made by wire transfer to the registered holder of this Master Note from the U.S. Registrar and Paying Agent without necessity of presentation and surrender of this Master Note.

Reference is made to the further provisions of this Master Note set forth on the reverse hereof and in the Underlying Records, which shall have the same effect as though fully set forth at this place. In the event of any conflict between the provisions contained herein or on the reverse hereof and the provisions contained in the Underlying Records, the latter shall control. References herein to "this Note," "hereof," "herein" and comparable terms shall mean this Master Note.

The Underlying Records shall be deemed to include, without limitation, (a) the terms and conditions of the securities represented by this Master Note, as set forth in the Issuer's Offering Circular dated July 25, 2007, as it may be amended or supplemented from time to time, and (b) each pricing supplement that sets forth the terms and conditions of the specific securities represented by this Master Note.

At the request of the registered holder of this Master Note, the Issuer shall promptly issue and deliver one or more separate note certificates evidencing one or more of the obligations evidenced by this Master Note. As of the date that such note certificate or certificates are issued, the obligations which are evidenced thereby shall no longer be evidenced by this Master Note.

Unless the certificate of authentication hereon has been executed by the applicable Registrar, by manual signature of an authorized signatory, this Master Note shall not be entitled to any benefit under the Agency Agreement or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, Bank of America, N.A. has caused this instrument to be duly executed on its behalf, by manual or facsimile signature.

Dated: _____

BANK OF AMERICA, N.A.

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Agency Agreement.

Dated: _____

DEUTSCHE BANK TRUST COMPANY AMERICAS
as U.S. Registrar

By Deutsche Bank National Trust Company

By: _____
Authorized Signatory

By: _____
Authorized Signatory

[Reverse of Note]

BANK OF AMERICA, N.A.

MASTER SHORT-TERM REGISTERED BANK NOTE

This Master Note represents one or more duly authorized issues of senior and/or subordinated Notes of the Issuer, as indicated in the Underlying Records, to be issued in one or more series under the Global Agency Agreement dated as of July 25, 2007 (the "Agency Agreement") among Bank of America, N.A., as Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar (the "U.S. Registrar") and U.S. Paying Agent (the "U.S. Paying Agent"), 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, a "Paying Agent") and London Issuing Agent (the "London Issuing Agent"), and 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," and together with the Registrars, the Paying Agents and the London Issuing Agent, the "Agents" and each, an "Agent"), to which Agency Agreement reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Agents thereunder and the holders of this Master Note. The terms U.S. Registrar, U.S. Paying Agent, London Paying Agent, London Issuing Agent, European Registrar and European Transfer Agent shall include any additional or successor agents appointed in such capacities by the Issuer.

This Master Note is issued pursuant to an Offering Circular dated July 25, 2007 for the offer and sale of up to $75,000,000,000 aggregate principal amount of senior and subordinated bank notes at any one time outstanding with maturities of 7 days or more from their respective dates of issue. The Notes represented by this Master Note may bear different dates, mature at different times, bear interest at different rates and vary in such other ways as are provided in the Agency Agreement, and the aggregate principal amount of bank notes to be offered under the program may be increased from time to time.

The Issuer has initially appointed Deutsche Bank Trust Company Americas to act as paying agent in respect of the Notes represented by this Master Note. This Master Note may be presented or surrendered for payment, and notices, designations or requests in respect of payments with respect to this Master Note may be served, at the office or agency of the U.S. Paying Agent.

The Issuer will pay any administrative costs imposed by any bank in making payments in immediately available funds, but any tax, assessment or governmental charge imposed upon payments hereunder, including, without limitation, any withholding tax, will be borne by the holder hereof.

Any interest payable, and punctually paid or duly provided for, on any Interest Payment Date with respect to any of the Notes represented by this Master Note will be paid to the person in whose name this Master Note (or one or more predecessor notes evidencing all or a portion of

the same obligations as this Note) is registered at the close of business on the date that is one business day prior to such Interest Payment Date (the "Regular Record Date"); provided, however, that interest payable at Maturity (the "Maturity Date") with respect to any of the Notes represented by this Master Note will be payable to the person to whom the principal hereof shall be payable. The principal so payable, and punctually paid or duly provided for, at Maturity of any Notes represented by this Master Note will be paid to the person in whose name this Master Note (or one or more predecessor Notes evidencing all or a portion of the same obligations as this Master Note) is registered at the close of business on the Maturity Date. Any such interest or principal not punctually paid or duly provided for shall be payable as provided in the Agency Agreement. "Maturity," when used herein, means the date on which the principal of any notes represented by this Master Note or an installment of principal becomes due and payable in full in accordance with the terms of such Notes and of the Agency Agreement, whether at the Stated Maturity Date or by declaration of acceleration, call for redemption, prepayment at the holder's option or otherwise.

No reference herein to the Agency Agreement and no provision of this Master Note or of the Agency Agreement shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of, premium, if any, and interest, if any, on the Notes represented by this Master Note at the times, place and rates, and in the coins or currencies, herein prescribed.

The Issuer shall cause to be kept at the office of the U.S. Registrar at c/o Deutsche Bank National Trust Company, Global Transaction Banking, 25 DeForest Avenue, Mail Stop, 01-0105, Summit, New Jersey 07901, a register in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration and transfer of this Master Note and any Notes represented hereby. As provided in the Agency Agreement and subject to certain limitations as therein set forth, the transfer of this Master Note is registrable in the note register maintained by the applicable Registrar, upon surrender of this Master Note for registration of transfer at the office or agency of the applicable Registrar or any transfer agent maintained for that purpose, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the applicable Registrar (or such transfer agent) duly executed by, the holder hereof or its attorney duly authorized in writing, and thereupon one or more new Notes represented by this Master Note will be issued to the designated transferee or transferees.

This Master Note may be exchanged in whole or in part (except in the case of (i) below, in which case this Master Note shall be exchanged in whole, but not in part), for security-printed definitive Notes of the Series represented by this Master Note, only if that exchange is permitted by applicable law and (i) DTC notifies the Issuer that it is unwilling or unable to continue as depository for this Master Note or DTC ceases to be a clearing agency registered under the United States Securities Exchange Act of 1934, as amended, if so required by applicable law or regulation, and, in either case, a successor depository is not appointed by the Issuer within 90 days after receiving such notice or becoming aware that DTC is no longer so registered; or (ii) the Issuer, in its sole discretion, elects to issue definitive registered Notes of the Series represented by this Master Note; or (iii) after the occurrence of an Event of Default with respect to a series of Notes represented by this Master Note, beneficial owners representing a majority in

principal amount of such series of Notes advise the relevant clearing system through its participants to cease acting as a depository for such Notes.

In any such instance, an owner of a beneficial interest in this Master Note will be entitled to physical delivery in definitive form of Notes equal in principal amount to such beneficial interest and to have such Notes registered in its name. Unless otherwise set forth above, Notes so issued in definitive form will be issued in authorized denominations only and will be issued in registered form only, without coupons.

The U.S. Registrar shall make an appropriate written or electronic notification in the Underlying Records to reflect the issuance of any Notes represented by this Master Note in definitive form.

No service charge shall be made for any such registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Master Note for registration of transfer, the Issuer, the Agents, and any agent of the Issuer or any Agent may treat the person in whose name this Master Note is registered as the owner hereof for all purposes, whether not any payment under this Master Note be overdue, and neither the Issuer, the Agents nor any such agent shall be affected by notice to the contrary, except as required by applicable law.

No recourse shall be had for the payment of principal of (and premium, if any) or interest on, the Notes represented by this Master Note for any claim based hereon, or otherwise in respect hereof, against any shareholder, employee, agent, officer or director, as such, past, present or future, of the Issuer or of any successor organization, either directly or through the Issuer or any successor organization, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

All terms used in this Master Note which are defined in the Agency Agreement and are not otherwise defined in this Master Note shall have the meanings assigned to them in the Agency Agreement.

THIS MASTER NOTE AND THE NOTES REPRESENTED HEREBY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, NOTWITHSTANDING ANY OTHERWISE APPLICABLE CONFLICTS OF LAWS PROVISIONS AND ALL APPLICABLE UNITED STATES FEDERAL LAWS AND REGULATIONS.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	—	as tenants in common
TEN ENT	—	as tenants by the entireties
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT — _____ as Custodian for _____
(Cust) (Minor)
Under Uniform Gifts to Minors Act

_____
(State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____/_____/_____

_____
Please print or type name and address, including zip code of assignee

_____

the within Note of BANK OF AMERICA, N.A. and all rights thereunder and does hereby irrevocably constitute and appoint

_____

_____Attorney

to transfer the said Note on the books of the within-named Issuer, with full power of substitution in the premises

Dated:_____

SIGNATURE GUARANTEED: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of this Note.

Exhibit B to

Global Agency Agreement

[FORM OF TEMPORARY BEARER GLOBAL NOTE]

BANK OF AMERICA, N.A.

TEMPORARY GLOBAL BANK 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.][1]

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 HEREIN AND IN THE AGENCY AGREEMENT (AS DEFINED HEREIN).

1 Modify legend, as appropriate, for any bank notes in bearer form offered under exemptions other than Regulation S.

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

IF THIS NOTE IS A SENIOR NOTE, AS INDICATED ON THE FACE HEREOF, THIS NOTE IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS NOTE RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.

IF THIS NOTE IS A SUBORDINATED NOTE, AS INDICATED ON THE FACE HEREOF, THIS NOTE A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.

THIS NOTE IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

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.

THIS NOTE IS SOLD IN MINIMUM DENOMINATIONS AS NOTED HEREIN AND IN THE PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER ATTACHED HERETO AND CANNOT BE EXCHANGED FOR NOTES IN SMALLER DENOMINATIONS. EACH OWNER OF A BENEFICIAL INTEREST IN THIS NOTE IS REQUIRED TO HOLD A BENEFICIAL INTEREST OF A PRINCIPAL AMOUNT OF THIS NOTE EQUAL TO THE MINIMUM AUTHORIZED DENOMINATION AT ALL TIMES.

THIS NOTE IS OFFERED AND SOLD ONLY TO ACCREDITED INVESTORS AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND EACH PURCHASER OF A BENEFICIAL INTEREST IN THIS NOTE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED TO BANK OF AMERICA, N.A. THAT IT IS AN ACCREDITED INVESTOR AND THAT IT IS PURCHASING SUCH INTEREST FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER ACCREDITED INVESTOR.

Common Code: **ISIN No.:**
Principal Amount: [$]____

BANK OF AMERICA, N.A.

[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]
TEMPORARY GLOBAL BANK NOTE

ORIGINAL ISSUE DATE[2]:

SPECIFIED CURRENCY:

- ☐ U.S. Dollars
- ☐ Other (specify):

☐ FIXED RATE NOTE
☐ FLOATING RATE NOTE
☐ INDEXED NOTE [See attached Rider]
☐ FLOATING RATE/FIXED RATE NOTE

☐ SENIOR NOTE
☐ SUBORDINATED NOTE

☐ This Note is an Extendible Note. [See attached Rider]
☐ This Note is an Extension of Maturity Note. [See attached Rider]

☐ This Note is an Amortizing Note.

BANK OF AMERICA, N.A., a national banking association organized under the laws of the United States (herein called the "Issuer," which term includes any successor corporation), for value received, hereby promises to pay to the bearer hereof the principal amount specified above (or if this Note is designated as an Indexed Note above, the Principal Repayment Amount and/or the Supplemental Payment Amount calculated in accordance with the provisions set forth in the Pricing Supplement or Indexed Payment Rider, as applicable, attached hereto (referred to collectively as the "Pricing Supplement")) as adjusted in accordance with Schedules 1 and 2 hereto, on the Stated Maturity Date[3] specified above (except to the extent redeemed or repaid prior to the Stated Maturity Date), and to pay interest thereon (i) in accordance with the provisions set forth on the reverse hereof in Section 2(a), if this Note is designated as a "Fixed Rate Note" above, (ii) in accordance with the provisions set forth on the reverse hereof under the Section 2(b), if this Note is designated as a "Floating Rate Note" above, (iii) in accordance with

2 The form provides that interest, if any, will accrue from the Original Issue Date. In the event a series of Notes is reopened, interest will accrue from the Original Issue Date for all tranches of Notes of that series. However, in the event a series of Notes is reopened, the authentication date for each tranche of Notes will be the date that tranche of Notes is settled, which may be different from the Original Issue Date.

3 This form provides for Notes that will mature only on a specified date. If the Maturity of Notes of a series may be extended at the option of the holder, or if the Issuer may elect the extension of Maturity of the Notes of a series, the form, as used, will be modified by the applicable Rider attached to this Note to provide for additional terms relating to such renewal or extension, as the case may be, including the period or periods for which the Maturity may be extended, changes in the interest rate, if any, and requirements for notice.

the provisions set forth on the reverse hereof in Section 2(c), if this Note is designated as a "Floating Rate/Fixed Rate Note" above, or (iv) in accordance with the provisions set forth in the Pricing Supplement, if this Note is designated as an "Indexed Note" above, in each case as such provisions may be modified or supplemented by the terms and provisions set forth in the Pricing Supplement, and (to the extent that the payment of such interest shall be legally enforceable) to pay interest at the Default Rate per annum specified in the Pricing Supplement on any overdue principal and premium, if any, and on any overdue installment of interest. If no Default Rate is specified in the Pricing Supplement, the Default Rate shall be the fixed or floating Interest Rate or Interest Rates on this Note specified in the Pricing Supplement. "Maturity," when used herein, means the date on which the principal of this Note or an installment of principal becomes due and payable in full in accordance with the terms of this Note and of the Agency Agreement, whether at the Stated Maturity Date or by declaration of acceleration, call for redemption, prepayment at the holder's option or otherwise.

This Global Note is a Temporary Global Note in bearer form without interest coupons and is one of a duly authorized issue of senior or subordinated Notes of the Issuer issued and to be issued in one or more series under the Global Agency Agreement dated as of July 25, 2007 (the "Agency Agreement") among the Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar (the "U.S. Registrar") and U.S. Paying Agent (the "U.S. Paying Agent"), 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, a "Paying Agent") and as London Issuing Agent (the "London Issuing Agent"), and 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," and together with the Registrars, the Paying Agents and the London Issuing Agent, the "Agents" and each, an "Agent"), to which Agency Agreement reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Agents and the holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms U.S. Registrar, U.S. Paying Agent, London Paying Agent, London Issuing Agent, European Registrar and European Transfer Agent shall include any additional or successor agents appointed in such capacities by the Issuer.

The Issuer and any Paying Agent may (except as otherwise required by law) deem and treat the bearer of this Note as the absolute owner hereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft hereof) for all purposes but, in the case of this Global Note, without prejudice to the provisions set out in the next paragraph.

So long as this Global Note is held on behalf of Euroclear or Clearstream, Luxembourg, each person who is shown in the records of Euroclear or of Clearstream, Luxembourg as the holder of a particular nominal amount of Notes represented by this Global Note (any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of Notes standing on 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 Issuer, the London Paying Agent, and any other Agent as the holder of such nominal amount of such Notes for all purposes, except with respect to the payment of principal, premium, if any, interest, or any other amounts payable

on the Notes, the bearer of this Global Note shall be treated by the Issuer, the London Paying Agent and any other Agent as the holder of such Notes in accordance with and subject to the terms of this Global Note (the expressions "noteholder" and "holder of Notes" and related expressions shall be construed accordingly). Notes which are represented by this Global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear or Clearstream, Luxembourg, as the case may be.

On any redemption, repayment or purchase and cancellation of any of the Notes represented by this Global Note, the Issuer shall procure that details of such redemption, repayment 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, repayment or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such redemption, repayment 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, repurchased or purchased and cancelled.

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 London Paying Agent by Euroclear or Clearstream, Luxembourg, a certificate, substantially in the form set out in Exhibit J to the 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 Exhibit K to the 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 the paragraph 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 either (a) a Permanent Global Note which is in or substantially in the form set out in Exhibit C of the Agency Agreement (together with the Pricing Supplement attached to it), 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 described in Section 8 of the Agency Agreement, security printed Definitive Notes and (if applicable) Coupons, Talons and/or Receipts in the form set out in Exhibits D, E, F and G, respectively, of the 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 terms of the Pricing Supplement have been incorporated in such Definitive Notes). 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 selling agent or any distributor, as defined in U.S. Treasury Regulation Sec. 1-163(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, selling agent 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 in exchange for only that portion of this Global Note in respect of which there shall have been presented to the London Issuing Agent by Euroclear or Clearstream, Luxembourg a certificate, substantially in the form set out in Exhibit J to the 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 Exhibit K to the 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 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).

Any such exchanges will be made upon presentation of this Global Note by the bearer hereof at the offices of the London Issuing Agent (or at such other place outside the United States and its possessions as the London Issuing Agent may agree). On an exchange of the whole of this Global Note, this Global Note shall be surrendered to the London Issuing Agent. On an exchange of only part of this Global Note, the Issuer shall procure that 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 presented 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, by the Issuer or its agent endorsing Schedule 2 of the 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, Talons and Receipts in the form set out in Exhibits D, E, F and G, respectively, to the 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 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 Agency Agreement as the Permanent Global Note authenticated and delivered hereunder, except that neither the holder hereof nor the beneficial owners of this Temporary Global Note shall be entitled to receive payment of interest hereon.

Subject to any fiscal or other laws and regulations applicable thereto in the place of payment, payments in a Specified Currency other than euro will be made by transfer to an account in the relevant Specified Currency maintained by the payee with, or by a check in such Specified Currency drawn on, a bank in the principal financial center of the country of such Specified Currency, and payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee; provided, however, that, in either case, a check or a credit or transfer, as applicable, 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 or any of its possessions by any office or agency of the Issuer or any Paying Agent.

If at the time of payment the Specified Currency is not legal tender for the payment of public and private debts, the Issuer will make payments in (a) such other coin or currency of the country that issued such Specified Currency or (b) if the Specified Currency is the euro, the successor currency under applicable law, in each case as at the time of such payment is legal tender for payment of debts. Unless otherwise specified in the Pricing Supplement, and except as described below, generally holders are not entitled to receive payments in U.S. dollars of an amount due in another Specified Currency.

Except as provided below, payments of principal of, and premium, if any, and interest on this Global Note will be made outside the United States and its possessions against presentation or surrender, as the case may be, of this Global Note at the office of the London Paying Agent maintained for that purpose, subject to the requirements for certification provided herein. The London Paying Agent will record on this Global Note each payment made against presentation or surrender of the Note, distinguishing between any payment of principal and premium, if any, and any payment of interest, and such record shall be *prima facie* evidence that the payment has been made.

Payment on this Note will not be made: (i) at any office or agency of the Issuer 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 U.S. dollar payments with respect to this Global Note may be made at the specified office of a paying agent in the United States or its possessions if: (A) the Issuer 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 bank notes in the manner provided above when due in U.S. dollars at such specified offices; (B) 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 (C) such payment is then permitted under U.S. law without involving, in the Issuer's opinion, adverse tax consequences for the Issuer.

The bearer of this Global Note shall be the only person entitled to receive payments with respect hereto, and the Issuer shall be discharged by payment to, or to the order of, the bearer of this Global Note with respect to each amount so paid. Each person in the records of Euroclear or Clearstream, Luxembourg as the beneficial owner of a particular nominal amount of this Global Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for its share of each payment so made by the Issuer to, or to the order of, the bearer of this Global Note. No person other than the bearer hereof shall have any claim against the Issuer with respect to payments due hereon.

If the date for payment of any amount with respect to this Note is not a Payment Business Day (as defined below) in the place of presentation, the holder of this Note shall not be entitled to payment of the amount due until the next succeeding Payment Business Day. Except as provided otherwise herein for floating-rate notes, the holder shall not be entitled to further interest or other payment with respect to such delay. For these purposes, unless otherwise specified in the Pricing Supplement, "Payment Business Day" means any Business Day which is also a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchanges and foreign currency deposits) in the relevant place of presentation (and in the case of payment in euro in the place where the euro account specified by the payee is located) or any additional financial center specified in the Pricing Supplement.

Unless specified otherwise in the Pricing Supplement, this Note will not be subject to a sinking fund.

This Note will become void unless presented for payment within a period of two years from 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 London Paying Agent or other applicable 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 noteholder.

Reference is made to the further provisions of this Note set forth on the reverse hereof and in the Pricing Supplement attached hereto, which shall have the same effect as though fully set forth at this place. In the event of any conflict between the provisions contained herein or on the reverse hereof and the provisions contained in the Pricing Supplement attached hereto, the latter shall control. References herein to "this Note," "hereof," "herein" and comparable terms shall include the Pricing Supplement attached hereto.

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 London Issuing Agent acting in accordance with the Agency Agreement.

IN WITNESS WHEREOF, Bank of America, N.A. has caused this Temporary Global Note to be duly executed on its behalf, by manual or facsimile signature.

Dated:_____

BANK OF AMERICA, N.A.

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This Temporary Global Note is one of the Notes referred to in the within-mentioned Agency Agreement and is authenticated by or on behalf of the London Issuing Agent.

Dated:_____

DEUTSCHE BANK AG, LONDON BRANCH
as London Issuing Agent

By: _____
Authorized Signatory

By: _____
Authorized Signatory

[ATTACH PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER, AS APPLICABLE]

[Reverse of Note]

BANK OF AMERICA, N.A.

(TEMPORARY GLOBAL BANK NOTE)

SECTION 1. *General.* This Note is one of the Notes issued pursuant to an Offering Circular dated July 25, 2007 for the offer and sale of up to U.S.$75,000,000,000 aggregate principal amount of senior and subordinated bank notes at any one time outstanding with maturities of 7 days or more from their respective dates of issue. The Notes may bear different dates, mature at different times, bear interest at different rates and vary in such other ways as are provided in the Agency Agreement, and the aggregate principal amount of bank notes to be offered under the program may be increased from time to time.

The Issuer has initially appointed Deutsche Bank AG, London Branch, to act as London Paying Agent in respect of this Note. This Note may be presented or surrendered for payment, and notices, designations or requests in respect of payments with respect to this Note may be served, at the office or agency of the London Paying Agent.

SECTION 2. *Interest Provisions*.

(a) Fixed Rate Notes. If this Note is designated as a "*Fixed Rate Note*" on the face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 and Schedule 2 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified above, except as provided on the face hereof, until payment of such principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from and including the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise specified in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to but excluding the relevant Interest Payment Date or Maturity Date, as the case may be.

Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity less than one year and is payable in U.S. dollars, interest (including payments for partial periods) will be computed and paid on the basis of the actual number of days elapsed divided by 360. Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity of one year or more and is payable in U.S. dollars, interest (including payments for partial periods) will be computed on the basis of a 360-day year of twelve 30-day months. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in a Specified Currency other than U.S. dollars, interest will be computed on the basis of the Actual/Actual (ISMA) Fixed Day Count Convention.

"**Actual/Actual (ISMA) Fixed Day Count Convention**" means:

(a) in the case of fixed-rate notes where the number of days in the relevant period from and including the most recent Interest Payment Date (or, if none, from and including the interest commencement date, which unless specified otherwise in the Pricing Supplement shall be the Original Issue Date) to, but excluding, the relevant payment date (referred to as the "**accrual period**") is equal to or shorter than the determination period (as defined below) during which the accrual period ends, the number of days in the accrual period divided by the product of (1) the number of days in that determination period and (2) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; or

(b) in the case of fixed-rate notes where the accrual period is longer than the determination period during which the accrual period ends, the sum of:

(1) the number of days in that accrual period falling in the determination period in which the accrual period begins divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; and

(2) the number of days in that accrual period falling in the next determination period divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year.

"**Determination period**" means the period from and including a determination date to but excluding the next determination date (including, where either the interest commencement date or the final Interest Payment Date is not a determination date, the period commencing on the first determination date prior to, and ending on the first determination date falling after, such date).

"**Determination date**" means each date specified in the Pricing Supplement or, if none is specified, each Interest Payment Date.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date or the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after such Interest Payment Date or the Maturity Date, as the case may be.

(b) Floating Rate Notes. If this Note is designated as a "*Floating Rate Note*" on face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 and Schedule 2 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified on the face hereof, unless the Original Issue Date occurs between a Regular Record Date (as defined below) and the next Interest Payment

Date, in which case interest shall be payable commencing on the Interest Payment Date following the next Regular Record Date, at a rate per annum determined in accordance with the provisions hereof and the Pricing Supplement, until payment of such principal sum has been made or duly provided for. If this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from and including the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise provided in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to but excluding the relevant Interest Payment Date or Maturity Date, as the case may be (each such period, an "Interest Period").

As set forth in the Pricing Supplement, this Note may have either or both of the following: (i) a maximum numerical interest rate limitation, or ceiling, on the rate at which interest may accrue during any Interest Period ("Maximum Interest Rate"); or (ii) a minimum numerical interest rate limitation, or floor, on the rate at which interest may accrue during any interest period ("Minimum Interest Rate"); provided, however, that the interest rate on this Note will in no event be higher than the maximum rate permitted by applicable law.

The Base Rate (as defined herein) with respect to this Note may be (i) the federal funds rate, (ii) the London interbank offered rate, or "LIBOR," (iii) the Euro-zone interbank offered rate, or "EURIBOR," (iv) the prime rate, (v) the treasury rate or (v) such other rate as is described in the Pricing Supplement.

Except as described below, this Note will bear interest at the rate determined by reference to the appropriate interest rate basis (the "Base Rate") and Index Maturity, each as specified in the Pricing Supplement, (i) plus or minus the Spread, if any, specified in the Pricing Supplement and/or (ii) multiplied by the Spread Multiplier, if any, specified in the Pricing Supplement. The interest rate in effect during an Interest Period will be the rate determined by the Calculation Agent specified in the Pricing Supplement on the "calculation date" by reference to the Interest Determination Date (as described below).

If "ISDA Rate" is specified in the Pricing Supplement, the rate of interest on this Note for each Interest Period will be the relevant ISDA Rate plus or minus the margin, if any, specified in the Pricing Supplement. Unless specified otherwise in the Pricing Supplement, "ISDA Rate" means, with respect to any Interest Period, the rate equal to the Floating Rate that would be determined by the Calculation Agent pursuant to an interest rate swap transaction if the Calculation Agent were acting as Calculation Agent for such swap transaction in accordance with the terms of an agreement in the form of any ISDA Master Agreement published by the International Swaps and Derivatives Association, Inc. (including any Annexes thereto, the "ISDA Agreement") and evidenced by a Confirmation (as defined in the ISDA Agreement) incorporating the 2006 ISDA definitions, as amended, updated, or replaced as at the issue date of the first tranche of bank notes of the relevant series (the "2006 ISDA Definitions") published by the International Swaps and Derivatives Association, Inc. and under which: (i) the Floating Rate Option is as specified in the Pricing Supplement; (ii) the Designated Maturity is the period specified in the Pricing Supplement; and (iii) the relevant Reset Date is either (a) if the

applicable Floating Rate Option is based on LIBOR or EURIBOR for a currency, the first day of such interest period or (b) in any other case, as specified in the Pricing Supplement. Where "ISDA Rate" is specified, interest will be payable on each Interest Payment Date specified in the Pricing Supplement or, if no express Interest Payment Dates are specified, on each date which falls at the end of the number of months or other period specified as the interest period in the Pricing Supplement after the preceding Interest Payment Date (or after the Original Issue Date, in the case of the first such date). As used in this paragraph, "Floating Rate," "Calculation Agent," "Floating Rate Option," "Designated Maturity" and "Reset Date" have the meanings ascribed to those terms in the 2006 ISDA Definitions.

The "calculation date" pertaining to any Interest Determination Date will be the date by which the Calculation Agent specified in the Pricing Supplement computes the amount of interest owed on this Note for the related Interest Period. Unless otherwise specified in the Pricing Supplement, the "calculation date" will be the earlier of (a) the tenth calendar day after the related Interest Determination Date or, if that date is not a Business Day, the next succeeding Business Day; or (b) the Business Day immediately preceding the applicable Interest Payment Date or the Stated Maturity Date or the date of redemption or the date of prepayment, as the case may be.

The interest rate in effect on each day shall be (a) if such day is an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to such Interest Reset Date or (b) if such day is not an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to the immediately preceding Interest Reset Date, provided that (i) the interest rate in effect from the Original Issue Date to the initial Interest Reset Date shall be the Initial Interest Rate specified in the Pricing Supplement, and (ii) the interest rate in effect for the 10 calendar days immediately prior to the Maturity Date shall be the rate in effect on the 10th calendar day preceding such Maturity Date. Unless otherwise specified herein or in the Pricing Supplement, if any Interest Reset Date specified in the Pricing Supplement (including the Initial Interest Reset Date, as specified in the Pricing Supplement) falls on a day that is not a Business Day, the Interest Reset Date will be postponed to the next day that is a Business Day, except that, unless otherwise specified in the Pricing Supplement, in the case of a LIBOR note or a EURIBOR note, if the next Business Day is in the next succeeding calendar month, the Interest Reset Date will be the immediately preceding Business Day. The Interest Reset Dates are subject to adjustment as described below.

Unless otherwise specified in the Pricing Supplement: (i) the "Interest Determination Date" with respect to any Note that has as its Base Rate the federal funds rate or the prime rate will be the Business Day immediately preceding the related Interest Reset Date; (ii) the "Interest Determination Date" with respect to any Note that has LIBOR as its Base Rate will be the second London Banking Day preceding the related Interest Reset Date, unless the Index Currency specified in the Pricing Supplement is Pounds Sterling, in which case the Interest Determination Date will be the Interest Reset Date; (iii) the "Interest Determination Date" with respect to any Note that has as its Base Rate the treasury rate will be the day of the week in which the related Interest Reset Date falls on which Treasury bills of the Index Maturity specified in the Pricing Supplement normally would be auctioned; provided, however, that if an auction is held on the Friday of the week preceding the related Interest Reset Date, the related "Interest Determination Date" shall be such preceding Friday; and provided, further, that if an

auction is held on any Interest Reset Date then the Interest Reset Date shall instead be the first Business Day following such auction.

For a Note whose interest rate is determined by reference to two or more Base Rates, unless otherwise specified in the Pricing Supplement, the "Interest Determination Date" shall be the most recent Business Day that is at least two Business Days prior to the applicable Interest Reset Date for the Note on which each Base Rate is applicable.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date falls on a day that is not a Business Day, the related payment of interest will be made on the next succeeding Business Day. However, unless otherwise specified in the Pricing Supplement, if this Note has as its Base Rate LIBOR or EURIBOR, as described below, if an Interest Payment Date falls on a date that is not a Business Day, and the next Business Day is in the next calendar month, the Interest Payment Date will be the immediately preceding Business Day. In each such case, except for the Interest Payment Date falling on the Maturity Date, the Interest Periods and the Interest Reset Dates will be adjusted accordingly to calculate the amount of interest payable on this Note. Unless otherwise specified in the Pricing Supplement, if the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after the Maturity Date.

Accrued interest on this Note is calculated by multiplying the principal amount of the Note by an accrued interest factor. The accrued interest factor is the sum of the interest factors calculated for each day in the period for which accrued interest is being calculated. Unless otherwise indicated in the Pricing Supplement, the daily interest factor will be computed on the basis of a 360-day year of twelve 30-day months if the Day Count Convention specified in the Pricing Supplement is "30/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 360 if the Day Count Convention specified in the Pricing Supplement is "Actual/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 365, or in the case of an Interest Payment Date falling in a leap year, 366, if the Day Count Convention specified in the Pricing Supplement is "Actual/Actual" for the period specified thereunder. If no Day Count Convention is specified in the Pricing Supplement, the daily interest factor will be computed and interest will be paid (including payments for partial periods) as follows: (i) for Notes that have as a Base Rate the federal funds rate, LIBOR, EURIBOR, the prime rate, or any other rate other than the treasury rate, as if "Actual/360" had been specified in the Pricing Supplement; and (ii) for Notes that have the treasury rate as a Base Rate, as if "Actual/Actual" had been specified in the Pricing Supplement.

All amounts used in or resulting from any calculation on this Note will be rounded to the nearest cent, if the Specified Currency is U.S. dollars, or to the nearest corresponding hundredth of a unit, if the Specified Currency is other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward. Unless otherwise specified in the Pricing Supplement, all percentages resulting from any calculation are rounded to the nearest one hundred-thousandth of a percent, with five one-millionths of a percentage point rounded upward. For example, 9.876545% (or .09876545) will be rounded to 9.87655% (or .0987655).

Notwithstanding the calculations determined as specified below, the interest rate hereon shall not be greater than the Maximum Interest Rate, if any, or less than the Minimum Interest Rate, if any, specified in the Pricing Supplement.

The Calculation Agent shall calculate the interest rate hereon in accordance with the procedures described below on or before each calculation date. At the request of the holder hereof, the Calculation Agent will provide to such holder the interest rate hereon then in effect and, if determined, the interest rate which will become effective as of the next Interest Reset Date.

Determination of LIBOR. LIBOR for any Interest Determination Date will be the arithmetic mean of the offered rates for deposits in the relevant Index Currency having the Index Maturity described in the Pricing Supplement, commencing on the related Interest Reset Date, as the rates appear on the designated LIBOR page in the Pricing Supplement as of 11:00 A.M., London time, on that Interest Determination Date, if at least two offered rates appear on the designated LIBOR page, except that, if the designated LIBOR page only provides for a single rate, that single rate will be used.

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

- The Calculation Agent will select four major banks in the London interbank market, after consultation with us. On the Interest Determination Date, those four banks will be requested to provide their offered quotations for deposits in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to prime banks in the London interbank market at approximately 11:00 A.M., London time.

- If at least two quotations are provided, the Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.

- If fewer than two quotations are provided, the Calculation Agent will select, after consultation with us, three major banks in New York City. On the Interest Determination Date, those three banks will be requested to provide their offered quotations for loans in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to leading European banks at approximately 11:00 A.M., New York time. The Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.

- If fewer than three New York City banks selected by the Calculation Agent are quoting rates, LIBOR for that interest period will remain LIBOR then in effect on the Interest Determination Date.

Determination of EURIBOR. EURIBOR means, for any Interest Determination Date, the rate for deposits in euro as sponsored, calculated, and published jointly by the European Banking Federation and ACI—The Financial Market Association, or any company established by the

joint sponsors for purposes of compiling and publishing those rates, having the Index Maturity specified in the Pricing Supplement, as that rate appears on the display on Reuters, or any successor service, on page EURIBOR01 or any other page as may replace such page ("**Reuters Page EURIBOR01**"), as of 11:00 A.M., Brussels time.

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

- If no offered rate appears on Reuters Page EURIBOR01 on an Interest Determination Date at approximately 11:00 A.M., Brussels time, then the Calculation Agent, after consultation with us, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in euro having the Index Maturity specified in the Pricing Supplement are offered to prime banks in the Euro-zone interbank market, and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least two quotations are provided, EURIBOR will be the arithmetic average of those quotations.

- If fewer than two quotations are provided, then the Calculation Agent, after consultation with us, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate offered by them, at approximately 11:00 A.M., Brussels time, on the Interest Determination Date, for loans in euro to prime banks in the Euro-zone interbank market for a period of time equivalent to the Index Maturity specified in the Pricing Supplement commencing on that Interest Reset Date and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least three quotations are provided, EURIBOR will be the arithmetic average of those quotations.

- If three quotations are not provided, EURIBOR for that Interest Determination Date will be equal to EURIBOR for the immediately preceding interest period.

"**Euro-zone**" means the region comprising Member States of the European Union that have adopted the euro as their single currency in accordance with the Treaty establishing European Community, as amended.

Determination of Treasury Rate. The "treasury rate" for any Interest Determination Date is the rate set at the auction of direct obligations of the United States (**Treasury bills**") having the Index Maturity described in the Pricing Supplement, as specified under the caption "Investment Rate" on the display on Reuters, or any successor service, on page USAUCTION 10/11 or any other page as may replace such page.

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

- If the rate is not displayed on Reuters by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate of Treasury bills as published in H.15 Daily Update, or another recognized electronic source for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Auction High."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the bond equivalent yield, as defined below, of the auction rate of the applicable Treasury bills as announced by the U.S. Department of the Treasury.

- If the alternative rate described in the paragraph immediately above is not announced by the U.S. Department of the Treasury, or if the auction is not held, the treasury rate will be the bond equivalent yield of the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15(519) under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15 Daily Update, or another recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date calculated by the Calculation Agent as the bond equivalent yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 P.M., New York City time, on that Interest Determination Date, of three primary U.S. government securities dealers, selected by the Calculation Agent, after consultation with us, for the issue of Treasury bills with a remaining maturity closest to the particular Index Maturity.

- If the dealers selected by the Calculation Agent are not quoting as described in the paragraph immediately above, the treasury rate will be the treasury rate in effect on the particular Interest Determination Date.

The bond equivalent will be calculated using the following formula:

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

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

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

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

Determination of Federal Funds Rate. The "federal funds rate" for any Interest Determination Date will be as follows:

- if "**Federal Funds (Effective) Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds, as published in H.15(519) under the heading "Federal Funds (Effective)" and displayed on Reuters, or any successor service, on page FEDFUNDS1 or any other page as may replace the specified page on that service ("**Reuters Page FEDFUNDS1**"), or if such rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date or does not appear on Reuters Page FEDFUNDS1, the federal funds rate will be the rate on that Interest Determination Date, as published in H.15 Daily Update, or any other recognized electronic source for the purposes of displaying the applicable rate, under the caption "Federal Funds (Effective)." If the alternate rate described in the preceding sentence is not published in H.15 Daily Update, or other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on the business day following that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if "**Federal Funds Open Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds transactions among member of the U.S. Federal Reserve System arranged by federal funds brokers on such day, under the heading "Federal Funds" for the applicable Index Maturity and opposite the caption "Open" and displayed on Reuters, or any successor service, on page 5 or any other page as may replace the specified page on that service ("**Reuters Page 5**"), or if such rate does not appear on Reuters Page 5 by 3:00 P.M., New York City time, on the related calculation date, the federal funds rate will be the rate on that Interest Determination Date displayed on FFPREBON Index page on Bloomberg L.P. ("**Bloomberg**"), which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg. If the alternate rate described in the preceding sentence is not displayed on FFPREBON Index page on Bloomberg, or any other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if "**Federal Funds Target Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal

funds displayed on the FDTR Index page on Bloomberg. If such rate does not appear on the FDTR Index page on Bloomberg by 3:00 P.M., New York City time, on the calculation date, the federal funds rate for such Interest Determination Date will be the rate for that day appearing on Reuters, or any successor service, on page USFFTARGET= or any other page as may replace the specified page on that service ("**Reuters Page USFFTARGET=**"). If such rate does not appear on the FDTR Index page on Bloomberg or is not displayed on Reuters Page USFFTARGET= by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

Determination of Prime Rate. The "prime rate" for any Interest Determination Date is the prime rate or base lending rate on that date, as published in H.15(519) prior to 3:00 P.M., New York City time, on the related calculation date, under the heading "Bank Prime Loan."

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

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

- If the alternative rate described above is not published in H.15 Daily Update or another recognized electronic source by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the prime rate to be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters screen US PRIME 1, as defined below, as that bank's prime rate or base lending rate as in effect as of 11:00 A.M., New York City time, on that Interest Determination Date.

- If fewer than four rates appear on the Reuters screen US PRIME 1 for that Interest Determination Date, by 3:00 P.M., New York City time, then the Calculation Agent will determine the prime rate to be the average of the prime rates or base lending rates furnished in New York City by three substitute banks or trust companies (all organized under the laws of the United States or any of its states and having total equity capital of at least U.S.$500,000,000) selected by the Calculation Agent, after consultation with us.

- If the banks selected by the Calculation Agent are not quoting as described above, the prime rate will remain the prime rate then in effect on the Interest Determination Date.

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

(c) Floating Rate/Fixed Rate Notes. If this Note is designated as a "Floating Rate/Fixed Rate Note" on the face hereof, this Note may bear interest at a fixed rate for a specified period and at a floating rate for a specified period, in each case calculated as set forth in (a) and (b) above, as applicable, and in the Pricing Supplement.

SECTION 3. *Amortizing Notes*. If this Note is designated as an "Amortizing Note" on the face hereof, the Issuer will make payments combining principal and interest on the dates and in the amounts set forth in the table included in the Pricing Supplement. If this Note is an Amortizing Note, payments made hereon will be applied first to interest due and payable on each such payment date and then to the reduction of the Outstanding Face Amount. The term "Outstanding Face Amount" means, at any time, the amount of unpaid principal hereof at such time.

SECTION 4. *Optional Redemption.* If so specified in the Pricing Supplement, this Note may be redeemed at the option of the Issuer on any date on and after the Initial Redemption Date, if any, specified in the Pricing Supplement (the "Redemption Date"). **IF NO INITIAL REDEMPTION DATE IS SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE REDEEMED AT THE OPTION OF THE ISSUER PRIOR TO THE STATED MATURITY DATE, EXCEPT AS PROVIDED BELOW IN THE EVENT THAT ANY ADDITIONAL AMOUNTS (AS DEFINED BELOW) ARE REQUIRED TO BE PAID BY THE ISSUER WITH RESPECT TO THIS NOTE.** If so specified in the Pricing Supplement, on and after the Initial Redemption Date, if any, this Note may be redeemed at any time in whole or from time to time in part at the option of the Issuer at the applicable Redemption Price (as defined below), together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the Redemption Date, on notice given not more than 60 nor less than 30 calendar days (unless specified otherwise in the Pricing Supplement) prior to the Redemption Date; provided, however, that in the event of redemption of this Note in part only, the unredeemed portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, €50,000 or its equivalent in the Specified Currency. In the event of redemption of this Note in part only, a new Note for the unredeemed portion hereof shall be issued to the bearer hereof upon the surrender of this Note or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Unless otherwise specified above, if less than all of the Notes with like tenor and terms are to be redeemed, the Notes to be redeemed shall be selected by the applicable Registrar by such method as such Registrar shall deem fair and appropriate. If this Note is redeemable at the option of the Issuer, then if so specified in the Pricing Supplement, the "Redemption Price" initially shall be the Initial Redemption Percentage specified in the Pricing Supplement of the principal amount of this Note to be redeemed and shall decline at each anniversary of the Initial Redemption Date by the Annual Redemption Percentage Reduction, if any, specified in the Pricing Supplement, of the principal amount to be redeemed until the Redemption Price is 100% of such principal amount.

From and after any redemption date, if monies for the redemption of this Note (or portion hereof) shall have been made available for redemption on such redemption date, this Note (or such portion hereof) shall cease to bear interest and the holder's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being redeemed (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed at the option of the Issuer prior to the Stated Maturity Date without the prior written approval of the United States Office of the Comptroller of the Currency (the "OCC") or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 5. *Optional Repayment.* If so specified in the Pricing Supplement, this Note will be repayable prior to the Stated Maturity Date at the option of the bearer on the Optional Repayment Date(s), if any, specified in the Pricing Supplement. **IF NO OPTIONAL REPAYMENT DATES ARE SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE SO REPAID AT THE OPTION OF THE BEARER HEREOF PRIOR TO THE STATED MATURITY DATE**. Unless otherwise provided in the Pricing Supplement, on any Optional Repayment Date, this Note shall be repayable in whole or in part at the option of the bearer hereof at a repayment price equal to 100% of the principal amount to be repaid, together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the date of repayment; provided, however, that, in the event of repayment of this Note in part only, the unrepaid portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, €50,000 or its equivalent in the Specified Currency. For this Note to be repaid in whole or in part at the option of the bearer hereof on any Optional Repayment Date, this Note must be presented, with the form attached hereto entitled "Option to Elect Repayment" duly completed, at the offices of the London Paying Agent not more than 60 nor less than 30 days prior to the Optional Repayment Date. Upon such proper presentment, this Note will be repaid on the Optional Repayment Date, subject to the provisions hereof governing payments. In the event of repayment of this Note in part only, a new Note for the unrepaid portion hereof shall be issued to the bearer hereof upon the surrender hereof or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Exercise of such repayment option by the holder bearer shall be irrevocable.

From and after any Optional Repayment Date, if monies for the repayment of this Note (or portion hereof) shall have been made available for repayment on such Optional Repayment Date, this Note (or such portion hereof) shall cease to bear interest and the bearer's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being repaid (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such Optional Repayment Date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be repaid at the option of the holder prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 6. *Additional Amounts.* All payments of principal, premium, if any, and interest with respect to this Note will be made without withholding or deduction at source for, or on account of, any present or future taxes, fees, duties, assessments, or governmental charges of whatever nature imposed or levied by the United States or any political subdivision or taxing authority thereof or therein, except to the extent such withholding or deduction is required by (i) the laws (or any regulations or rulings promulgated thereunder) of the United States or any political subdivision or taxing authority thereof or therein or (ii) an official position regarding the application, administration, interpretation, or enforcement of any such laws, regulations, or rulings (including, without limitation, a holding by a court of competent jurisdiction or by a taxing authority in the United States or any political subdivision thereof). If so specified in the Pricing Supplement, if a withholding or deduction at source is required, the Bank will, subject to the exceptions and limitations set forth below, pay to the beneficial owner of this Note that is a "non-U.S. person" (as defined below) additional amounts ("Additional Amounts") to ensure that every net payment on this Note will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. For this purpose, a "**net payment**" on this Note means a payment by the Issuer or any Paying Agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States (other than a territory or possession). These Additional Amounts will constitute additional interest on this Note. For this purpose, "**U.S. withholding tax**" means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding the Issuer's obligation, if so specified in the Pricing Supplement, to pay Additional Amounts, the Issuer will not be required to pay Additional Amounts in any of the circumstances described in items (1) through (13) below, unless specified otherwise in the Pricing Supplement.

(1) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- having a relationship with the United States as a citizen, resident, or otherwise;
- having had such a relationship in the past; or
- being considered as having had such a relationship.

(2) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- being treated as present in or engaged in a trade or business in the United States;

- being treated as having been present in or engaged in a trade or business in the United States in the past;
- having or having had a permanent establishment in the United States; or
- having or having had a qualified business unit which has the U.S. dollar as its functional currency.

(3) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being or having been a:

- personal holding company;
- foreign personal holding company;
- private foundation or other tax-exempt organization;
- passive foreign investment company;
- controlled foreign corporation; or
- corporation which has accumulated earnings to avoid U.S. federal income tax.

(4) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of the Issuer's stock entitled to vote.

(5) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being a bank extending credit under a loan agreement entered into in the ordinary course of business.

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

(6) Additional Amounts will not be payable to any beneficial owner of this Note that is:

- a fiduciary;
- a partnership;
- a limited liability company;
- another fiscally transparent entity; or

- not the sole beneficial owner of this Note or any portion of this Note.

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

(7) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner of this Note or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay Additional Amounts will apply only if compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.

(8) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on this Note by the Issuer or any Paying Agent.

(9) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

(10) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner of this Note for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.

(11) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any:

- estate tax;
- inheritance tax;
- gift tax;
- sales tax;
- excise tax;

- transfer tax;
- wealth tax;
- personal property tax; or
- any similar tax, assessment, or other governmental charge.

(12) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any Paying Agent from a payment of principal or interest on the this Note if such payment can be made without such withholding by any other Paying Agent.

(13) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any combination of items (1) through (12) above.

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

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

SECTION 7. *Redemption for Tax Reasons.* If so specified in the Pricing Supplement, the Issuer may redeem this Note in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), after giving not less than 30 nor more than 60 calendar days' notice to the applicable Paying Agent and to the holder of this Note, if the Issuer has or will become obligated to pay Additional Amounts, as described above, as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United States having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of the Pricing Supplement, and the Issuer cannot avoid such obligation by taking reasonable measures available to it. 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 this Note were then due.

Before the Issuer delivers or publishes any notice of redemption for tax reasons, it will deliver to the applicable Paying Agent a certificate signed by the Issuer's chief financial officer

or a senior vice president stating that it is entitled to redeem this Note and that the conditions precedent, if any, to redemption have occurred.

Unless otherwise provided in the Pricing Supplement, any Note redeemed for tax reasons will be redeemed at 100% of its principal amount (or, in the case of an Original Issue Discount Note, the amortized face amount hereof determined as of the date of redemption), together with any interest accrued up to, but excluding, the redemption date.

From and after any redemption date, if monies for the redemption of this Note shall have been made available for redemption on such redemption date, this Note shall cease to bear interest and the holder's only right with respect to this Note shall be to receive payment of the principal amount of the Note (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 8. *Special Tax Redemption.* If the Issuer determines that any payment made outside the United States by the Issuer or any Paying Agent in respect of this Note under any present or future laws or regulations of the United States, would be subject to any certification, documentation, information, or other reporting requirement of any kind the effect of which is the disclosure to the Issuer, any Paying Agent, or any governmental authority of the nationality, residence, or identity of a beneficial owner of this Note who is a non-U.S. person (as defined above) (other than a requirement (1) that would not be applicable to a payment by the Issuer or any Paying Agent (x) directly to the beneficial owner, or (y) to a custodian, nominee, or other agent of the beneficial owner, (2) that can be satisfied by such custodian, nominee, or other agent certifying to the effect that the beneficial owner is a non-U.S. person, provided that, in any case referred to in clause (1)(y) or (2), payment by the custodian, nominee, or agent to the beneficial owner is not otherwise subject to any such requirement, or (3) that would not be applicable to a payment by at least one Paying Agent), the Issuer shall at its option either: (i) redeem this Note in whole but not in part, at any time (in the case of bank notes other than floating-rate Notes) or on any Interest Payment Date (in the case of floating-rate Notes), at a redemption price equal to the principal amount of this Note (or, in the case of an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount of this Note determined as of the date of redemption), together with, if appropriate, interest accrued to but excluding the date of redemption; or (ii) if the conditions of the next succeeding paragraph are satisfied, pay the Additional Amounts specified in such paragraph.

The Issuer shall make its determination as soon as practicable and promptly publish notice thereof (the "determination notice") stating the effective date of such certification, documentation, information, or other reporting requirement, whether it will redeem the Note or pay the Additional Amounts specified in the next succeeding paragraph, and (if applicable) the last date by which the redemption of this Note must take place, as provided in the next succeeding sentence. If this Note is to be redeemed as described above, that redemption shall take place on such date, not later than one year after publication of the determination notice, as

the Issuer shall elect by notice to the London Paying Agent at least 45 calendar days before the redemption date. Notice of such redemption of the Notes will be given to the noteholders not more than 60 nor less than 30 calendar days prior to the redemption date. Notwithstanding the foregoing, the Issuer shall not redeem the bank notes if it shall subsequently determine not less than 30 calendar days prior to the redemption date, that subsequent payments on the Notes would not be subject to any such certification, documentation, information, or other reporting requirement, in which case the Issuer shall give prompt notice of its subsequent determination, and any earlier redemption notice shall be revoked and of no further effect.

Notwithstanding the foregoing, if and so long as the certification, documentation, information, or other reporting requirements referred to in the preceding paragraph would be fully satisfied by payment of a backup withholding tax or similar charge, the Issuer may elect to pay such Additional Amounts as may be necessary so that every net payment made outside the United States following the effective date of that requirement by the Issuer or any Paying Agent in respect of this Note of which the beneficial owner is a non-U.S. person (but without any requirement that the nationality, residence, or identity, other than status as a non-U.S. person, of such beneficial owner be disclosed to the Issuer, any paying agent, or any governmental authority), after deduction or withholding for or on account of that backup withholding tax or similar charge (other than a backup withholding tax or similar charge that (1) would not be applicable in the circumstances referred to in the parenthetical clause of the first sentence of the preceding paragraph or (2) is imposed as a result of the presentation of this Note for payment more than 15 calendar days after the date on which that payment became due and payable or on which payment thereof was duly provided for, whichever occurred later), will not be less than the amount provided for in this Note to be then due and payable. If the Issuer elects to pay Additional Amounts pursuant to this paragraph, the Issuer shall have the right to redeem this Note in whole, but not in part, at any time (in the case of bank notes other than floating-rate Notes) or on any Interest Payment Date (in the case of floating-rate Notes), subject to the provisions of the last two sentences of the immediately preceding paragraph. If the Issuer elects to pay Additional Amounts pursuant to this paragraph and the condition specified in the first sentence of this paragraph should no longer be satisfied, then the Issuer shall redeem this Note pursuant to the provisions of the immediately preceding paragraph.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 9. *Modification and Waivers.* The Agency Agreement permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer thereunder. In addition, the terms and conditions of this Note may be modified, amended or supplemented by the Issuer, without the consent of the holder hereof: (i) to evidence succession of another party to the Issuer, and such party's assumption of the Issuer's obligations under this Note, upon the occurrence of a merger or consolidation, or transfer, sale or lease of assets as described below in Section 11; (ii) to add additional covenants, restrictions or conditions for the protection of the holder hereof; (iii) to relax or eliminate the restrictions on payment of principal and interest in respect hereof in the United States, provided that such payment is permitted by U.S. tax laws and regulations then in effect and provided that no adverse

tax consequences would result to the holder of this Note; (iv) to cure ambiguities in this Note, or correct defects or inconsistencies in the provisions hereof; (v) to reflect the replacement of any Agent, or the assumption, by the Issuer or any substitute Agent, of some or all of any such Agent's responsibilities under the Agency Agreement; (vi) to evidence the replacement or change of address of the depository or clearing system noted hereon; (vii) in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note, or upon prepayment or redemption of the Note, 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; (viii) in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note, to reflect any change in the Stated Maturity Date of the Note in accordance with the terms hereof; (ix) to reflect the issuance in exchange herefor, in accordance with the terms hereof, of one or more definitive Notes; or (x) to permit further issuances of bank notes in accordance with the terms of the distribution agreement among the Issuer and the selling agents party thereto. However, this Note may not be modified or amended without the express written consent of the holder and, if applicable, the OCC or other then primary federal regulator (to the extent such consent is required under applicable law or regulation), to: (i) change the Stated Maturity Date, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note; (ii) extend the time of payment for the premium, if any, or interest on this Note, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note; (iii) change the coin or currency in which the principal of, premium (if any), interest, or other amounts payable (if any) on this Note is payable; (iv) reduce the principal amount of this Note or the interest rate hereon, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed or upon prepayment or redemption as provided in this Note; (v) change the method of payment for this Note to other than wire transfer in immediately available funds; (vi) impair the right of the holder hereof to institute suit for the enforcement of payments of principal of, premium (if any), interest, or other amounts payable (if any) on this Note; (vii) change the definition of "Event of Default" below or otherwise eliminate or impair any remedy available hereunder upon the occurrence of any Event of Default; or (viii) modify the provisions governing the amendment of this Note. Any instrument given by or on behalf of the holder of this Note in connection with any consent to such modification, amendment or waiver shall be irrevocable once given and shall be conclusive and binding on all subsequent holders of this Note. Any modifications, amendments or waiver to the Agency Agreement or the provisions of this Note made in accordance with the terms of the Agency Agreement or the terms hereof, as applicable, shall be conclusive and binding on all holders of Notes, whether or not notation of such modifications, amendments or waivers is made upon this Note.

Any action by the bearer of this Note shall bind all future bearers of this Note and of any Note issued in exchange or substitution hereof or in place hereof, in respect of anything done or permitted by the Issuer or by the Paying Agents in pursuance of such action.

Notes authenticated and delivered after the execution of any agreement modifying, amending or supplementing this Note may bear a notation in a form approved by the Issuer as to any matter provided for in such modification, amendment or supplement to the Agency Agreement or the Notes. New Notes so modified as to conform, in the opinion of the Issuer, to

any provisions contained in any such modification, amendment or supplement may be prepared by the Issuer, authenticated by the London Issuing Agent and delivered in exchange for this Note. Notes are deemed to be "outstanding" as of any date of determination if, as of any date of determination, they have been authenticated and delivered, except (i) those which have been redeemed in full in accordance with their terms and the Agency Agreement; (ii) 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 the London Paying Agent as provided in the Agency Agreement (and, where appropriate, notice has been given to the holder of this Note in accordance with the terms hereof and of the Agency Agreement; (iii) those which have been canceled or delivered to the applicable Agent for cancellation; or (iv) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes in accordance with their terms.

SECTION 10. *Obligations Unconditional.* No reference herein to the Agency Agreement and no provision of this Note or of the Agency Agreement shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of, premium, if any, and interest, if any, on this Note at the times, place and rate, and in the coin or currency, herein prescribed.

SECTION 11. *Successor to Issuer.* The Issuer may not consolidate or merge with or into any other person, or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless (i) the 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 Issuer 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 this Note, and the performance or observance of every provision of this Note on the part of the Issuer to be performed or observed; and (ii) immediately after giving effect to such transaction, no Event of Default with respect to the Issuer as set forth herein, and no event which, after notice or the lapse of time or both, would become an Event of Default with respect to the Issuer, shall have happened and be continuing.

SECTION 12. *Authorized Denominations.* This Note, and any Note issued in exchange or substitution herefor or in place hereof, or upon exchange or partial redemption or repayment of this Note, may be issued only in an Authorized Denomination as specified in the Pricing Supplement, or if no Authorized Denomination is so specified, in minimum denominations of €50,000 (or equivalent denominations in other currencies, subject to any other statutory or regulatory minimums).

SECTION 13. *Events of Default.*

(a) Senior Notes. If this Note is a Senior Note, as indicated on the face hereof, the following will be the only "Events of Default" with respect to this Senior Note: (a) a default in the payment of any interest upon this Senior Note when due, which continues for 30 calendar

days; (b) a default in the payment of any principal of or premium, if any, upon this Senior Note when due; (c) a default in the performance of any covenant or agreement of the Issuer contained herein which, unless otherwise specified herein, continues for 90 calendar days; (d) 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, reorganization, 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 the Issuer's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (e) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry of 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 respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default with respect to this Senior Note shall occur and be continuing, the holder hereof may: (i) by written notice to the applicable Paying Agent declare the entire outstanding principal amount of this Senior Note, together with any unpaid interest and premium accrued hereon, to be immediately due and payable; (ii) institute a judicial proceeding of the enforcement of the terms hereof including the collection of all sums due and unpaid hereunder, and prosecute such proceeding to judgment or final decree, and enforce the same against the Issuer and collect monies adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer; and (iii) take such other action at law or in equity as may appear necessary or desirable to collect and enforce this Senior Note; provided, however, that the holder hereof may waive any Event of Default that occurs with respect hereto.

(b) Subordinated Notes. If this Note is a Subordinated Note, as indicated on the face hereof, the following will be the only "Events of Default" with respect to this Subordinated Note: (a) 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, reorganization, 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 the Issuer's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (b) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry of 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 respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default with respect to this Subordinated Note shall occur and be continuing, and any prior written consent of the OCC is obtained before acceleration, the holder hereof may: (i) by written notice to the applicable Paying Agent declare the entire outstanding principal amount of this Subordinated Note, together with any unpaid interest and premium accrued hereon, to be immediately due and payable; (ii) institute a judicial proceeding of the enforcement of the terms hereof including the collection of all sums due and unpaid hereunder, and prosecute such proceeding to judgment or final decree, and enforce the same against the Issuer and collect monies adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer; and (iii) take such other action at law or in equity as may appear necessary or desirable to collect and enforce this Subordinated Note; provided, however, that the holder hereof may waive any Event of Default that occurs with respect hereto.

Payment of principal of, the interest accrued on or other amounts then payable on, this Subordinated Note may not be accelerated in the case of a default in the payment of principal, interest or other amounts then payable or the performance of any other covenant of the Issuer. Payment of the principal on, the interest accrued on or other amounts then payable on, this Subordinated Note may be accelerated only in the case of the bankruptcy or insolvency of the Issuer. Notwithstanding anything herein to the contrary, to the extent then required under applicable capital regulations of the OCC, no payment may be made on this Subordinated Note after an acceleration resulting from an Event of Default with respect to this Subordinated Note without the prior approval of the OCC.

SECTION 14. *Subordination.* If this Note is a Subordinated Note, as indicated on the face hereof, the indebtedness of the Issuer evidenced by this Subordinated Note, including the principal, premium (if any), interest, or other amounts payable (if any), shall be subordinate and junior in right of payment to its obligation to its depositors, its obligations under bankers' acceptances and letters of credit, and its obligations to its other creditors, including its obligations to the United States Federal Reserve Bank, the United States Federal Deposit Insurance Corporation (the "FDIC"), and to any rights acquired by the FDIC as a result of loans made by the FDIC to the Issuer or the purchase or guarantee of any of the Issuer's assets by the FDIC pursuant to the provisions of 12 U.S.C. Sections 1823(c), (d) or (e), whether now outstanding or hereafter incurred. In the event of any insolvency, receivership, conservatorship, reorganization, readjustment of debt, marshaling of assets and liabilities or similar proceedings or any liquidation or winding up of or relating to the Issuer, whether voluntary or involuntary, all such obligations shall be entitled to be paid in full before any payment shall be made on account of the principal of, or premium (if any), interest, or other amounts payable (if any) on, this Subordinated Note. In the event of any such proceedings, after payment in full of all sums owing such prior obligations, the holder of this Subordinated Note, together with any obligations of the Issuer ranking on a parity with this Subordinated Note, shall be entitled to be paid from the remaining assets of the Issuer the unpaid principal hereof and any unpaid premium (if any), interest, and other amounts payable (if any) before any payment or other distribution, whether in cash, property, or otherwise, shall be made on account of any capital stock or any obligations of the Issuer ranking junior to this Subordinated Note.

Notwithstanding any other provisions of this Subordinated Note, including specifically those set forth in the sections relating to subordination, events of default and covenants of the

Issuer, it is expressly understood and agreed that the OCC or any receiver or conservator of the Issuer appointed by the OCC as to its assets shall have the right in the performance of its legal duties, and as part of liquidation designed to protect or further the continued existence of the Issuer or the rights of any parties or agencies with an interest in, or claim against, the Issuer or its assets, to transfer or direct the transfer of the obligations of this Subordinated Note to any bank or bank holding company selected by such official which shall expressly assume the obligation of the due and punctual payment of the unpaid principal, and interest and premium, if any (and any other amounts payable), on this Subordinated Note and the due and punctual performance of all covenants and conditions; and the completion of such transfer and assumption shall serve to supersede and void any default, acceleration or subordination which may have occurred, or which may occur due to or related to such transaction, plan, transfer or assumption, pursuant to the provisions of this Subordinated Note, and shall serve to return the holder of this Subordinated Note to the same position, other than for substitution of the obligor, it would have occupied had no default, acceleration or subordination occurred; except that any interest, principal, or other amounts previously due, other than by reason of acceleration, and not paid, in the absence of a contrary agreement by the holder of this Subordinated Note, shall be deemed to be immediately due and payable as of the date of such transfer and assumption, together with the interest from its original due date at the rate provided for herein.

SECTION 15. *Specified Currency*. Unless otherwise provided herein or in the Pricing Supplement, the principal of, and premium, if any, and interest on, this Note are payable in the Specified Currency indicated on the face hereof (or, if such Specified Currency is not at the time of such payment legal tender for the payment of public and private debts, in (x) such other coin or currency of the country that issued such Specified Currency or (y) (if such Specified Currency is the euro) the successor currency under applicable law, in each case as at the time of such payment is legal tender for the payment of debts.

In the event the Specified Currency indicated on the face hereof has been replaced by another currency (a "Replacement Currency"), any amount due pursuant to this Note may be repaid, at the option of the Issuer, in the Replacement Currency or in U.S. dollars, at a rate of exchange which takes into account the conversion, at the rate prevailing on the most recent date on which official conversion rates were quoted or set by the national government or other authority responsible for issuing the Replacement Currency, from the Specified Currency to the Replacement Currency and, if necessary, the conversion of the Replacement Currency into U.S. dollars at the rate prevailing on the date of such conversion. Notwithstanding the foregoing, if this Note originally was issued in a domestic currency of a state that is or subsequently becomes a Member State of the European Union, then this Note may be redenominated in euro, if subsequent to the issuance of this Note, such state participates in the European monetary union, as indicated in the Pricing Supplement. This Note may be redenominated as a matter of law whether or not the Pricing Supplement provides for redenomination.

If the Specified Currency indicated on the face hereof is other than U.S. dollars, if the Issuer determines that a payment hereon cannot be made in the Specified Currency due to restrictions imposed by the government of such currency or any agency or instrumentality thereof or any monetary authority in such country, such payment will be made outside the United States in U.S. dollars by a check drawn on or by credit or transfer to an account maintained by

the holder hereof with a bank located outside the United States. The London Paying Agent, on receipt of the Issuer's written instructions and at the Issuer's expense, will give prompt notice to the beneficial holders of this Note if such determination is made. The amount of U.S. dollars to be paid in connection with any payment shall be the amount of U.S. dollars that could be purchased by the London Paying Agent with the amount of the Specified Currency payable on the date the payment is due, at the rate for sale in financial transactions of U.S. dollars (for delivery in the principal financial center of the Specified Currency two business days later) quoted by that bank at 10:00 A.M., local time in the Principal Financial Center of the Specified Currency on the second Business Day prior to the date the payment is due.

Any payment made under such circumstances in U.S. dollars, where the payment is required to be made in the Specified Currency, will not constitute an "Event of Default" with respect to this Note.

SECTION 16. *Original Issue Discount Note*. If this Note is identified as an Original Issue Discount Note in the Pricing Supplement, then unless otherwise specified therein, the amount payable to the holder of this Note in the event of redemption, repayment or acceleration of Maturity will be the Amortized Face Amount of this Note (as defined below) as of the date of such event. The "Amortized Face Amount" shall be the amount equal to (A) the Issue Price (as set forth in the Pricing Supplement) plus (B) the original issue discount amortized from the Original Issue Date to the date as of which the Amortized Face Amount is calculated, as specified in the Pricing Supplement.

SECTION 17. *Dual Currency Note*. If this Note is identified as a Dual Currency Note in the Pricing Supplement, the Issuer has the option of making each scheduled payment of principal and interest, if any, due on this Note either in the Specified Currency designated on the face hereof or in the optional payment currency specified in the Pricing Supplement. If the Issuer elects to make a payment in the optional payment currency, the amount payable in such optional payment currency shall be determined using the exchange rate specified in the Pricing Supplement, on the terms specified in the Pricing Supplement.

SECTION 18. *Mutilated, Defaced, Destroyed, Lost or Stolen Notes*. In case this Note shall at any time become mutilated, defaced, destroyed, lost or stolen, and this Note or evidence of the loss, theft or destruction hereof satisfactory to the Issuer and the London Issuing Agent and such other documents or proof as may be required by the Issuer and the applicable Registrar shall be delivered to the London Issuing Agent, the London Issuing Agent shall issue a new Note of like tenor and principal amount, having a serial number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Note or in lieu of the Note destroyed, lost or stolen but, in the case of any destroyed, lost or stolen Note, only upon receipt of evidence satisfactory to the Issuer and the London Issuing Agent that this Note was destroyed, stolen or lost, and, if required, upon receipt of indemnity satisfactory to the Issuer and the applicable Registrar. Upon the issuance of any substituted Note, the Issuer may require the payment of a sum sufficient to cover all expenses and reasonable charges connected with the preparation and delivery of a new Note. If any Note which has matured or has been redeemed or repaid or is about to mature or to be redeemed or repaid shall become mutilated, defaced, destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Note, pay or authorize the payment of the

same (without surrender thereof except in the case of a mutilated or defaced Note) upon compliance by the holder with the provisions of this paragraph.

SECTION 19. *Miscellaneous*. No recourse shall be had for the payment of principal of (and premium, if any) or interest on, this Note for any claim based hereon, or otherwise in respect hereof, against any shareholder, employee, agent, officer or director, as such, past, present or future, of the Issuer or of any successor organization, either directly or through the Issuer or any successor organization, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

SECTION 20. *Defined Terms.* All terms used in this Note which are defined in the Agency Agreement and are not otherwise defined in this Note shall have the meanings assigned to them in the Agency Agreement.

Unless specified otherwise in the Pricing Supplement, "Business Day" means a day that meets all the following requirements:

(a) for all Notes, is any weekday that is not a legal holiday in Charlotte, North Carolina, or any other place of payment of the applicable Note, and is not a date on which banking institutions in those cities are authorized or required by law or regulation to be closed;

(b) for all Notes, also is a day on which commercial banks are open for business (including dealings in the Index Currency specified in the Pricing Supplement) in London, England;

(c) for any Note denominated in euro or any Note where the base rate is EURIBOR (as defined in the Note), also is a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System or any successor is operating; and

(d) for any Note that has a Specified Currency other than U.S. dollars or euro, also is not 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).

Unless specified otherwise in the Pricing Supplement, "Principal Financial Center" means (i) the capital city of the country issuing the Specified Currency, except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the "Principal Financial Center" shall be 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.

SECTION 21. *GOVERNING LAW*. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, NOTWITHSTANDING ANY OTHERWISE APPLICABLE CONFLICTS OF LAWS PROVISIONS AND ALL APPLICABLE UNITED STATES FEDERAL LAWS AND REGULATIONS.

[OPTION TO ELECT REPAYMENT]

[To be completed, based upon the terms of the applicable Notes.]

[EXTENDIBLE NOTE RIDER]

[To be completed, based on the terms of the applicable Notes.]

[EXTENSION OF MATURITY NOTE]

[To be completed, based on the terms of the applicable Notes.]

Schedule 1 to the
Temporary Global Note

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*				

* Continue renumbering until the appropriate number of interest payments 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[4]	Confirmation of payment by or on behalf of the Issuer
First*					

4 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

* Continue renumbering until the appropriate number of installment payments 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[5]	Confirmation of redemption 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.

PART IV

PURCHASES AND CANCELLATIONS

Date of purchase and cancellation	Part of principal amount of this Global Note purchased and cancelled	Remaining principal amount of this Global Note following such purchase and cancellation[6]	Confirmation of purchase and cancellation by or on behalf of the Issuer

6 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

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

7 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

Exhibit C to
Global Agency Agreement

[FORM OF PERMANENT BEARER GLOBAL NOTE]

BANK OF AMERICA, N.A.

PERMANENT GLOBAL BANK 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.][1]

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 AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

IF THIS NOTE IS A SENIOR NOTE, AS INDICATED ON THE FACE HEREOF, THIS NOTE IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS NOTE RANK PARI PASSU WITH ALL

1 Modify legend, as appropriate, for any bank notes in bearer form offered under exemptions other than Regulation S.

OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.

IF THIS NOTE IS A SUBORDINATED NOTE, AS INDICATED ON THE FACE HEREOF, THIS NOTE A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.

THIS NOTE IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

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.

THIS NOTE IS SOLD IN MINIMUM DENOMINATIONS AS NOTED HEREIN AND IN THE PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER ATTACHED HERETO AND CANNOT BE EXCHANGED FOR NOTES IN SMALLER DENOMINATIONS. EACH OWNER OF A BENEFICIAL INTEREST IN THIS NOTE IS REQUIRED TO HOLD A BENEFICIAL INTEREST OF A PRINCIPAL AMOUNT OF THIS NOTE EQUAL TO THE MINIMUM AUTHORIZED DENOMINATION AT ALL TIMES.

THIS NOTE IS OFFERED AND SOLD ONLY TO ACCREDITED INVESTORS AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND EACH PURCHASER OF A BENEFICIAL INTEREST IN THIS NOTE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED TO BANK OF AMERICA, N.A. THAT IT IS AN ACCREDITED INVESTOR AND THAT IT IS PURCHASING SUCH INTEREST FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER ACCREDITED INVESTOR.

Common Code: **ISIN No.:**
Principal Amount: [$]____

BANK OF AMERICA, N.A.

[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]
PERMANENT GLOBAL BANK NOTE

ORIGINAL ISSUE DATE[2]:
SPECIFIED CURRENCY:

☐ U.S. Dollars
☐ Other (specify):

☐ This Note is an Extendible Note. [See attached Rider]
☐ This Note is an Extension of Maturity Note. [See attached Rider]

☐ This Note is an Amortizing Note.

☐ FIXED RATE NOTE
☐ FLOATING RATE NOTE
☐ INDEXED NOTE [See attached Rider]
☐ FLOATING RATE/FIXED RATE NOTE

☐ SENIOR NOTE
☐ SUBORDINATED NOTE

BANK OF AMERICA, N.A., a national banking association organized under the laws of the United States (herein called the "Issuer," which term includes any successor corporation), for value received, hereby promises to pay to the bearer hereof the principal amount specified above (or if this Note is designated as an Indexed Note above, the Principal Repayment Amount and/or the Supplemental Payment Amount calculated in accordance with the provisions set forth in the Pricing Supplement or Indexed Payment Rider, as applicable, attached hereto (referred to collectively as the "Pricing Supplement")) as adjusted in accordance with Schedules 1 and 2 hereto, on the Stated Maturity Date[3] specified above (except to the extent redeemed or repaid prior to the Stated Maturity Date), and to pay interest thereon (i) in accordance with the provisions set forth on the reverse hereof in Section 2(a), if this Note is designated as a "Fixed Rate Note" above, (ii) in accordance with the provisions set forth on the reverse hereof under the Section 2(b), if this Note is designated as a "Floating Rate Note" above, (iii) in accordance with

2 The form provides that interest, if any, will accrue from the Original Issue Date. In the event a series of Notes is reopened, interest will accrue from the Original Issue Date for all tranches of Notes of that series. However, in the event a series of Notes is reopened, the authentication date for each tranche of Notes will be the date that tranche of Notes is settled, which may be different from the Original Issue Date.

3 This form provides for Notes that will mature only on a specified date. If the Maturity of Notes of a series may be extended at the option of the holder, or if the Issuer may elect the extension of Maturity of the Notes of a series, the form, as used, will be modified by the applicable Rider attached to this Note to provide for additional terms relating to such renewal or extension, as the case may be, including the period or periods for which the Maturity may be extended, changes in the interest rate, if any, and requirements for notice.

the provisions set forth on the reverse hereof in Section 2(c), if this Note is designated as a "Floating Rate/Fixed Rate Note" above, or (iv) in accordance with the provisions set forth in the Pricing Supplement, if this Note is designated as an "Indexed Note" above, in each case as such provisions may be modified or supplemented by the terms and provisions set forth in the Pricing Supplement, and (to the extent that the payment of such interest shall be legally enforceable) to pay interest at the Default Rate per annum specified in the Pricing Supplement on any overdue principal and premium, if any, and on any overdue installment of interest. If no Default Rate is specified in the Pricing Supplement, the Default Rate shall be the fixed or floating Interest Rate or Interest Rates on this Note specified in the Pricing Supplement. "Maturity," when used herein, means the date on which the principal of this Note or an installment of principal becomes due and payable in full in accordance with the terms of this Note and of the Agency Agreement, whether at the Stated Maturity Date or by declaration of acceleration, call for redemption, prepayment at the holder's option or otherwise.

This Global Note is a Permanent Global Note in bearer form without interest coupons and is one of a duly authorized issue of senior or subordinated Notes of the Issuer issued and to be issued in one or more series under the Global Agency Agreement dated as of July 25, 2007 (the "Agency Agreement") among the Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar (the "U.S. Registrar") and U.S. Paying Agent (the "U.S. Paying Agent"), 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, a "Paying Agent") and as London Issuing Agent (the "London Issuing Agent"), and 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," and together with the Registrars, the Paying Agents and the London Issuing Agent, the "Agents" and each, an "Agent"), to which Agency Agreement reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Agents and the holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms U.S. Registrar, U.S. Paying Agent, London Paying Agent, London Issuing Agent, European Registrar and European Transfer Agent shall include any additional or successor agents appointed in such capacities by the Issuer.

The Issuer and any Paying Agent may (except as otherwise required by law) deem and treat the bearer of this Note as the absolute owner hereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft hereof) for all purposes but, in the case of this Global Note, without prejudice to the provisions set out in the next paragraph.

So long as this Global Note is held on behalf of Euroclear or Clearstream, Luxembourg, each person who is shown in the records of Euroclear or of Clearstream, Luxembourg as the holder of a particular nominal amount of Notes represented by this Global Note (any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of Notes standing on 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 Issuer, the London Paying Agent, and any other Agent as the holder of such nominal amount of such Notes for all purposes, except with respect to the payment of principal, premium, if any, interest, or any other amounts payable

on the Notes, the bearer of this Global Note shall be treated by the Issuer, the London Paying Agent and any other Agent as the holder of such Notes in accordance with and subject to the terms of this Global Note (the expressions "noteholder" and "holder of Notes" and related expressions shall be construed accordingly). Notes which are represented by this Global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear or Clearstream, Luxembourg, as the case may be.

On any redemption, repayment or purchase and cancellation of any of the Notes represented by this Global Note, the Issuer shall procure that details of such redemption, repayment 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, repayment or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such redemption, repayment 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, repurchased or purchased and cancelled.

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 date hereof, an interest in such Temporary Global Note may be further exchanged, on the terms and conditions set out therein, for an interest in the Global Note. The Issuer shall procure that 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 bank notes may be issued which are intended on issue to be consolidated and form a single series with this Note. In such circumstances the Issuer shall procure that 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, and more than one Pricing Supplement reflecting the series may be attached to this Note to reflect the increased principal amount.

This Global Note may be exchanged in whole, but not in part (free of charge), for security printed Definitive Notes and (if applicable) Coupons, Talons and/or Receipts in the form set out in Exhibits D, E, F and G, respectively, of the 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 terms of the Pricing Supplement have been incorporated in such Definitive Notes). This exchange will be made upon at least 60 days' written notice being given to the London Issuing Agent by Euroclear and/or Clearstream, Luxembourg, acting on the instructions of any holder of an interest in the Global Note, 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 London Paying Agent specified above.

In addition, this Global Note may be exchanged in whole, but not in part (free of charge), for security printed Definitive Notes and (if applicable) Coupons, Talons and/or Receipts in the form set out in Exhibits D, E, F and G, respectively, of the 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 terms of the Pricing Supplement have been incorporated on such Definitive Notes), under the limited circumstances provided in Section 8 of the Agency Agreement.

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 most recently entered in the relevant column in Part II, III or IV of Schedule 1 or Schedule 2 hereto), provided that, subject as aforesaid, the first notice given to the London Paying 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.

Any such exchanges will be made upon presentation of this Global Note by the bearer hereof at the offices of the London Issuing Agent (or at such other place outside the United States and its possessions as the London Issuing Agent may agree). On an exchange of the whole of this Global Note, this Global Note shall be surrendered to the London Issuing Agent.

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, Talons and Receipts in the form set out in Exhibits D, E, F and G, respectively, to the Agency Agreement (on the basis that all appropriate details have been included on the face of such Definitive Notes and (if applicable) Coupons, Receipts and/or Talons).

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 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.

Subject to any fiscal or other laws and regulations applicable thereto in the place of payment, payments in a Specified Currency other than euro will be made by transfer to an account in the relevant Specified Currency maintained by the payee with, or by a check in such Specified Currency drawn on, a bank in the principal financial center of the country of such

Specified Currency, and payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee; provided, however, that, in either case, a check or a credit or transfer, as applicable, 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 or any of its possessions by any office or agency of the Issuer or any Paying Agent.

If at the time of payment the Specified Currency is not legal tender for the payment of public and private debts, the Issuer will make payments in (a) such other coin or currency of the country that issued such Specified Currency or (b) if the Specified Currency is the euro, the successor currency under applicable law, in each case as at the time of such payment is legal tender for payment of debts. Unless otherwise specified in the Pricing Supplement, and except as described below, generally holders are not entitled to receive payments in U.S. dollars of an amount due in another Specified Currency.

Except as provided below, payments of principal of, and premium, if any, and interest on this Global Note will be made outside the United States and its possessions against presentation or surrender, as the case may be, of this Global Note at the office of the London Paying Agent maintained for that purpose, subject to the requirements for certification provided herein. The London Paying Agent will record on this Global Note each payment made against presentation or surrender of the Note, distinguishing between any payment of principal and premium, if any, and any payment of interest, and such record shall be *prima facie* evidence that the payment has been made.

Payment on this Note will not be made: (i) at any office or agency of the Issuer 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 U.S. dollar payments with respect to this Global Note may be made at the specified office of a paying agent in the United States or its possessions if: (A) the Issuer 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 bank notes in the manner provided above when due in U.S. dollars at such specified offices; (B) 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 (C) such payment is then permitted under U.S. law without involving, in the Issuer's opinion, adverse tax consequences for the Issuer.

The bearer of this Global Note shall be the only person entitled to receive payments with respect hereto, and the Issuer shall be discharged by payment to, or to the order of, the bearer of this Global Note with respect to each amount so paid. Each person in the records of Euroclear or Clearstream, Luxembourg as the beneficial owner of a particular nominal amount of this Global Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for its share of each payment so made by the Issuer to, or to the order of, the bearer of this Global Note. No

person other than the bearer hereof shall have any claim against the Issuer with respect to payments due hereon.

If the date for payment of any amount with respect to this Note is not a Payment Business Day (as defined below) in the place of presentation, the holder of this Note shall not be entitled to payment of the amount due until the next succeeding Payment Business Day. Except as provided otherwise herein for floating-rate notes, the holder shall not be entitled to further interest or other payment with respect to such delay. For these purposes, unless otherwise specified in the Pricing Supplement, "Payment Business Day" means any Business Day which is also a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchanges and foreign currency deposits) in the relevant place of presentation (and in the case of payment in euro in the place where the euro account specified by the payee is located) or any additional financial center specified in the Pricing Supplement.

Unless specified otherwise in the Pricing Supplement, this Note will not be subject to a sinking fund.

This Note will become void unless presented for payment within a period of two years from 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 London Paying Agent or other applicable 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 noteholder.

Reference is made to the further provisions of this Note set forth on the reverse hereof and in the Pricing Supplement attached hereto, which shall have the same effect as though fully set forth at this place. In the event of any conflict between the provisions contained herein or on the reverse hereof and the provisions contained in the Pricing Supplement attached hereto, the latter shall control. References herein to "this Note," "hereof," "herein" and comparable terms shall include the Pricing Supplement attached hereto.

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 London Issuing Agent acting in accordance with the Agency Agreement.

IN WITNESS WHEREOF, Bank of America, N.A. has caused this Permanent Global Note to be duly executed on its behalf, by manual or facsimile signature.

Dated: _____

BANK OF AMERICA, N.A.

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This Permanent Global Note is one of the Notes referred to in the within-mentioned Agency Agreement and is authenticated by or on behalf of the London Issuing Agent.

Dated: _____

DEUTSCHE BANK AG, LONDON BRANCH
as London Issuing Agent

By: _____
Authorized Signatory

By: _____
Authorized Signatory

[ATTACH PRICING SUPPLEMENT OR INDEXED PAYMENT RIDER, AS APPLICABLE]

[Reverse of Note]

BANK OF AMERICA, N.A.

(PERMANENT GLOBAL BANK NOTE)

SECTION 1. *General.* This Note is one of the Notes issued pursuant to an Offering Circular dated July 25, 2007 for the offer and sale of up to U.S.$75,000,000,000 aggregate principal amount of senior and subordinated bank notes at any one time outstanding with maturities of 7 days or more from their respective dates of issue. The Notes may bear different dates, mature at different times, bear interest at different rates and vary in such other ways as are provided in the Agency Agreement, and the aggregate principal amount of bank notes to be offered under the program may be increased from time to time.

The Issuer has initially appointed Deutsche Bank AG, London Branch, to act as London Paying Agent in respect of this Note. This Note may be presented or surrendered for payment, and notices, designations or requests in respect of payments with respect to this Note may be served, at the office or agency of the London Paying Agent.

SECTION 2. *Interest Provisions*.

(a) Fixed Rate Notes. If this Note is designated as a "*Fixed Rate Note*" on the face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 and Schedule 2 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified above, except as provided on the face hereof, until payment of such principal sum has been made or duly provided for. Unless otherwise specified in the Pricing Supplement, if this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from and including the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise specified in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to but excluding the relevant Interest Payment Date or Maturity Date, as the case may be.

Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity less than one year and is payable in U.S. dollars, interest (including payments for partial periods) will be computed and paid on the basis of the actual number of days elapsed divided by 360. Unless otherwise specified in the Pricing Supplement, if this Note has an original maturity of one year or more and is payable in U.S. dollars, interest (including payments for partial periods) will be computed on the basis of a 360-day year of twelve 30-day months. Unless otherwise specified in the Pricing Supplement, if this Note is denominated in a Specified Currency other than U.S. dollars, interest will be computed on the basis of the Actual/Actual (ISMA) Fixed Day Count Convention.

"**Actual/Actual (ISMA) Fixed Day Count Convention**" means:

(a) in the case of fixed-rate notes where the number of days in the relevant period from and including the most recent Interest Payment Date (or, if none, from and including the interest commencement date, which unless specified otherwise in the Pricing Supplement shall be the Original Issue Date) to, but excluding, the relevant payment date (referred to as the "**accrual period**") is equal to or shorter than the determination period (as defined below) during which the accrual period ends, the number of days in the accrual period divided by the product of (1) the number of days in that determination period and (2) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; or

(b) in the case of fixed-rate notes where the accrual period is longer than the determination period during which the accrual period ends, the sum of:

(1) the number of days in that accrual period falling in the determination period in which the accrual period begins divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; and

(2) the number of days in that accrual period falling in the next determination period divided by the product of (x) the number of days in such determination period and (y) the number of determination periods that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year.

"**Determination period**" means the period from and including a determination date to but excluding the next determination date (including, where either the interest commencement date or the final Interest Payment Date is not a determination date, the period commencing on the first determination date prior to, and ending on the first determination date falling after, such date).

"**Determination date**" means each date specified in the Pricing Supplement or, if none is specified, each Interest Payment Date.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date or the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after such Interest Payment Date or the Maturity Date, as the case may be.

(b) Floating Rate Notes. If this Note is designated as a "*Floating Rate Note*" on face hereof, the Issuer will pay interest on the principal amount specified on the face of this Note (as adjusted in accordance with Schedule 1 and Schedule 2 hereto) on each Interest Payment Date specified in the Pricing Supplement and at Maturity, commencing on the first Interest Payment Date succeeding the Original Issue Date specified on the face hereof, unless the Original Issue Date occurs between a Regular Record Date (as defined below) and the next Interest Payment

Date, in which case interest shall be payable commencing on the Interest Payment Date following the next Regular Record Date, at a rate per annum determined in accordance with the provisions hereof and the Pricing Supplement, until payment of such principal sum has been made or duly provided for. If this Note has a Maturity Date of less than one year from the Original Issue Date, interest on this Note will be paid only at Maturity.

Payments of interest hereon will include interest accrued from and including the most recent Interest Payment Date to which interest on this Note (or any predecessor Note) has been paid or duly provided for (or, unless otherwise provided in the Pricing Supplement, if no interest has been paid or duly provided for, from and including the Original Issue Date) to but excluding the relevant Interest Payment Date or Maturity Date, as the case may be (each such period, an "Interest Period").

As set forth in the Pricing Supplement, this Note may have either or both of the following: (i) a maximum numerical interest rate limitation, or ceiling, on the rate at which interest may accrue during any Interest Period ("Maximum Interest Rate"); or (ii) a minimum numerical interest rate limitation, or floor, on the rate at which interest may accrue during any interest period ("Minimum Interest Rate"); provided, however, that the interest rate on this Note will in no event be higher than the maximum rate permitted by applicable law.

The Base Rate (as defined herein) with respect to this Note may be (i) the federal funds rate, (ii) the London interbank offered rate, or "LIBOR," (iii) the Euro-zone interbank offered rate, or "EURIBOR," (iv) the prime rate, (v) the treasury rate or (v) such other rate as is described in the Pricing Supplement.

Except as described below, this Note will bear interest at the rate determined by reference to the appropriate interest rate basis (the "Base Rate") and Index Maturity, each as specified in the Pricing Supplement, (i) plus or minus the Spread, if any, specified in the Pricing Supplement and/or (ii) multiplied by the Spread Multiplier, if any, specified in the Pricing Supplement. The interest rate in effect during an Interest Period will be the rate determined by the Calculation Agent specified in the Pricing Supplement on the "calculation date" by reference to the Interest Determination Date (as described below).

If "ISDA Rate" is specified in the Pricing Supplement, the rate of interest on this Note for each Interest Period will be the relevant ISDA Rate plus or minus the margin, if any, specified in the Pricing Supplement. Unless specified otherwise in the Pricing Supplement, "ISDA Rate" means, with respect to any Interest Period, the rate equal to the Floating Rate that would be determined by the Calculation Agent pursuant to an interest rate swap transaction if the Calculation Agent were acting as Calculation Agent for such swap transaction in accordance with the terms of an agreement in the form of any ISDA Master Agreement published by the International Swaps and Derivatives Association, Inc. (including any Annexes thereto, the "ISDA Agreement") and evidenced by a Confirmation (as defined in the ISDA Agreement) incorporating the 2006 ISDA definitions, as amended, updated, or replaced as at the issue date of the first tranche of bank notes of the relevant series (the "2006 ISDA Definitions") published by the International Swaps and Derivatives Association, Inc. and under which: (i) the Floating Rate Option is as specified in the Pricing Supplement; (ii) the Designated Maturity is the period specified in the Pricing Supplement; and (iii) the relevant Reset Date is either (a) if the

applicable Floating Rate Option is based on LIBOR or EURIBOR for a currency, the first day of such interest period or (b) in any other case, as specified in the Pricing Supplement. Where "ISDA Rate" is specified, interest will be payable on each Interest Payment Date specified in the Pricing Supplement or, if no express Interest Payment Dates are specified, on each date which falls at the end of the number of months or other period specified as the interest period in the Pricing Supplement after the preceding Interest Payment Date (or after the Original Issue Date, in the case of the first such date). As used in this paragraph, "Floating Rate," "Calculation Agent," "Floating Rate Option," "Designated Maturity" and "Reset Date" have the meanings ascribed to those terms in the 2006 ISDA Definitions.

The "calculation date" pertaining to any Interest Determination Date will be the date by which the Calculation Agent specified in the Pricing Supplement computes the amount of interest owed on this Note for the related Interest Period. Unless otherwise specified in the Pricing Supplement, the "calculation date" will be the earlier of (a) the tenth calendar day after the related Interest Determination Date or, if that date is not a Business Day, the next succeeding Business Day; or (b) the Business Day immediately preceding the applicable Interest Payment Date or the Stated Maturity Date or the date of redemption or the date of prepayment, as the case may be.

The interest rate in effect on each day shall be (a) if such day is an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to such Interest Reset Date or (b) if such day is not an Interest Reset Date, the interest rate determined as of the Interest Determination Date pertaining to the immediately preceding Interest Reset Date, provided that (i) the interest rate in effect from the Original Issue Date to the initial Interest Reset Date shall be the Initial Interest Rate specified in the Pricing Supplement, and (ii) the interest rate in effect for the 10 calendar days immediately prior to the Maturity Date shall be the rate in effect on the 10th calendar day preceding such Maturity Date. Unless otherwise specified herein or in the Pricing Supplement, if any Interest Reset Date specified in the Pricing Supplement (including the Initial Interest Reset Date, as specified in the Pricing Supplement) falls on a day that is not a Business Day, the Interest Reset Date will be postponed to the next day that is a Business Day, except that, unless otherwise specified in the Pricing Supplement, in the case of a LIBOR note or a EURIBOR note, if the next Business Day is in the next succeeding calendar month, the Interest Reset Date will be the immediately preceding Business Day. The Interest Reset Dates are subject to adjustment as described below.

Unless otherwise specified in the Pricing Supplement: (i) the "Interest Determination Date" with respect to any Note that has as its Base Rate the federal funds rate or the prime rate will be the Business Day immediately preceding the related Interest Reset Date; (ii) the "Interest Determination Date" with respect to any Note that has LIBOR as its Base Rate will be the second London Banking Day preceding the related Interest Reset Date, unless the Index Currency specified in the Pricing Supplement is Pounds Sterling, in which case the Interest Determination Date will be the Interest Reset Date; (iii) the "Interest Determination Date" with respect to any Note that has as its Base Rate the treasury rate will be the day of the week in which the related Interest Reset Date falls on which Treasury bills of the Index Maturity specified in the Pricing Supplement normally would be auctioned; provided, however, that if an auction is held on the Friday of the week preceding the related Interest Reset Date, the related "Interest Determination Date" shall be such preceding Friday; and provided, further, that if an

auction is held on any Interest Reset Date then the Interest Reset Date shall instead be the first Business Day following such auction.

For a Note whose interest rate is determined by reference to two or more Base Rates, unless otherwise specified in the Pricing Supplement, the "Interest Determination Date" shall be the most recent Business Day that is at least two Business Days prior to the applicable Interest Reset Date for the Note on which each Base Rate is applicable.

Unless otherwise specified in the Pricing Supplement, if any Interest Payment Date falls on a day that is not a Business Day, the related payment of interest will be made on the next succeeding Business Day. However, unless otherwise specified in the Pricing Supplement, if this Note has as its Base Rate LIBOR or EURIBOR, as described below, if an Interest Payment Date falls on a date that is not a Business Day, and the next Business Day is in the next calendar month, the Interest Payment Date will be the immediately preceding Business Day. In each such case, except for the Interest Payment Date falling on the Maturity Date, the Interest Periods and the Interest Reset Dates will be adjusted accordingly to calculate the amount of interest payable on this Note. Unless otherwise specified in the Pricing Supplement, if the Maturity Date of this Note falls on a day that is not a Business Day, the related payment of principal of, or premium, if any, or interest on, this Note will be made on the next succeeding Business Day with the same force and effect as if made on the date such payments were due, and no additional interest will accrue in respect of the amount so payable for the period from and after the Maturity Date.

Accrued interest on this Note is calculated by multiplying the principal amount of the Note by an accrued interest factor. The accrued interest factor is the sum of the interest factors calculated for each day in the period for which accrued interest is being calculated. Unless otherwise indicated in the Pricing Supplement, the daily interest factor will be computed on the basis of a 360-day year of twelve 30-day months if the Day Count Convention specified in the Pricing Supplement is "30/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 360 if the Day Count Convention specified in the Pricing Supplement is "Actual/360" for the period specified thereunder, or on the basis of the actual number of days in the Interest Period divided by 365, or in the case of an Interest Payment Date falling in a leap year, 366, if the Day Count Convention specified in the Pricing Supplement is "Actual/Actual" for the period specified thereunder. If no Day Count Convention is specified in the Pricing Supplement, the daily interest factor will be computed and interest will be paid (including payments for partial periods) as follows: (i) for Notes that have as a Base Rate the federal funds rate, LIBOR, EURIBOR, the prime rate, or any other rate other than the treasury rate, as if "Actual/360" had been specified in the Pricing Supplement; and (ii) for Notes that have the treasury rate as a Base Rate, as if "Actual/Actual" had been specified in the Pricing Supplement.

All amounts used in or resulting from any calculation on this Note will be rounded to the nearest cent, if the Specified Currency is U.S. dollars, or to the nearest corresponding hundredth of a unit, if the Specified Currency is other than U.S. dollars, with one-half cent or one-half of a corresponding hundredth of a unit or more being rounded upward. Unless otherwise specified in the Pricing Supplement, all percentages resulting from any calculation are rounded to the nearest one hundred-thousandth of a percent, with five one-millionths of a percentage point rounded upward. For example, 9.876545% (or .09876545) will be rounded to 9.87655% (or .0987655).

Notwithstanding the calculations determined as specified below, the interest rate hereon shall not be greater than the Maximum Interest Rate, if any, or less than the Minimum Interest Rate, if any, specified in the Pricing Supplement.

The Calculation Agent shall calculate the interest rate hereon in accordance with the procedures described below on or before each calculation date. At the request of the holder hereof, the Calculation Agent will provide to such holder the interest rate hereon then in effect and, if determined, the interest rate which will become effective as of the next Interest Reset Date.

Determination of LIBOR. LIBOR for any Interest Determination Date will be the arithmetic mean of the offered rates for deposits in the relevant Index Currency having the Index Maturity described in the Pricing Supplement, commencing on the related Interest Reset Date, as the rates appear on the designated LIBOR page in the Pricing Supplement as of 11:00 A.M., London time, on that Interest Determination Date, if at least two offered rates appear on the designated LIBOR page, except that, if the designated LIBOR page only provides for a single rate, that single rate will be used.

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

- The Calculation Agent will select four major banks in the London interbank market, after consultation with us. On the Interest Determination Date, those four banks will be requested to provide their offered quotations for deposits in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to prime banks in the London interbank market at approximately 11:00 A.M., London time.

- If at least two quotations are provided, the Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.

- If fewer than two quotations are provided, the Calculation Agent will select, after consultation with us, three major banks in New York City. On the Interest Determination Date, those three banks will be requested to provide their offered quotations for loans in the relevant Index Currency having an Index Maturity specified in the Pricing Supplement commencing on the Interest Reset Date to leading European banks at approximately 11:00 A.M., New York time. The Calculation Agent will determine LIBOR as the arithmetic mean of those quotations.

- If fewer than three New York City banks selected by the Calculation Agent are quoting rates, LIBOR for that interest period will remain LIBOR then in effect on the Interest Determination Date.

Determination of EURIBOR. EURIBOR means, for any Interest Determination Date, the rate for deposits in euro as sponsored, calculated, and published jointly by the European Banking Federation and ACI—The Financial Market Association, or any company established by the

joint sponsors for purposes of compiling and publishing those rates, having the Index Maturity specified in the Pricing Supplement, as that rate appears on the display on Reuters, or any successor service, on page EURIBOR01 or any other page as may replace such page ("**Reuters Page EURIBOR01**"), as of 11:00 A.M., Brussels time.

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

- If no offered rate appears on Reuters Page EURIBOR01 on an Interest Determination Date at approximately 11:00 A.M., Brussels time, then the Calculation Agent, after consultation with us, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in euro having the Index Maturity specified in the Pricing Supplement are offered to prime banks in the Euro-zone interbank market, and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least two quotations are provided, EURIBOR will be the arithmetic average of those quotations.

- If fewer than two quotations are provided, then the Calculation Agent, after consultation with us, will select four major banks in the Euro-zone interbank market to provide a quotation of the rate offered by them, at approximately 11:00 A.M., Brussels time, on the Interest Determination Date, for loans in euro to prime banks in the Euro-zone interbank market for a period of time equivalent to the Index Maturity specified in the Pricing Supplement commencing on that Interest Reset Date and in a principal amount not less than the equivalent of €1,000,000, that is representative of a single transaction in euro in that market at that time. If at least three quotations are provided, EURIBOR will be the arithmetic average of those quotations.

- If three quotations are not provided, EURIBOR for that Interest Determination Date will be equal to EURIBOR for the immediately preceding interest period.

"**Euro-zone**" means the region comprising Member States of the European Union that have adopted the euro as their single currency in accordance with the Treaty establishing European Community, as amended.

Determination of Treasury Rate. The "treasury rate" for any Interest Determination Date is the rate set at the auction of direct obligations of the United States (**Treasury bills**") having the Index Maturity described in the Pricing Supplement, as specified under the caption "Investment Rate" on the display on Reuters, or any successor service, on page USAUCTION 10/11 or any other page as may replace such page.

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

- If the rate is not displayed on Reuters by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate of Treasury bills as published in H.15 Daily Update, or another recognized electronic source for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Auction High."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the bond equivalent yield, as defined below, of the auction rate of the applicable Treasury bills as announced by the U.S. Department of the Treasury.

- If the alternative rate described in the paragraph immediately above is not announced by the U.S. Department of the Treasury, or if the auction is not held, the treasury rate will be the bond equivalent yield of the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15(519) under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date of the applicable Treasury bills as published in H.15 Daily Update, or another recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Secondary Market."

- If the alternative rate described in the paragraph immediately above is not published by 3:00 P.M., New York City time, on the related calculation date, the treasury rate will be the rate on the particular Interest Determination Date calculated by the Calculation Agent as the bond equivalent yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 P.M., New York City time, on that Interest Determination Date, of three primary U.S. government securities dealers, selected by the Calculation Agent, after consultation with us, for the issue of Treasury bills with a remaining maturity closest to the particular Index Maturity.

- If the dealers selected by the Calculation Agent are not quoting as described in the paragraph immediately above, the treasury rate will be the treasury rate in effect on the particular Interest Determination Date.

The bond equivalent will be calculated using the following formula:

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

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

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

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

Determination of Federal Funds Rate. The "federal funds rate" for any Interest Determination Date will be as follows:

- if "**Federal Funds (Effective) Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds, as published in H.15(519) under the heading "Federal Funds (Effective)" and displayed on Reuters, or any successor service, on page FEDFUNDS1 or any other page as may replace the specified page on that service ("**Reuters Page FEDFUNDS1**"), or if such rate is not published in H.15(519) by 3:00 P.M., New York City time, on the related calculation date or does not appear on Reuters Page FEDFUNDS1, the federal funds rate will be the rate on that Interest Determination Date, as published in H.15 Daily Update, or any other recognized electronic source for the purposes of displaying the applicable rate, under the caption "Federal Funds (Effective)." If the alternate rate described in the preceding sentence is not published in H.15 Daily Update, or other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on the business day following that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if "**Federal Funds Open Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal funds transactions among member of the U.S. Federal Reserve System arranged by federal funds brokers on such day, under the heading "Federal Funds" for the applicable Index Maturity and opposite the caption "Open" and displayed on Reuters, or any successor service, on page 5 or any other page as may replace the specified page on that service ("**Reuters Page 5**"), or if such rate does not appear on Reuters Page 5 by 3:00 P.M., New York City time, on the related calculation date, the federal funds rate will be the rate on that Interest Determination Date displayed on FFPREBON Index page on Bloomberg L.P. ("**Bloomberg**"), which is the Fed Funds Opening Rate as reported by Prebon Yamane (or a successor) on Bloomberg. If the alternate rate described in the preceding sentence is not displayed on FFPREBON Index page on Bloomberg, or any other recognized electronic source for the purpose of displaying the applicable rate, by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

- if "**Federal Funds Target Rate**" is specified in the Pricing Supplement, the federal funds rate will be the rate on that Interest Determination Date for U.S. dollar federal

funds displayed on the FDTR Index page on Bloomberg. If such rate does not appear on the FDTR Index page on Bloomberg by 3:00 P.M., New York City time, on the calculation date, the federal funds rate for such Interest Determination Date will be the rate for that day appearing on Reuters, or any successor service, on page USFFTARGET= or any other page as may replace the specified page on that service ("**Reuters Page USFFTARGET=**"). If such rate does not appear on the FDTR Index page on Bloomberg or is not displayed on Reuters Page USFFTARGET= by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the federal funds rate to be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds, quoted prior to 9:00 A.M., New York City time, on that Interest Determination Date, by each of three leading brokers of U.S. dollar federal funds transactions in New York City, selected by the Calculation Agent, after consultation with us; *provided, however*, if fewer than three brokers selected by the Calculation Agent are quoting as described above, the federal funds rate will be the federal funds rate then in effect on that Interest Determination Date.

Determination of Prime Rate. The "prime rate" for any Interest Determination Date is the prime rate or base lending rate on that date, as published in H.15(519) prior to 3:00 P.M., New York City time, on the related calculation date, under the heading "Bank Prime Loan."

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

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

- If the alternative rate described above is not published in H.15 Daily Update or another recognized electronic source by 3:00 P.M., New York City time, on the related calculation date, then the Calculation Agent will determine the prime rate to be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters screen US PRIME 1, as defined below, as that bank's prime rate or base lending rate as in effect as of 11:00 A.M., New York City time, on that Interest Determination Date.

- If fewer than four rates appear on the Reuters screen US PRIME 1 for that Interest Determination Date, by 3:00 P.M., New York City time, then the Calculation Agent will determine the prime rate to be the average of the prime rates or base lending rates furnished in New York City by three substitute banks or trust companies (all organized under the laws of the United States or any of its states and having total equity capital of at least U.S.$500,000,000) selected by the Calculation Agent, after consultation with us.

- If the banks selected by the Calculation Agent are not quoting as described above, the prime rate will remain the prime rate then in effect on the Interest Determination Date.

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

(c) Floating Rate/Fixed Rate Notes. If this Note is designated as a "Floating Rate/Fixed Rate Note" on the face hereof, this Note may bear interest at a fixed rate for a specified period and at a floating rate for a specified period, in each case calculated as set forth in (a) and (b) above, as applicable, and in the Pricing Supplement.

SECTION 3. *Amortizing Notes*. If this Note is designated as an "Amortizing Note" on the face hereof, the Issuer will make payments combining principal and interest on the dates and in the amounts set forth in the table included in the Pricing Supplement. If this Note is an Amortizing Note, payments made hereon will be applied first to interest due and payable on each such payment date and then to the reduction of the Outstanding Face Amount. The term "Outstanding Face Amount" means, at any time, the amount of unpaid principal hereof at such time.

SECTION 4. *Optional Redemption.* If so specified in the Pricing Supplement, this Note may be redeemed at the option of the Issuer on any date on and after the Initial Redemption Date, if any, specified in the Pricing Supplement (the "Redemption Date"). **IF NO INITIAL REDEMPTION DATE IS SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE REDEEMED AT THE OPTION OF THE ISSUER PRIOR TO THE STATED MATURITY DATE, EXCEPT AS PROVIDED BELOW IN THE EVENT THAT ANY ADDITIONAL AMOUNTS (AS DEFINED BELOW) ARE REQUIRED TO BE PAID BY THE ISSUER WITH RESPECT TO THIS NOTE.** If so specified in the Pricing Supplement, on and after the Initial Redemption Date, if any, this Note may be redeemed at any time in whole or from time to time in part at the option of the Issuer at the applicable Redemption Price (as defined below), together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the Redemption Date, on notice given not more than 60 nor less than 30 calendar days (unless specified otherwise in the Pricing Supplement) prior to the Redemption Date; provided, however, that in the event of redemption of this Note in part only, the unredeemed portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, €50,000 or its equivalent in the Specified Currency. In the event of redemption of this Note in part only, a new Note for the unredeemed portion hereof shall be issued to the bearer hereof upon the surrender of this Note or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Unless otherwise specified above, if less than all of the Notes with like tenor and terms are to be redeemed, the Notes to be redeemed shall be selected by the applicable Registrar by such method as such Registrar shall deem fair and appropriate. If this Note is redeemable at the option of the Issuer, then if so specified in the Pricing Supplement, the "Redemption Price" initially shall be the Initial Redemption Percentage specified in the Pricing Supplement of the principal amount of this Note to be redeemed and shall decline at each anniversary of the Initial Redemption Date by the Annual Redemption Percentage Reduction, if any, specified in the Pricing Supplement, of the principal amount to be redeemed until the Redemption Price is 100% of such principal amount.

From and after any redemption date, if monies for the redemption of this Note (or portion hereof) shall have been made available for redemption on such redemption date, this Note (or such portion hereof) shall cease to bear interest and the holder's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being redeemed (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed at the option of the Issuer prior to the Stated Maturity Date without the prior written approval of the United States Office of the Comptroller of the Currency (the "OCC") or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 5. *Optional Repayment.* If so specified in the Pricing Supplement, this Note will be repayable prior to the Stated Maturity Date at the option of the bearer on the Optional Repayment Date(s), if any, specified in the Pricing Supplement. **IF NO OPTIONAL REPAYMENT DATES ARE SET FORTH IN THE PRICING SUPPLEMENT, THIS NOTE MAY NOT BE SO REPAID AT THE OPTION OF THE BEARER HEREOF PRIOR TO THE STATED MATURITY DATE**. Unless otherwise provided in the Pricing Supplement, on any Optional Repayment Date, this Note shall be repayable in whole or in part at the option of the bearer hereof at a repayment price equal to 100% of the principal amount to be repaid, together with accrued and unpaid interest hereon payable at the applicable rate or rates borne by this Note to, but excluding, the date of repayment; provided, however, that, in the event of repayment of this Note in part only, the unrepaid portion hereof shall be at least the minimum Authorized Denomination specified in the Pricing Supplement, or if no such Authorized Denomination is so specified, €50,000 or its equivalent in the Specified Currency. For this Note to be repaid in whole or in part at the option of the bearer hereof on any Optional Repayment Date, this Note must be presented, with the form attached hereto entitled "Option to Elect Repayment" duly completed, at the offices of the London Paying Agent not more than 60 nor less than 30 days prior to the Optional Repayment Date. Upon such proper presentment, this Note will be repaid on the Optional Repayment Date, subject to the provisions of this Note governing payments. In the event of repayment of this Note in part only, a new Note for the unrepaid portion hereof shall be issued to the bearer hereof upon the surrender hereof or, where applicable, an appropriate notation will be made on Schedule 1 attached hereto. Exercise of such repayment option by the bearer hereof shall be irrevocable.

From and after any Optional Repayment Date, if monies for the repayment of this Note (or portion hereof) shall have been made available for repayment on such Optional Repayment Date, this Note (or such portion hereof) shall cease to bear interest and the bearer's only right with respect to this Note (or such portion hereof) shall be to receive payment of the principal amount of the Note being repaid (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such Optional Repayment Date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be repaid at the option of the holder prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 6. *Additional Amounts.* All payments of principal, premium, if any, and interest with respect to this Note will be made without withholding or deduction at source for, or on account of, any present or future taxes, fees, duties, assessments, or governmental charges of whatever nature imposed or levied by the United States or any political subdivision or taxing authority thereof or therein, except to the extent such withholding or deduction is required by (i) the laws (or any regulations or rulings promulgated thereunder) of the United States or any political subdivision or taxing authority thereof or therein or (ii) an official position regarding the application, administration, interpretation, or enforcement of any such laws, regulations, or rulings (including, without limitation, a holding by a court of competent jurisdiction or by a taxing authority in the United States or any political subdivision thereof). If so specified in the Pricing Supplement, if a withholding or deduction at source is required, the Bank will, subject to the exceptions and limitations set forth below, pay to the beneficial owner of this Note that is a "non-U.S. person" (as defined below) additional amounts ("Additional Amounts") to ensure that every net payment on this Note will not be less, due to the payment of U.S. withholding tax, than the amount then otherwise due and payable. For this purpose, a "**net payment**" on this Note means a payment by the Issuer or any Paying Agent, including payment of principal and interest, after deduction for any present or future tax, assessment, or other governmental charge of the United States (other than a territory or possession). These Additional Amounts will constitute additional interest on this Note. For this purpose, "**U.S. withholding tax**" means a withholding tax of the United States, other than a territory or possession.

However, notwithstanding the Issuer's obligation, if so specified in the Pricing Supplement, to pay Additional Amounts, the Issuer will not be required to pay Additional Amounts in any of the circumstances described in items (1) through (13) below, unless specified otherwise in the Pricing Supplement.

(1) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- having a relationship with the United States as a citizen, resident, or otherwise;
- having had such a relationship in the past; or
- being considered as having had such a relationship.

(2) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note:

- being treated as present in or engaged in a trade or business in the United States;

- being treated as having been present in or engaged in a trade or business in the United States in the past;
- having or having had a permanent establishment in the United States; or
- having or having had a qualified business unit which has the U.S. dollar as its functional currency.

(3) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being or having been a:

- personal holding company;
- foreign personal holding company;
- private foundation or other tax-exempt organization;
- passive foreign investment company;
- controlled foreign corporation; or
- corporation which has accumulated earnings to avoid U.S. federal income tax.

(4) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note owning or having owned, actually or constructively, 10% or more of the total combined voting power of all classes of the Issuer's stock entitled to vote.

(5) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the beneficial owner of this Note being a bank extending credit under a loan agreement entered into in the ordinary course of business.

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

(6) Additional Amounts will not be payable to any beneficial owner of this Note that is:

- a fiduciary;
- a partnership;
- a limited liability company;
- another fiscally transparent entity; or

- not the sole beneficial owner of this Note or any portion of this Note.

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

(7) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld solely by reason of the failure of the beneficial owner of this Note or any other person to comply with applicable certification, identification, documentation, or other information reporting requirements. This exception to the obligation to pay Additional Amounts will apply only if compliance with such requirements is required as a precondition to exemption from such tax, assessment, or other governmental charge by statute or regulation of the United States or by an applicable income tax treaty to which the United States is a party.

(8) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is collected or imposed by any method other than by withholding from a payment on this Note by the Issuer or any Paying Agent.

(9) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of a change in law, regulation, or administrative or judicial interpretation that becomes effective more than 15 days after the payment becomes due or is duly provided for, whichever occurs later.

(10) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the presentation by the beneficial owner of this Note for payment more than 30 days after the date on which such payment becomes due or is duly provided for, whichever occurs later.

(11) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any:

- estate tax;
- inheritance tax;
- gift tax;
- sales tax;
- excise tax;

- transfer tax;
- wealth tax;
- personal property tax; or
- any similar tax, assessment, or other governmental charge.

(12) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any tax, assessment, or other governmental charge required to be withheld by any Paying Agent from a payment of principal or interest on the this Note if such payment can be made without such withholding by any other Paying Agent.

(13) Additional Amounts will not be payable if a payment on this Note is reduced as a result of any combination of items (1) through (12) above.

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

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

SECTION 7. *Redemption for Tax Reasons.* If so specified in the Pricing Supplement, the Issuer may redeem this Note in whole, but not in part, at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), after giving not less than 30 nor more than 60 calendar days' notice to the applicable Paying Agent and to the holder of this Note, if the Issuer has or will become obligated to pay Additional Amounts, as described above, as a result of any change in, or amendment to, the laws or regulations of the United States or any political subdivision or any authority of the United States having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of the Pricing Supplement, and the Issuer cannot avoid such obligation by taking reasonable measures available to it. 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 this Note were then due.

Before the Issuer delivers or publishes any notice of redemption for tax reasons, it will deliver to the applicable Paying Agent a certificate signed by the Issuer's chief financial officer

or a senior vice president stating that it is entitled to redeem this Note and that the conditions precedent, if any, to redemption have occurred.

Unless otherwise specified in the Pricing Supplement, any Note redeemed for tax reasons will be redeemed at 100% of its principal amount (or, in the case of an Original Issue Discount Note, the amortized face amount hereof determined as of the date of redemption), together with any interest accrued up to, but excluding, the redemption date.

From and after any redemption date, if monies for the redemption of this Note shall have been made available for redemption on such redemption date, this Note shall cease to bear interest and the holder's only right with respect to this Note shall be to receive payment of the principal amount of the Note (or, if this is an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount hereof) and, if appropriate, all unpaid interest accrued to such redemption date.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 8. *Special Tax Redemption.* If the Issuer determines that any payment made outside the United States by the Issuer or any Paying Agent in respect of this Note under any present or future laws or regulations of the United States, would be subject to any certification, documentation, information, or other reporting requirement of any kind the effect of which is the disclosure to the Issuer, any Paying Agent, or any governmental authority of the nationality, residence, or identity of a beneficial owner of this Note who is a non-U.S. person (as defined above) (other than a requirement (1) that would not be applicable to a payment by the Issuer or any Paying Agent (x) directly to the beneficial owner, or (y) to a custodian, nominee, or other agent of the beneficial owner, (2) that can be satisfied by such custodian, nominee, or other agent certifying to the effect that the beneficial owner is a non-U.S. person, provided that, in any case referred to in clause (1)(y) or (2), payment by the custodian, nominee, or agent to the beneficial owner is not otherwise subject to any such requirement, or (3) that would not be applicable to a payment by at least one Paying Agent), the Issuer shall at its option either: (i) redeem this Note in whole but not in part, at any time (in the case of bank notes other than floating-rate Notes) or on any Interest Payment Date (in the case of floating-rate Notes), at a redemption price equal to the principal amount of this Note (or, in the case of an Original Issue Discount Note as specified in the Pricing Supplement, the amortized face amount of this Note determined as of the date of redemption), together with, if appropriate, interest accrued to but excluding the date of redemption; or (ii) if the conditions of the next succeeding paragraph are satisfied, pay the Additional Amounts specified in such paragraph.

The Issuer shall make its determination as soon as practicable and promptly publish notice thereof (the "determination notice") stating the effective date of such certification, documentation, information, or other reporting requirement, whether it will redeem the Note or pay the Additional Amounts specified in the next succeeding paragraph, and (if applicable) the last date by which the redemption of this Note must take place, as provided in the next succeeding sentence. If this Note is to be redeemed as described above, that redemption shall take place on such date, not later than one year after publication of the determination notice, as

the Issuer shall elect by notice to the London Paying Agent at least 45 calendar days before the redemption date. Notice of such redemption of the Notes will be given to the noteholders not more than 60 nor less than 30 calendar days prior to the redemption date. Notwithstanding the foregoing, the Issuer shall not redeem the bank notes if it shall subsequently determine not less than 30 calendar days prior to the redemption date, that subsequent payments on the Notes would not be subject to any such certification, documentation, information, or other reporting requirement, in which case the Issuer shall give prompt notice of its subsequent determination, and any earlier redemption notice shall be revoked and of no further effect.

Notwithstanding the foregoing, if and so long as the certification, documentation, information, or other reporting requirements referred to in the preceding paragraph would be fully satisfied by payment of a backup withholding tax or similar charge, the Issuer may elect to pay such Additional Amounts as may be necessary so that every net payment made outside the United States following the effective date of that requirement by the Issuer or any Paying Agent in respect of this Note of which the beneficial owner is a non-U.S. person (but without any requirement that the nationality, residence, or identity, other than status as a non-U.S. person, of such beneficial owner be disclosed to the Issuer, any paying agent, or any governmental authority), after deduction or withholding for or on account of that backup withholding tax or similar charge (other than a backup withholding tax or similar charge that (1) would not be applicable in the circumstances referred to in the parenthetical clause of the first sentence of the preceding paragraph or (2) is imposed as a result of the presentation of this Note for payment more than 15 calendar days after the date on which that payment became due and payable or on which payment thereof was duly provided for, whichever occurred later), will not be less than the amount provided for in this Note to be then due and payable. If the Issuer elects to pay Additional Amounts pursuant to this paragraph, the Issuer shall have the right to redeem this Note in whole, but not in part, at any time (in the case of bank notes other than floating-rate Notes) or on any Interest Payment Date (in the case of floating-rate Notes), subject to the provisions of the last two sentences of the immediately preceding paragraph. If the Issuer elects to pay Additional Amounts pursuant to this paragraph and the condition specified in the first sentence of this paragraph should no longer be satisfied, then the Issuer shall redeem this Note pursuant to the provisions of the immediately preceding paragraph.

To the extent then required under or pursuant to applicable laws or regulations (including, without limitation, capital regulations), if this Note is a Subordinated Note, as indicated on the face hereof, it may not be redeemed prior to the Stated Maturity Date without the prior written approval of the OCC or any other bank supervisory authority having jurisdiction over the Issuer and requiring such approval.

SECTION 9. *Modification and Waivers.* The Agency Agreement permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer thereunder. In addition, the terms and conditions of this Note may be modified, amended or supplemented by the Issuer, without the consent of the holder hereof: (i) to evidence succession of another party to the Issuer, and such party's assumption of the Issuer's obligations under this Note, upon the occurrence of a merger or consolidation, or transfer, sale or lease of assets as described below in Section 11; (ii) to add additional covenants, restrictions or conditions for the protection of the holder hereof; (iii) to relax or eliminate the restrictions on payment of principal and interest in respect hereof in the United States, provided that such payment is permitted by U.S. tax laws and regulations then in effect and provided that no adverse

tax consequences would result to the holder of this Note; (iv) to cure ambiguities in this Note, or correct defects or inconsistencies in the provisions hereof; (v) to reflect the replacement of any Agent, or the assumption, by the Issuer or any substitute Agent, of some or all of any such Agent's responsibilities under the Agency Agreement; (vi) to evidence the replacement or change of address of the depository or clearing system noted hereon; (vii) in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note, or upon prepayment or redemption of the Note, 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; (viii) in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note, to reflect any change in the Stated Maturity Date of the Note in accordance with the terms hereof; (ix) to reflect the issuance in exchange herefor, in accordance with the terms hereof, of one or more definitive Notes; or (x) to permit further issuances of bank notes in accordance with the terms of the distribution agreement among the Issuer and the selling agents party thereto. However, this Note may not be modified or amended without the express written consent of the holder and, if applicable, the OCC or other then primary federal regulator (to the extent such consent is required under applicable law or regulation), to: (i) change the Stated Maturity Date, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note; (ii) extend the time of payment for the premium, if any, or interest on this Note, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed as provided in this Note; (iii) change the coin or currency in which the principal of, premium (if any), interest, or other amounts payable (if any) on this Note is payable; (iv) reduce the principal amount of this Note or the interest rate hereon, except in the case of a Note that is extendible, subject to extension at the option of the Issuer, amortizing or indexed or upon prepayment or redemption as provided in this Note; (v) change the method of payment for this Note to other than wire transfer in immediately available funds; (vi) impair the right of the holder hereof to institute suit for the enforcement of payments or principal of, premium (if any), interest, or other amounts payable (if any) on this Note; (vii) change the definition of "Event of Default" below or otherwise eliminate or impair any remedy available hereunder upon the occurrence of any Event of Default; or (viii) modify the provisions governing the amendment of this Note. Any instrument given by or on behalf of the holder of this Note in connection with any consent to such modification, amendment or waiver shall be irrevocable once given and shall be conclusive and binding on all subsequent holders of this Note. Any modifications, amendments or waiver to the Agency Agreement or the provisions of this Note made in accordance with the terms of the Agency Agreement or the terms hereof, as applicable, shall be conclusive and binding on all holders of Notes, whether or not notation of such modifications, amendments or waivers is made upon this Note.

Any action by the bearer of this Note shall bind all future bearers of this Note and of any Note issued in exchange or substitution hereof or in place hereof, in respect of anything done or permitted by the Issuer or by the Paying Agents in pursuance of such action.

Notes authenticated and delivered after the execution of any agreement modifying, amending or supplementing this Note may bear a notation in a form approved by the Issuer as to any matter provided for in such modification, amendment or supplement to the Agency Agreement or the Notes. New Notes so modified as to conform, in the opinion of the Issuer, to

any provisions contained in any such modification, amendment or supplement may be prepared by the Issuer, authenticated by the London Issuing Agent and delivered in exchange for this Note. Notes are deemed to be "outstanding" as of any date of determination if, as of any date of determination, they have been authenticated and delivered, except (i) those which have been redeemed in full in accordance with their terms and the Agency Agreement; (ii) 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 the London Paying Agent as provided in the Agency Agreement (and, where appropriate, notice has been given to the holder of this Note in accordance with the terms hereof and of the Agency Agreement; (iii) those which have been canceled or delivered to the applicable Agent for cancellation; or (iv) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes in accordance with their terms.

SECTION 10. *Obligations Unconditional.* No reference herein to the Agency Agreement and no provision of this Note or of the Agency Agreement shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of, premium, if any, and interest, if any, on this Note at the times, place and rate, and in the coin or currency, herein prescribed.

SECTION 11. *Successor to Issuer.* The Issuer may not consolidate or merge with or into any other person, or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless (i) the 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 Issuer 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 this Note, and the performance or observance of every provision of this Note on the part of the Issuer to be performed or observed; and (ii) immediately after giving effect to such transaction, no Event of Default with respect to the Issuer as set forth herein, and no event which, after notice or the lapse of time or both, would become an Event of Default with respect to the Issuer, shall have happened and be continuing.

SECTION 12. *Authorized Denominations.* This Note, and any Note issued in exchange or substitution herefor or in place hereof, or upon partial redemption or repayment of this Note, may be issued only in an Authorized Denomination as specified in the Pricing Supplement, or if no Authorized Denomination is so specified, in minimum denominations of €50,000 (or equivalent denominations in other currencies, subject to any other statutory or regulatory minimums).

SECTION 13. *Events of Default.*

(a) Senior Notes. If this Note is a Senior Note, as indicated on the face hereof, the following will be the only "Events of Default" with respect to this Senior Note: (a) a default in the payment of any interest upon this Senior Note when due, which continues for 30 calendar

days; (b) a default in the payment of any principal of or premium, if any, upon this Senior Note when due; (c) a default in the performance of any covenant or agreement of the Issuer contained herein which, unless otherwise specified herein, continues for 90 calendar days; (d) 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, reorganization, 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 the Issuer's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (e) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry of 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 respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default with respect to this Senior Note shall occur and be continuing, the holder hereof may: (i) by written notice to the applicable Paying Agent declare the entire outstanding principal amount of this Senior Note, together with any unpaid interest and premium accrued hereon, to be immediately due and payable; (ii) institute a judicial proceeding of the enforcement of the terms hereof including the collection of all sums due and unpaid hereunder, and prosecute such proceeding to judgment or final decree, and enforce the same against the Issuer and collect monies adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer; and (iii) take such other action at law or in equity as may appear necessary or desirable to collect and enforce this Senior Note; provided, however, that the holder hereof may waive any Event of Default that occurs with respect hereto.

(b) Subordinated Notes. If this Note is a Subordinated Note, as indicated on the face hereof, the following will be the only "Events of Default" with respect to this Subordinated Note: (a) 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, reorganization, 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 the Issuer's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (b) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry of 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 respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing.

If an Event of Default with respect to this Subordinated Note shall occur and be continuing, and any prior written consent of the OCC is obtained before acceleration, the holder hereof may: (i) by written notice to the applicable Paying Agent declare the entire outstanding principal amount of this Subordinated Note, together with any unpaid interest and premium accrued hereon, to be immediately due and payable; (ii) institute a judicial proceeding of the enforcement of the terms hereof including the collection of all sums due and unpaid hereunder, and prosecute such proceeding to judgment or final decree, and enforce the same against the Issuer and collect monies adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer; and (iii) take such other action at law or in equity as may appear necessary or desirable to collect and enforce this Subordinated Note; provided, however, that the holder hereof may waive any Event of Default that occurs with respect hereto.

Payment of principal of, the interest accrued on or other amounts then payable on, this Subordinated Note may not be accelerated in the case of a default in the payment of principal, interest or other amounts then payable or the performance of any other covenant of the Issuer. Payment of the principal on, the interest accrued on or other amounts then payable on, this Subordinated Note may be accelerated only in the case of the bankruptcy or insolvency of the Issuer. Notwithstanding anything herein to the contrary, to the extent then required under applicable capital regulations of the OCC, no payment may be made on this Subordinated Note after an acceleration resulting from an Event of Default with respect to this Subordinated Note without the prior approval of the OCC.

SECTION 14. *Subordination.* If this Note is a Subordinated Note, as indicated on the face hereof, the indebtedness of the Issuer evidenced by this Subordinated Note, including the principal, premium (if any), interest, or other amounts payable (if any), shall be subordinate and junior in right of payment to its obligation to its depositors, its obligations under bankers' acceptances and letters of credit, and its obligations to its other creditors, including its obligations to the United States Federal Reserve Bank, the United States Federal Deposit Insurance Corporation (the "FDIC"), and to any rights acquired by the FDIC as a result of loans made by the FDIC to the Issuer or the purchase or guarantee of any of the Issuer's assets by the FDIC pursuant to the provisions of 12 U.S.C. Sections 1823(c), (d) or (e), whether now outstanding or hereafter incurred. In the event of any insolvency, receivership, conservatorship, reorganization, readjustment of debt, marshaling of assets and liabilities or similar proceedings or any liquidation or winding up of or relating to the Issuer, whether voluntary or involuntary, all such obligations shall be entitled to be paid in full before any payment shall be made on account of the principal of, or premium (if any), interest, or other amounts payable (if any) on, this Subordinated Note. In the event of any such proceedings, after payment in full of all sums owing such prior obligations, the holder of this Subordinated Note, together with any obligations of the Issuer ranking on a parity with this Subordinated Note, shall be entitled to be paid from the remaining assets of the Issuer the unpaid principal hereof and any unpaid premium (if any), interest, and other amounts payable (if any) before any payment or other distribution, whether in cash, property, or otherwise, shall be made on account of any capital stock or any obligations of the Issuer ranking junior to this Subordinated Note.

Notwithstanding any other provisions of this Subordinated Note, including specifically those set forth in the sections relating to subordination, events of default and covenants of the

Issuer, it is expressly understood and agreed that the OCC or any receiver or conservator of the Issuer appointed by the OCC as to its assets shall have the right in the performance of its legal duties, and as part of liquidation designed to protect or further the continued existence of the Issuer or the rights of any parties or agencies with an interest in, or claim against, the Issuer or its assets, to transfer or direct the transfer of the obligations of this Subordinated Note to any bank or bank holding company selected by such official which shall expressly assume the obligation of the due and punctual payment of the unpaid principal, and interest and premium, if any (and any other amounts payable), on this Subordinated Note and the due and punctual performance of all covenants and conditions; and the completion of such transfer and assumption shall serve to supersede and void any default, acceleration or subordination which may have occurred, or which may occur due to or related to such transaction, plan, transfer or assumption, pursuant to the provisions of this Subordinated Note, and shall serve to return the holder of this Subordinated Note to the same position, other than for substitution of the obligor, it would have occupied had no default, acceleration or subordination occurred; except that any interest, principal, or other amounts previously due, other than by reason of acceleration, and not paid, in the absence of a contrary agreement by the holder of this Subordinated Note, shall be deemed to be immediately due and payable as of the date of such transfer and assumption, together with the interest from its original due date at the rate provided for herein.

SECTION 15. *Specified Currency*. Unless otherwise provided herein or in the Pricing Supplement, the principal of, and premium, if any, and interest on, this Note are payable in the Specified Currency indicated on the face hereof (or, if such Specified Currency is not at the time of such payment legal tender for the payment of public and private debts, in (x) such other coin or currency of the country that issued such Specified Currency or (y) (if such Specified Currency is the euro) the successor currency under applicable law, in each case as at the time of such payment is legal tender for the payment of debts.

In the event the Specified Currency indicated on the face hereof has been replaced by another currency (a "Replacement Currency"), any amount due pursuant to this Note may be repaid, at the option of the Issuer, in the Replacement Currency or in U.S. dollars, at a rate of exchange which takes into account the conversion, at the rate prevailing on the most recent date on which official conversion rates were quoted or set by the national government or other authority responsible for issuing the Replacement Currency, from the Specified Currency to the Replacement Currency and, if necessary, the conversion of the Replacement Currency into U.S. dollars at the rate prevailing on the date of such conversion. Notwithstanding the foregoing, if this Note originally was issued in a domestic currency of a state that is or subsequently becomes a Member State of the European Union, then this Note may be redenominated in euro, if subsequent to the issuance of this Note, such state participates in the European monetary union, as indicated in the Pricing Supplement. This Note may be redenominated as a matter of law whether or not the Pricing Supplement provides for redenomination.

If the Specified Currency indicated on the face hereof is other than U.S. dollars, if the Issuer determines that a payment hereon cannot be made in the Specified Currency due to restrictions imposed by the government of such currency or any agency or instrumentality thereof or any monetary authority in such country, such payment will be made outside the United States in U.S. dollars by a check drawn on or by credit or transfer to an account maintained by

the holder hereof with a bank located outside the United States. The London Paying Agent, on receipt of the Issuer's written instructions and at the Issuer's expense, will give prompt notice to the beneficial holders of this Note if such determination is made. The amount of U.S. dollars to be paid in connection with any payment shall be the amount of U.S. dollars that could be purchased by the London Paying Agent with the amount of the Specified Currency payable on the date the payment is due, at the rate for sale in financial transactions of U.S. dollars (for delivery in the principal financial center of the Specified Currency two business days later) quoted by that bank at 10:00 A.M., local time in the Principal Financial Center of the Specified Currency on the second Business Day prior to the date the payment is due.

Any payment made under such circumstances in U.S. dollars, where the payment is required to be made in the Specified Currency, will not constitute an "Event of Default" with respect to this Note.

SECTION 16. *Original Issue Discount Note*. If this Note is identified as an Original Issue Discount Note in the Pricing Supplement, then unless otherwise specified therein, the amount payable to the holder of this Note in the event of redemption, repayment or acceleration of Maturity will be the Amortized Face Amount of this Note (as defined below) as of the date of such event. The "Amortized Face Amount" shall be the amount equal to (A) the Issue Price (as set forth in the Pricing Supplement) plus (B) the original issue discount amortized from the Original Issue Date to the date as of which the Amortized Face Amount is calculated, as specified in the Pricing Supplement.

SECTION 17. *Dual Currency Note*. If this Note is identified as a Dual Currency Note in the Pricing Supplement, the Issuer has the option of making each scheduled payment of principal and interest, if any, due on this Note either in the Specified Currency designated on the face hereof or in the optional payment currency specified in the Pricing Supplement. If the Issuer elects to make a payment in the optional payment currency, the amount payable in such optional payment currency shall be determined using the exchange rate specified in the Pricing Supplement, on the terms specified in the Pricing Supplement.

SECTION 18. *Mutilated, Defaced, Destroyed, Lost or Stolen Notes.* In case this Note shall at any time become mutilated, defaced, destroyed, lost or stolen, and this Note or evidence of the loss, theft or destruction hereof satisfactory to the Issuer and the London Issuing Agent and such other documents or proof as may be required by the Issuer and the applicable Registrar shall be delivered to the London Issuing Agent, the London Issuing Agent shall issue a new Note of like tenor and principal amount, having a serial number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Note or in lieu of the Note destroyed, lost or stolen but, in the case of any destroyed, lost or stolen Note, only upon receipt of evidence satisfactory to the Issuer and the London Issuing Agent that this Note was destroyed, stolen or lost, and, if required, upon receipt of indemnity satisfactory to the Issuer and the applicable Registrar. Upon the issuance of any substituted Note, the Issuer may require the payment of a sum sufficient to cover all expenses and reasonable charges connected with the preparation and delivery of a new Note. If any Note which has matured or has been redeemed or repaid or is about to mature or to be redeemed or repaid shall become mutilated, defaced, destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Note, pay or authorize the payment of the

same (without surrender thereof except in the case of a mutilated or defaced Note) upon compliance by the holder with the provisions of this paragraph.

SECTION 19. *Miscellaneous*. No recourse shall be had for the payment of principal of (and premium, if any) or interest on, this Note for any claim based hereon, or otherwise in respect hereof, against any shareholder, employee, agent, officer or director, as such, past, present or future, of the Issuer or of any successor organization, either directly or through the Issuer or any successor organization, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

SECTION 20. *Defined Terms.* All terms used in this Note which are defined in the Agency Agreement and are not otherwise defined in this Note shall have the meanings assigned to them in the Agency Agreement.

Unless specified otherwise in the Pricing Supplement, "Business Day" means a day that meets all the following requirements:

(a) for all Notes, is any weekday that is not a legal holiday in Charlotte, North Carolina, or any other place of payment of the applicable Note, and is not a date on which banking institutions in those cities are authorized or required by law or regulation to be closed;

(b) for all Notes, also is a day on which commercial banks are open for business (including dealings in the Index Currency specified in the Pricing Supplement) in London, England;

(c) for any Note denominated in euro or any Note where the base rate is EURIBOR (as defined in the Note), also is a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System or any successor is operating; and

(d) for any Note that has a Specified Currency other than U.S. dollars or euro, also is not 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).

Unless specified otherwise in the Pricing Supplement, "Principal Financial Center" means (i) the capital city of the country issuing the Specified Currency, except that with respect to U.S. Dollars, Australian dollars, Canadian dollars, South African rand and Swiss francs, the "Principal Financial Center" shall be 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.

SECTION 21. *GOVERNING LAW*. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, NOTWITHSTANDING ANY OTHERWISE APPLICABLE CONFLICTS OF LAWS PROVISIONS AND ALL APPLICABLE UNITED STATES FEDERAL LAWS AND REGULATIONS.

[OPTION TO ELECT REPAYMENT]

[To be completed, based upon the terms of the applicable Notes.]

[EXTENDIBLE NOTE RIDER]

[To be completed, based upon the terms of the applicable Notes.]

[EXTENSION OF MATURITY NOTE RIDER]

[To be completed, based upon the terms of the applicable Notes.]

Schedule 1 to the
Permanent Global Note

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*				

* Continue renumbering until the appropriate number of interest payments 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[4]	Confirmation of payment by or on behalf of the Issuer
First*					

4 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

* Continue renumbering until the appropriate number of installment payments 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[6]	Confirmation of redemption by or on behalf of the Issuer

6 See most recent entry in Part II, III, or 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 cancelled	Remaining principal amount of this Global Note following such purchase and cancellation[7]	Confirmation of purchase and cancellation by or on behalf of the Issuer

[7] 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

SCHEDULE OF EXCHANGES

The following exchanges of the Temporary Global Note(s) for Notes represented by this Permanent Global Note 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	Remaining Principal Amount of this Global Note following such exchange[8]	Notation made by or on behalf of the Issuer

8 See most recent entry in Part II, III or IV of Schedule 1 or Schedule 2 in order to determine this amount.

Exhibit D to
Global Agency Agreement

[FORM OF DEFINITIVE BEARER NOTE]

BANK OF AMERICA, N.A.

BANK 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 SUBMISSION 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 GLOBAL AGENCY AGREEMENT (AS DEFINED HEREIN).

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.

THIS NOTE IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

[THIS NOTE IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS NOTE RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.][1]

[THIS NOTE A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.][2]

THIS NOTE IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

1 To be included on the Note if it is a Senior Note.
2 To be included on the Note if it is a Subordinated Note.

BANK OF AMERICA, N.A.

[Specified Currency and Principal Amount of Tranche]
[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]
Series No. [ ]
Tranche No. [ ]

DEFINITIVE BANK NOTE

COMMON CODE: **ISIN:**

This Note is one of a duly authorized issue of [senior][subordinated] bank notes of Bank of America , N.A. (the "Issuer") denominated in the Specified Currency maturing on the Maturity Date. Reference is made to the further provisions of this Note set forth on the reverse hereof, which shall have the same effect as though fully set forth at this place.

This Note is issued subject to, and with the benefit of, the Global Agency Agreement (the "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 July 25, 2007 and made among Issuer, Deutsche Bank Trust Company Americas, as U.S. Registrar (the "U.S. Registrar") and U.S. Paying Agent (the "U.S. Paying Agent"), 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, a "Paying Agent") and as London Issuing Agent (the "London Issuing Agent"), and 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," and together with the Registrars, the Paying Agents and the London Issuing Agent, the "Agents" and each, an "Agent"), to which Agency Agreement reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer and the Agents and the holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms U.S. Registrar, U.S. Paying Agent, London Paying Agent, London Issuing Agent, European Registrar and European Transfer Agent shall include any additional or successor agents appointed in such capacities by the Issuer.

For value received, the Issuer promises to pay to the bearer hereof the principal amount specified above on the Stated Maturity Date or such earlier date as this Note may become due and repayable in accordance with the provisions hereof, and to pay interest (if any) on this Note calculated and payable as provided herein together with any other sums payable as provided herein.

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 European Registrar acting in accordance with the Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this Note to be duly signed on its behalf.

Dated:

BANK OF AMERICA, N.A.

By: _____
Duly authorized officer

CERTIFICATE OF AUTHENTICATION OF THE AGENT

This Note is authenticated by or on behalf of the Agent.

DEUTSCHE BANK LUXEMBOURG S.A.
as European Registrar

Dated:

By: _____
Authorized Signatory

By: _____
Authorized Signatory

(Reverse of Note)

BANK OF AMERICA, N.A.

DEFINITIVE BANK NOTE

[Describe specific terms and provisions of Note, by reference to an attached schedule with appropriate notations or otherwise]

Exhibit E to
Global Agency Agreement

[FORM OF COUPON]

BANK OF AMERICA, N.A.

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.

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.

THIS COUPON IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

[THIS COUPON IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS COUPON RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.][1]

[THIS COUPON IS A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.][2]

THIS COUPON IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

1 To be included on the Coupon if Note is a Senior Note.
2 To be included on the Coupon if Note is a Subordinated Note.

BANK OF AMERICA, N.A.

[Specified Currency and Principal Amount of Tranche]
[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]

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 provisions of the said Notes.

Coupon No. _____
Coupon for
[ ]
due on
[ ], 20[ ]]

Part B

[For Floating Rate Notes:-

Coupon No. _____
Coupon due
in [ ], 20[ ]]

Coupon for the amount due in accordance with the terms and provisions on the said Notes on the Interest Payment Date falling in [ ], [20[ ]]

This Coupon is payable to bearer, separately negotiable and subject to the terms and provisions on the said Notes, 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.

BANK OF AMERICA, N.A.

By: _____
Duly authorized officer

(Reverse of Coupon)

AGENT

Deutsche Bank AG, London Branch
Winchester House
1 Winchester Street
London, EC2N 2DB

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 F to
Global Agency Agreement

[FORM OF TALON]

(On the front)

BANK OF AMERICA, N.A.

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.

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.

THIS TALON IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

[THIS TALON IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS RECEIPT RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.][1]

[THIS TALON IS A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.][2]

THIS TALON IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

1 To be included on the Talon if Note is a Senior Note.
2 To be included on the Talon if Note is a Subordinated Note.

(On the front)

[Specified Currency and Principal Amount of Tranche]

[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]

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 of the Notes to which this Talon appertains.

BANK OF AMERICA, N.A.

By: _____
Duly authorized officer

(Reverse of Talon)

AGENT

Deutsche Bank AG, London Branch
Winchester House
1 Winchester Street
London, EC2N 2DB

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 G to
Global Agency Agreement

[FORM OF RECEIPT]

(On the front)

BANK OF AMERICA, N.A.

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.

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.

THIS RECEIPT IS NOT A SAVINGS ACCOUNT OR A DEPOSIT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

[THIS RECEIPT IS A DIRECT, UNCONDITIONAL, UNSECURED AND UNSUBORDINATED GENERAL OBLIGATION OF BANK OF AMERICA, N.A. THE OBLIGATIONS EVIDENCED BY THIS RECEIPT RANK PARI PASSU WITH ALL OTHER UNSECURED AND UNSUBORDINATED OBLIGATIONS OF BANK OF AMERICA, N.A., EXCEPT OBLIGATIONS, INCLUDING DEPOSIT LIABILITIES, THAT ARE SUBJECT TO ANY PRIORITIES OR PREFERENCES UNDER APPLICABLE LAW.][1]

[THIS RECEIPT IS A DIRECT, UNCONDITIONAL AND UNSECURED OBLIGATION OF BANK OF AMERICA, N.A., IS SUBORDINATED TO CLAIMS OF GENERAL CREDITORS AND OF DEPOSITORS, AND IS NOT ELIGIBLE AS COLLATERAL FOR A LOAN BY BANK OF AMERICA, N.A.][2]

THIS RECEIPT IS NOT AN OBLIGATION OF OR GUARANTEED BY BANK OF AMERICA CORPORATION OR ANY OTHER BANKING OR NONBANKING AFFILIATE OF BANK OF AMERICA, N.A.

1 To be included on the Receipt if Note is a Senior Note.
2 To be included on the Receipt if Note is a Subordinated Note.

BANK OF AMERICA, N.A.

[Specified Currency and Principal Amount of Tranche]
[INSERT NAME OF SERIES OR DESIGNATION OF THE NOTES]

Series No. [ ]

COMMON CODE: ISIN:

Receipt for the sum of [ ] being the installment of principal payable in accordance with the terms and provisions of the Note to which this Receipt appertains (the "Conditions") on [ ].

This Receipt is issued subject to and in accordance with the terms and provision of the Note 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, N.A.

By: _____
Duly authorized officer

Exhibit H to

Global Agency Agreement

[FORM OF CALCULATION AGENCY AGREEMENT]

BANK OF AMERICA, N.A. GLOBAL BANK NOTE PROGRAM

THIS CALCULATION AGENCY AGREEMENT (this "Agreement"), dated as of _____, 20____, is made by and between **BANK OF AMERICA, N.A.**, a national banking association organized under the laws of the United States (the "Issuer") and [_____] (the "Calculation Agent").

W I T N E S S E T H:

WHEREAS, the Issuer intends to implement a global bank note program in which it intends to issue its senior bank notes and its subordinated bank notes (collectively, the "Notes") pursuant to a Global Agency Agreement, dated as of July 25, 2007 (the "Global Agency Agreement") among the 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;

WHEREAS, the Notes may be floating rate notes ("Floating Rate Notes"), or indexed notes ("Indexed Notes"), each as more particularly described in (a) the Issuer's Offering Circular dated July 25, 2007 (the "Offering Circular") or (b) any pricing supplement prepared by the Issuer in connection with any Floating Rate Note or Indexed Note (a "Pricing Supplement"); and

WHEREAS, with respect to certain tranches of Notes under the bank note program, the Issuer desires to appoint the Calculation Agent as agent for the Issuer, and the Calculation Agent desires to accept such appointment, in connection with the calculation of principal, premium, if any, interest or other amounts payable in connection with any Floating Rate Notes, certain Indexed Notes or other Notes designated by the Issuer;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Appointment of Agent. With respect to any particular tranche of Notes, by designation in the applicable Pricing Supplement, the Issuer may appoint the Calculation Agent to act, and the Calculation Agent shall accept such appointment, as the Issuer's calculation agent with respect to such Notes for the purpose of calculating and determining:

(a) for Floating Rate Notes, the interest rate in effect from time to time by reference to LIBOR, EURIBOR, the federal funds rate, the prime rate or the treasury rate (each as defined in the Offering Circular) relating to any Notes or such other interest rate formula or formulas specified in any Pricing Supplement related to such tranche of

Floating Rate Notes, as applicable (each, an "Interest Rate Basis"), upon the terms and subject to the conditions hereinafter set forth; and

(b) for certain tranches of Indexed Notes as agreed between the Issuer and the Calculation Agent from time to time, the principal, premium, if any, interest or other amount payable from time to time in connection with such Indexed Notes (as more particularly described in the applicable Pricing Supplement).

Section 2. Obligations of Calculation Agent. The Calculation Agent shall determine the Interest Rate Bases and calculate the interest rates, the principal (where appropriate), the premium, if any, and other amounts due in the manner and at the times provided in the Notes and the related Pricing Supplement. The Calculation Agent shall exercise due care in calculating the interest rates, principal (where appropriate) and other amounts due and shall communicate the same to the Issuer and to any paying agent. The applicable Calculation Agent, upon the request of any registered or beneficial holder of any Notes for which it serves as Calculation Agent, shall provide the interest rate then in effect with respect to such Note and, if determined, the interest rate with respect to such Note which will become effective as a result of the calculation made on the most recent "interest determination date" (as defined in the Offering Circular) with respect to such Note. At the direction of the Issuer, the Calculation Agent may also make available to any holder of any Notes, its calculation of any principal, premium, if any, or other amounts payable. The Calculation Agent's determination of any Interest Rate Basis, interest rates, principal, premium, if any, and other amounts due under the applicable Notes will be final and binding in the absence of manifest error.

The Calculation Agent shall make such reports of its determinations to the Issuer at such times and in such form as agreed with the Issuer.

With respect to any tranche of Notes covered by this Agreement, the Calculation Agent also shall perform such other duties as the Issuer and the Calculation Agent may agree from time to time.

Section 3. Terms and Conditions. The Calculation Agent accepts its obligations set forth herein, upon the terms and subject to the conditions hereof, including the following, to all of which the Issuer agrees:

(a) The Issuer agrees to pay the compensation of the Calculation Agent at such rates as shall be agreed upon from time to time between the Issuer and the Calculation Agent. Upon receiving an account therefor from the Calculation Agent, the Issuer also will pay the Calculation Agent for its out-of-pocket expenses (including reasonable attorney's fees and expenses), disbursements and advances incurred or made in accordance with any provisions of this Agreement. If the Calculation Agent shall cease to be the Calculation Agent hereunder, it shall repay to the Issuer the unearned portion, calculated on a pro rata basis, of said compensation. The Issuer also agrees to indemnify the Calculation Agent (including its 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 by the Calculation Agent, arising out of or in connection with this Agreement or the

performance of the Calculation Agent's duties hereunder, including the reasonable costs and expenses of defending it against any claim of liability in the premises. The Calculation 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 state or federal banking law or other insolvency law, to the extent enforceable under applicable law, and shall survive the resignation or removal of the Calculation Agent while remaining applicable to any action taken or omitted by the Calculation Agent while acting pursuant to this Agreement.

(b) In acting under this Agreement and in connection with the calculation of interest, principal, premium or any other amounts due in connection with the Notes, the Calculation Agent is acting solely as agent of the Issuer and does not assume any obligation or relationship of agency or trust for or with any of the beneficial owners or holders of the Notes.

(c) The Calculation Agent, in its individual or other capacity, may become the owner or pledgee of the Notes with the same rights it would have if it were not acting as Calculation Agent hereunder.

(d) The Calculation Agent shall be obligated to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied duties or obligations shall be read into this Agreement against the Calculation Agent.

(e) Unless otherwise specifically provided in this Agreement, any order, certificate, notice, request, direction or other communication from the Issuer made or given by it under any provisions of this Agreement shall be sufficient if signed by any authorized representative of the Issuer.

(f) The Issuer, without obtaining the prior written consent of the Calculation Agent, will not make any change to the form of the Note if such change would materially adversely affect the Calculation Agent's duties and responsibilities hereunder.

(g) The Calculation Agent shall not be responsible for determining the maximum rate of interest on any Notes permitted by applicable law.

(h) The Calculation Agent shall be protected and shall incur no liability for or, in respect of, any action taken or omitted to be taken or anything suffered by it in reliance upon the terms of the Notes, any notice, direction, certificate, affidavit, statement or other paper, document or communication reasonably believed by it to be genuine and to have been approved or signed by the proper party or parties.

(i) The Calculation Agent, upon obtaining the prior written consent of the Issuer, may perform any duties hereunder either directly or by or through agents or attorneys, and the Calculation Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Section 4. Resignation; Removal; Successors.

(a) Except as provided below, the Calculation Agent at any time may resign as Calculation Agent by giving written notice to the Issuer of such intention on its part, specifying the date on which its desired resignation shall become effective, provided that, unless the Issuer otherwise agrees in writing, such notice shall be given not less than 90 days prior to the proposed effective date. Except as provided below, the Calculation Agent may be removed by the delivery to it of an instrument in writing signed by the Issuer specifying such removal and the date when it shall become effective. Such resignation or removal shall take effect upon the date of the appointment by the Issuer, as hereinafter provided, of a successor Calculation Agent. If within 30 days after notice of resignation or removal has been given, a successor Calculation Agent has not been appointed, the Calculation Agent may petition a court of competent jurisdiction to appoint a successor Calculation Agent. A successor Calculation Agent shall be appointed by the Issuer by an instrument in writing signed on behalf of the Issuer and the successor Calculation Agent. Upon the appointment of a successor Calculation Agent and acceptance by it of such appointment, the Calculation Agent so replaced shall cease to be the Calculation Agent hereunder. Upon its resignation or removal, the Calculation Agent shall be entitled to the payment by the Issuer of its compensation, if any is owed to it, for services rendered hereunder and to the reimbursement of all reasonable out-of-pocket expenses incurred in connection with the services rendered by it hereunder.

(b) If at any time the Calculation Agent shall resign or be removed, or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or an order is made or an effective resolution is passed to wind up the business of the Calculation Agent, or if the Calculation Agent shall file a voluntary petition in bankruptcy or make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver, administrator or other similar official of all or any substantial part of its property, or shall admit in writing its inability to pay or meet its debts as they mature, or if a receiver, administrator or other similar official of the Calculation Agent or of all or any substantial part of its property shall be appointed, or if any order of any court shall be entered approving any petition filed by or against the Calculation Agent under the provisions of any applicable bankruptcy or insolvency law, or if any public officer shall take charge or control of the Calculation Agent or its property or affairs for the purpose of rehabilitation, conservation or liquidation, then a successor Calculation Agent shall be appointed by the Issuer by an instrument in writing filed with the successor Calculation Agent. Upon the appointment as aforesaid of a successor Calculation Agent and its acceptance of such appointment, the Calculation Agent so replaced shall cease to be the Calculation Agent hereunder.

(c) Any successor Calculation Agent shall execute and deliver to its predecessor and the Issuer an instrument accepting such appointment hereunder, and thereupon such successor Calculation Agent, without any further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations of such predecessor with like effect as if originally named the Calculation Agent hereunder, and the predecessor Calculation Agent, upon payment of its charges and disbursements then unpaid, shall become obliged to transfer and deliver, and the successor Calculation

Agent shall be entitled to receive, copies of any relevant records maintained by the predecessor Calculation Agent.

(d) Any entity (i) into which the Calculation Agent may be merged or converted, (ii) with which the Calculation Agent may be consolidated, (iii) to which a substantial portion of the corporate trust business of the Calculation Agent has been transferred or sold or (iv) any entity resulting from any merger, conversion or consolidation to which the Calculation Agent shall be a party, to the extent permitted by applicable law and provided that it shall be a nationally recognized financial firm or institution, shall be a successor Calculation Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto. Prompt notice of any such merger, conversion or consolidation shall be given to the Issuer.

Section 5. Notices. Any notices and other communications required to be given hereunder shall be delivered in person, sent by U.S. mail, sent by facsimile transmission or communicated by telephone (subject in the case of communication by telephone to confirmation dispatched within 24 hours by United States mail or facsimile transmission), to a person at its address set out below, or to such other addresses as the parties hereto shall specify in writing from time to time:

if to the Issuer:

Bank of America, N.A.
NC1-007-07-06
Corporate Treasury Division
100 North Tryon Street
Charlotte, North Carolina 28255
Attention: B. Kenneth Burton, Jr., Senior Vice President
Telephone: (704) 387-3776
Facsimile: (704) 386-0270

if to the Calculation Agent:

[_____]
[_____]
[_____]
[_____]
[_____]
[_____]

Notwithstanding anything in this Agreement to the contrary, any notice required to be given hereunder by a person acting in one capacity to the same person acting in a different capacity need not be given as provided herein.

Section 6. Counterparts. This Agreement may be executed by the parties hereto in any number of counterparts, and by each of the parties hereto in separate counterparts, each of which

counterparts, when so executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 7. Notes Govern in Event of Conflict with this Agreement. If any provision of this Agreement or the Pricing Supplement related to the series of Notes limits or conflicts with any provision of the Notes, the provision of the Notes shall be controlling.

Section 8. Governing Law. This Agreement is to be delivered and performed and shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, notwithstanding any otherwise applicable conflicts of law principles.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the day and year first above written.

ISSUER:

BANK OF AMERICA, N.A.

By: _____
Name: B. Kenneth Burton, Jr.
Title: Senior Vice President

CALCULATION AGENT:

[_____]

By: _____
Name:
Title:

Exhibit I to
Global Agency Agreement

ADMINISTRATIVE PROCEDURES MEMORANDUM

(Dated as of July 25, 2007)

FOR

BANK OF AMERICA, N.A.

Global Bank Notes Due from

7 Days or More from Date of Issue

Senior unsecured debt obligations (the "*Senior Notes*") and subordinated unsecured obligations (the "*Subordinated Notes*" and, together with the Senior Notes, the "*Bank Notes*") will be offered on a continuing basis for sale by Bank of America, N.A. (the "*Bank*") to or through Banc of America Securities LLC, Banc of America Securities Limited, Bear, Stearns & Co. Inc., Lehman Brothers Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Morgan Stanley & Co. Incorporated (each, a "*Selling Agent*" and, collectively, the "*Selling Agents*"), pursuant to a Distribution Agreement dated as of July 25, 2007 among the Bank and the Selling Agents. Unless otherwise agreed to by the related Selling Agent or Agents and the Bank, and subject to the terms of the Distribution Agreement, Bank Notes will be offered and sold by the Selling Agents in their capacity as agent and not as principal, and the Selling Agents shall use their best efforts when requested by the Bank to solicit offers to purchase the Bank Notes. If otherwise agreed, the Bank Notes will be purchased by the related Selling Agent or Agents as principal, and such purchases will be made in accordance with terms agreed upon by the related Selling Agent or Agents and the Bank (which terms shall be agreed upon orally, with written confirmation prepared by the related Selling Agent or Agents and delivered to the Bank in accordance with the provisions of the Distribution Agreement). Subject to Section 1(a) of the Distribution Agreement, the Bank reserves the right to sell the Bank Notes at any time directly on its own behalf to any purchaser, whether directly to such purchaser or through an agent for such purchaser. Only those provisions in these Administrative Procedures that are applicable to the particular role that a Selling Agent will perform shall apply. Whenever these Administrative Procedures indicate that information may be set forth in a Bank Note, such information may be set forth in a Pricing Supplement to the Offering Circular (as defined below) or in the applicable Disclosure Package (as defined in the Distribution Agreement).

Deutsche Bank Trust Company Americas (or such other agent appointed in accordance with the Global Agency Agreement (as defined below)) will act as the U.S. registrar (the "*U.S. Registrar*") and U.S. paying agent (the "*U.S. Paying Agent*") for the Bank Notes through its office at 60 Wall Street – 27th Floor, New York, New York 10005, or such other address as the U.S. Registrar and U.S. Paying Agent may notify the Bank from time to time. Deutsche Bank AG, London Branch (or such other agent appointed in accordance with the Global Agency Agreement), will act as London paying agent (the "*London Paying Agent*") and London issuing agent (the "*London Issuing Agent*") for the Bank Notes through its office at Winchester House, 1

Great Winchester Street, London EC2N 2DB, or such other address as the London Paying Agent and London Issuing Agent may notify the Bank from time to time. Deutsche Bank Luxembourg S.A. (or such other agent appointed in accordance with the Global Agency Agreement) will act as the European registrar (the "*European Registrar*") and European transfer agent (the "*European Transfer Agent*") for the Bank Notes through its office at 2 Boulevard Konrad-Adenauer, L-1115 Luxembourg, or such other address as the European Registrar and European Transfer Agent may notify the Bank from time to time. As used herein, the term "*Offering Circular*" refers to the Offering Circular dated July 25, 2007, as such document may be amended or supplemented, which has been prepared by the Bank for use by the Selling Agents in connection with the offering of the Bank Notes. The supplement to the Offering Circular setting forth the specific terms and conditions of a particular series of Bank Notes is referred to as a "*Pricing Supplement*," which such term may include one or more product supplements relating to indexed or other Bank Notes.

The settlement procedures set out below shall apply to each issue of Bank Notes not issued on a syndicated basis to be settled through DTC or Euroclear and/or Clearstream, Luxembourg, as applicable, unless otherwise agreed to between the Bank and the relevant Selling Agent. The settlement procedures with respect to any issue of Bank Notes on a syndicated basis will be agreed to between the Bank and the applicable Lead Manager (as defined in the applicable Pricing Supplement).

DTC REGISTERED GLOBAL NOTES

Bank Notes may be issued in book-entry form (each beneficial interest in a global Note, a "*Book-Entry Note*" and collectively, the "*Book-Entry Notes*") and each series may be represented by one or more fully registered global Bank Notes or, in the case of registered notes with maturities of 270 days or less, all series may be represented by one or more single master short-term registered Bank Notes (each, a "*Global Note*" and collectively, the "*Global Bank Notes*") held by or on behalf of The Depository Trust Company, as depositary ("*DTC*"), which term includes any successor thereof), and recorded in the book-entry system maintained by DTC. Book-Entry Notes represented by a Global Note are exchangeable for definitive Bank Notes in registered form, of like tenor and of an equal aggregate principal amount, by the owners of such Book-Entry Notes only upon certain limited circumstances described in the Global Agency Agreement.

In connection with the qualification of Book-Entry Notes for eligibility in the book-entry system maintained by DTC, Deutsche Bank Trust Company Americas or its agents will perform the custodial, document control and administrative functions described below, in accordance with its respective obligations under the applicable Letters of Representations from Deutsche Bank Trust Company Americas and the Bank to DTC, dated July 25, 2007, relating to the Program and its obligations as a participant in DTC, including DTC's Same-Day Funds Settlement System ("*SDFS*").

Settlement Procedures for Book-Entry Notes:

Settlement Procedures with regard to Book-Entry Notes purchased by each Selling Agent as principal or sold by each Selling Agent, as agent of the Bank, will be as follows (which will have been agreed to by the Bank and such Selling Agent in accordance with the Distribution Agreement):

(A) The Selling Agent will advise the Bank by telephone, confirmed by facsimile to the Bank and the U.S. Registrar, of the following settlement information:

1. Taxpayer identification number of the purchaser(s).
2. Principal amount and issue price of such Book-Entry Notes.
3. Whether the Bank Note is a Senior Note or a Subordinated Note.
4. Each term specified in the applicable Pricing Supplement or Disclosure Package.
5. Price to investors, if any, of such Book-Entry Notes (if such Book-Entry Notes are not being offered "at the market").
6. Trade Date.

7. Settlement Date (Original Issue Date).

8. Stated Maturity Date.

9. Redemption provisions, if any, including Initial Redemption Date, Initial Redemption Percentage and Redemption Percentage Reduction and frequency, whether partial redemption is permitted and methods of determining Bank Notes to be redeemed.

10. Repayment provisions, if any, including prepayment option date(s) and prepayment option price(s), if any.

11. If applicable, an Amortization Table specifying the rate at which an Amortizing or Indexed Amortizing Note is to be amortized, and with respect to an Indexed Amortizing Note, specifying the applicable reference rate, if any, or lock-out date, if any.

12. Provisions relating to Extendible Notes, if any, including Extension Date(s), New Maturity Date(s) and Final Maturity Date.

13. Provisions relating to Extension of Maturity Notes, if any, including length of Extension Period(s), number of Extension Periods and Final Maturity Date.

11. Whether such Book-Entry 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.

12. The Selling Agent's commission or discount, as applicable.

13. Net proceeds to the Bank.

14. Whether such Book-Entry Notes are being issued with Original Issue Discount and the terms thereof.

15. Default Rate of Interest.

16. Identification numbers of participant accounts maintained by DTC on behalf of the Selling Agent.

17. Whether additional documentation will be required for Bank Notes being sold to the Selling Agent as principal.

18. Such other information specified with respect to such Book-Entry Notes (whether by addendum or otherwise).

(B) After receiving such settlement information from the Selling Agent, the Bank will assign a CUSIP number of the appropriate series to the Global Note representing such Book-Entry Notes and will notify the Selling Agent and the U.S. Registrar by facsimile or other electronic transmission of such CUSIP number. The Bank will prepare a Pricing Supplement to the Offering Circular and deliver copies to the Selling Agent and the U.S. Registrar.

(C) The U.S. Registrar will communicate to DTC and the Selling Agent, through DTC's Participant Terminal System, a pending deposit message specifying the following settlement information:

1. The information set forth in Settlement Procedure A.

2. The identification numbers of the participant accounts maintained by DTC on behalf of the U.S. Registrar and the Selling Agent.

3. Identification of the Book-Entry Note as a Fixed Rate Note, or a Floating Rate Note or an Indexed Note.

4. The initial Interest Payment Date for the Global Note representing such Book-Entry Notes, the number of days by which such date succeeds the related Record Date for DTC purposes (or, in the case of Floating Rate Notes or Indexed Notes which reset daily or weekly, the date five calendar days preceding the Interest Payment Date) and, if then calculable, the amount of interest payable on such Interest Payment Date (which amount shall have been confirmed by the Bank).

5. The CUSIP number representing such Book-Entry Notes.

6. Whether such Global Note represents any other Bank Notes issued or to be issued in book-entry form.

(D) DTC will arrange for each pending deposit message described above to be transmitted to S&P, which will use the information in the message to include certain terms of the Global Note in the appropriate daily bond report published by S&P.

(E) For Book-Entry Notes with maturities of more than 270 days, the U.S. Registrar will complete, authenticate and deliver to DTC (or its custodian) the Global Note representing such Book-Entry Notes in a form that has been approved by the Bank and the relevant Selling Agents. If requested by the Bank, the Bank, the Selling Agents and/or their respective counsel shall prepare the form of Global Note, or review the form of Global Note prepared by the U.S. Registrar, prior to the authentication.

(F) Book-Entry Notes with maturities of 270 days or less may be represented by one or more single Master Short-Term Registered Notes, and the U.S. Registrar will enter the terms of such Book-Entry Notes in the DTC MMI System under the U.S. Registrar's participant number.

(G) DTC will credit the Book-Entry Notes to the participant account of the U.S. Registrar maintained by DTC.

(H) The U.S. Registrar will enter an SDFS deliver order through DTC's Participant Terminal System instructing DTC (i) to debit such Book-Entry Notes to the U.S. Registrar's participant account and credit such Book-Entry Notes to the participant account of the Selling Agent maintained by DTC and (ii) to debit the settlement account of the Selling Agent and credit the settlement account of the U.S. Registrar maintained by DTC in an amount equal to the initial offering price of such Book-Entry Notes less such Selling Agent's commission or discount, as applicable. Any entry of such deliver order shall be deemed to constitute a representation and warranty by the U.S. Registrar to DTC that (i) the Global Note representing such Book-Entry Notes has been issued and authenticated and (ii) the U.S. Registrar is holding such Global Note pursuant to the Certificate Agreement.

(I) In the case of Book-Entry Notes sold through a Selling Agent acting as agent, the Selling Agent will enter an SDFS deliver order through DTC's Participant Terminal System instructing DTC (i) to debit such Book-Entry Notes to the Selling Agent's participant account and credit such Book-Entry Notes to the participant accounts of the Participants maintained by DTC and (ii) to debit the settlement accounts of such Participants and credit the settlement account of the Selling Agent maintained by DTC, in an amount equal to the initial offering price of such Book-Entry Notes.

(J) Transfers of funds in accordance with SDFS deliver orders described in Settlement Procedures H and I will be settled in accordance with SDFS operating procedures in effect on the Settlement Date.

(K) Upon receipt, the U.S. Registrar will pay the Bank, by crediting the account specified by the Bank to the U.S. Registrar from time to time, the amount transferred to the U.S. Registrar in accordance with Settlement Procedure H.

(L) In the case of Book-Entry Notes sold through a Selling Agent acting as agent, the Selling Agent will confirm the purchase of such Book-Entry Notes to the purchaser either by transmitting to the Participant with respect to such Book-Entry Notes a confirmation order through DTC's Participant Terminal System or by mailing a written confirmation to such purchaser.

Settlement Procedures Timetable:

For offers to purchase Book-Entry Notes accepted by the Bank, Settlement Procedures "A" through "L" set forth above shall be completed as soon as possible but no later than the respective times (New York City time) set forth below:

Settlement Procedure	Time
A	11:00 a.m. on the Trade Date
B, C	As soon as practicable following the trade, but in no event later than 12:00 noon on the Trade Date
D, E, F	9:00 a.m. on the Settlement Date
G	10:00 a.m. on the Settlement Date
H, I	No later than 2:00 p.m. on the Settlement Date
J	4:45 p.m. on the Settlement Date
K, L	5:00 p.m. on the Settlement Date

If a sale is to be settled on the same Business Day as the Trade Date, Settlement Procedures C, G, and H shall be completed no later than 2:30 p.m. on such Business Day, and Settlement Procedure D be completed no later than 10:00 a.m. on such Business Day.

If a sale is to be settled more than one Business Day after the trade date, Settlement Procedures A, B and C may, if necessary, be completed at any time prior to the specified times on the first Business Day after such trade date. In connection with a sale which is to be settled more than one Business Day after the trade date, if the initial interest rate for a Floating Rate Note is not known at the time that Settlement Procedure A is completed, Settlement Procedures B and C shall be completed as soon as such rate has been determined, but no later than 11:00 a.m. and 2:00 p.m., New York City time, respectively, on the second Business Day before the Settlement Date.

Settlement Procedure J is subject to extension in accordance with any extension of Fedwire closing deadlines and in the other events specified in the other events specified in the SDFS operating procedures in effect on the Settlement Date.

If settlement of a Book-Entry Note is rescheduled or canceled, the U.S. Registrar will deliver to DTC, through DTC's Participant Terminal System, a cancellation message to such effect by no later than 2:00 p.m., New York City time, on the Business Day immediately preceding the scheduled Settlement Date.

Failure to Settle:

If the U.S. Registrar fails to enter an SDFS deliver order with respect to a Book-Entry Note pursuant to Settlement Procedure G, then the U.S. Registrar may deliver to DTC, through DTC's Participant Terminal System, as soon as practicable, a withdrawal message instructing DTC to debit such Book-Entry Note to the participant account of the U.S. Registrar maintained at DTC. DTC will process the withdrawal message; provided that such participant account contains a principal amount of the Global Note representing such Book-Entry Note that is at least equal to the principal amount to be debited. If withdrawal messages are processed with respect to all Book-Entry Notes represented by a Global Note, the U.S. Registrar will mark such Global Note "canceled," make appropriate entries in its records and send certification of destruction of such cancelled Global Note to the Bank. The CUSIP number assigned to such Global Note shall, in accordance with CUSIP Service Bureau procedures, be canceled and not immediately reassigned. If withdrawal messages are processed with respect to some of the Book-Entry Notes represented by a Global Note, the U.S. Registrar will exchange such Global Note for two or more Global Bank Notes, one of which shall represent the Book-Entry Notes for which such withdrawal messages are processed and shall be canceled immediately after issuance, and the other of which shall represent the other Book-Entry Notes previously represented by the surrendered Global Note and shall bear the CUSIP number of the surrendered Global Note.

In the case of any Book-Entry Note sold through a Selling Agent, acting as agent, if the purchase price for any Book-Entry Note is not timely paid to the Participants with respect to such Book-Entry Note by the beneficial purchaser thereof (or a person, including an indirect participant in DTC, acting on behalf of such purchaser), such Participants and, in turn, the applicable Selling Agent may enter SDFS deliver orders through DTC's Participant Terminal System reversing the orders entered pursuant to Settlement Procedures H and I, respectively. Thereafter, the U.S. Registrar will deliver the withdrawal message and take the related actions described in the preceding paragraph.

Notwithstanding the foregoing, upon any failure to settle with respect to a Book-Entry Note, DTC may take any actions in accordance with its SDFS operating procedure then in effect. In the event of a failure to settle with respect to a Book-Entry Note that was to have been represented by a Global Note also representing other Book-Entry Notes, the U.S. Registrar will provide, in accordance with Settlement Procedure E, for the authentication and issuance of a Global Note representing such remaining Book-Entry Notes and will make appropriate entries in its records.

Reports: Monthly, the U.S. Registrar will send to the Bank a settlement report setting forth the principal amount of Bank Notes outstanding as of that date and setting forth a brief description of any sales of which the Bank has advised the U.S. Registrar but which have not yet been settled, or the U.S. Registrar will provide access to its online reporting systems (GPR and Noteline), which will allow the Bank to obtain reporting on demand relating to the principal amount of Bank Notes outstanding and other information specified in the monthly reports.

BEARER NOTES

In certain circumstances, Bearer Notes may be issued. Settlement Procedures with regard to Bearer Notes purchased by each Selling Agent as principal or sold by each Selling Agent as agent of the Bank, will be as follows:

Day	Latest London Time	Action
No later than Original Issue Date minus 5 Business Days	2:00 p.m.	The Bank may agree with one or more of the Selling Agents for the issue and purchase of Bearer Notes (whether pursuant to an unsolicited bid from a Selling Agent or pursuant to an inquiry by the Bank). Once agreement is reached, the Bank telephones the London Issuing Agent (to be confirmed in writing as referred to below) to instruct it to prepare, complete, authenticate and issue a Temporary Global Note and a Permanent Global Note, giving details of such Notes. The Selling Agent instructs the London Issuing Agent to obtain a Common Code and ISIN from Euroclear or Clearstream, Luxembourg. In the case of a subsequent Tranche of Bank Notes of a Series, the London Issuing Agent telephones Euroclear or Clearstream, Luxembourg with a request for a temporary Common Code and ISIN for such Tranche. Each Common Code and ISIN is notified by the London Issuing Agent to each Selling Agent which has reached agreement with the Bank.
	3:00 p.m.	If a Selling Agent has reached agreement with the Bank by telephone, such Selling Agent confirms the terms of the agreement to the Bank by fax attaching a copy of the Pricing Supplement. The Selling Agent sends a copy of that fax to the London Issuing Agent for information.
	5:00 p.m.	The Bank confirms its agreement to the terms on which the issue of Bearer Notes is to be made (including the form of the Pricing Supplement) by returning a final form of the Pricing Supplement to the relevant Selling Agent. The Bank also confirms its instructions to the London Issuing Agent (including, in the case of Floating Rate Bank Notes, the rate fixed by the Calculation Agent) to carry out the duties to be carried out by the London Issuing Agent under these Settlement Procedures and the Global Agency Agreement, including preparing, authenticating and issuing a Temporary Global Note for the Tranche of Bank Notes which is to be purchased and, in the case of the first Tranche of a Series, a Permanent Global Note for such Series, giving details of such Bearer Notes. The Bank confirms such instructions by sending a copy by fax of the final form of the Pricing Supplement to the London Issuing Agent.

Original Issue Date minus 2 Business Days	3:00 p.m.	In the case of Bearer Notes cleared through Euroclear and/or Clearstream, Luxembourg, the relevant Selling Agent instructs the relevant clearing system to debit its account and pay the purchase price, against delivery of the Bearer Notes, to the London Issuing Agent's account with the relevant clearing system on the Original Issue Date and the London Issuing Agent receives details of such instructions through the records of the relevant clearing system.
Original Issue Date minus 1 Business Day	3:00 p.m.	In the case of Floating Rate Bank Notes, the Calculation Agent notifies the relevant clearing system, the Bank and the relevant Selling Agent by fax of the rate of interest for the first Interest Period (if already determined). Where the rate of interest has not yet been determined, notification will be made in accordance with this paragraph as soon as it has been determined.
Original Issue Date minus 1 Business Day (in the case of pre-closed issues) or Original Issue Date (in any other case) (the "Payment Instruction Date")	agreed time	The London Issuing Agent prepares and authenticates a Temporary Global Note for each Tranche of Bank Notes which is to be purchased and a Permanent Global Note in respect of the relevant Series. The Temporary Global Note and any such Permanent Global Note are then delivered by the London Issuing Agent to a common depositary for Euroclear and Clearstream, Luxembourg. The London Issuing Agent instructs the relevant clearing system to credit the Bearer Notes represented by such Temporary Global Note to the London Issuing Agent's distribution account. The London Issuing Agent further instructs Euroclear or, as the case may be, Clearstream, Luxembourg to debit from the distribution account the nominal amount of the relevant Tranche of Bank Notes that the relevant Selling Agent has agreed to purchase and to credit such nominal amount to the account of such Selling Agent with Euroclear or Clearstream, Luxembourg against payment to the account of the London Issuing Agent of the purchase price for the relevant Tranche of Bank Notes on the Original Issue Date. The relevant Selling Agent gives corresponding instructions to Euroclear or Clearstream, Luxembourg. The parties (which for this purpose shall include the London Issuing Agent) may agree to arrange for "free delivery" to be made through the relevant clearing system if specified in the applicable Pricing Supplement.
Original Issue Date		The relevant clearing system debits and credits accounts in accordance with instructions received by it. The London Issuing Agent pays to the Bank on the Original Issue Date the aggregate purchase price received by it to such account of the Bank as shall have been notified to the London Issuing Agent for the purpose.

On or subsequent to the Original Issue Date	The London Issuing Agent notifies the Bank forthwith in the event that a Selling Agent does not pay the purchase price due from it in respect of a Bank Note. The London Issuing Agent notifies the Bank of the issue of Bearer Notes giving details of the Global Note(s) and the nominal sum represented thereby. The relevant Selling Agent promptly notifies the London Issuing Agent that the distribution of the Bearer Notes purchased or placed by it has been completed.

EUROCLEAR/CLEARSTREAM, LUXEMBOURG REGISTERED GLOBAL NOTES

Bank Notes may be issued in book-entry form as Book-Entry Notes and represented by one or more fully registered Global Bank Notes held by or on behalf of Euroclear and/or Clearstream, Luxembourg, as depositary, and recorded in the book-entry system maintained by Euroclear and/or Clearstream, Luxembourg. Book-Entry Notes represented by a Global Note are exchangeable for definitive Bank Notes in registered form, of like tenor and of an equal aggregate principal amount, by the owners of such Book-Entry Notes only upon certain limited circumstances described in the Offering Circular. Settlement Procedures with regard to Book-Entry Notes purchased by each Selling Agent as principal or sold by each Selling Agent, as agent of the Bank, will be as follows:

Day	Latest London Time	Action
No later than Original Issue Date minus 5 Business Days	2:00 p.m.	The Bank may agree with one or more of the Selling Agents for the issue and purchase of Bank Notes (whether pursuant to an unsolicited bid from a Selling Agent or pursuant to an inquiry by the relevant Bank). Once agreement is reached, the Bank telephones the London Issuing Agent (to be confirmed in writing as referred to below) to instruct it to prepare, complete, authenticate and issue a Temporary Global Note and a Permanent Global Note, giving details of such Notes.
	3:00 p.m.	In the case of the first Tranche of Registered Bank Notes, the London Issuing Agent telephones Euroclear and/or Clearstream, Luxembourg with a request for a Common Code and ISIN for such Tranche and, in the case of a subsequent Tranche of Bank Notes of that Series, the London Issuing Agent telephones Euroclear and/or Clearstream, Luxembourg with a request for a temporary Common Code and ISIN for such Tranche, and the London Issuing Agent confirms such number(s) to the European Registrar. Each ISIN, and each Common Code is notified by the European Registrar by fax to the Bank and the Selling Agent. If a Selling Agent has reached agreement with the Bank by telephone, such Selling Agent confirms the terms of the agreement to the Bank by fax attaching a copy of the Pricing Supplement. The relevant Selling Agent sends a copy of that fax to the London Issuing Agent and the European Registrar for information.

	5:00 p.m.	The Bank confirms its agreement to the terms on which the issue of Bank Notes is to be made (including the form of the Pricing Supplement) by returning a final form of the Pricing Supplement to the relevant Selling Agent. The Bank also confirms its instructions (including, in the case of Floating Rate Bank Notes, the rate fixed by the Calculation Agent) to the London Issuing Agent and the European Registrar to carry out the duties to be carried out by the London Issuing Agent and the European Registrar under these Settlement Procedures and the Global Agency Agreement, including preparing, authenticating and issuing one or more Registered Global Bank Notes (which may be in temporary and/or permanent form, as instructed by the Bank to such Agents) and/or one or more Definitive Registered Bank Notes for each Tranche of Bank Notes which are to be purchased or placed by the relevant Selling Agent, giving details of such Bank Notes. The Bank confirms such instructions by sending a copy by fax of the final form of the Pricing Supplement to the London Issuing Agent and the European Registrar. The relevant Selling Agent notifies Euroclear and/or Clearstream, Luxembourg of the relevant accounts to be credited with Bank Notes represented by interests in the Global Note(s) to be issued.
Original Issue Date minus 2 Business Days	3:00 p.m.	Where the relevant Selling Agent is purchasing or placing Bank Notes through Euroclear and/or Clearstream, Luxembourg, the relevant Selling Agent instructs Euroclear and/or Clearstream, Luxembourg, subject to further instructions, on the Original Issue Date or, in the case of Bank Notes denominated in a currency requiring a pre-closing, the Original Issue Date minus 1 Business Day, to debit its account, or such account as it directs, and pay the purchase price to the account of the closing bank as agreed to between the Bank, the London Issuing Agent and the relevant Selling Agent from time to time (in such capacity, the "*Closing Bank*") for such purpose.
Original Issue Date minus 1 Business Day	3:00 p.m.	In the case of Floating Rate Bank Notes, the Calculation Agent notifies the European Registrar, Euroclear, Clearstream, Luxembourg, the Bank and the relevant Selling Agent by fax of the rate of interest for the first Interest Period (if already determined). Where the rate of interest has not yet been determined, this will be notified in accordance with this paragraph as soon as it has been determined.

Original Issue Date minus 1 Business Day (in the case of pre-closed issues) or Original Issue Date (in any other case) (the "Payment Instruction Date")	agreed time	The European Registrar prepares and authenticates the Registered Global Note(s) for each Tranche of Bank Notes which is to be purchased by attaching the applicable Pricing Supplement to a copy of the applicable master Registered Global Note(s). The European Registrar causes details of the principal amount of Bank Notes to be issued, and the registered holder(s) of such Bank Notes to be entered into the Register. Each Registered Global Note is then delivered by, or on behalf of, the London Issuing Agent to a custodian for Euroclear and/or Clearstream, Luxembourg. The London Issuing Agent instructs the relevant clearing system to credit the principal amount of the relevant Tranche of Bank Notes to the appropriate participants' accounts in Euroclear and/or Clearstream, Luxembourg previously notified by the relevant Selling Agent. Each Definitive Registered Note, if any, is delivered to the relevant Selling Agent or its designee for the benefit of the purchaser of such Bank Note against delivery by such Selling Agent of a receipt therefor or, if so instructed and upon confirmation from the Bank that proper payment by the purchaser has been made, delivered directly to the Bank or its designee for the benefit of the purchaser of such Bank Note(s) against delivery of a receipt therefor. The parties (which for this purpose shall include the London Issuing Agent and the European Registrar) may agree to arrange for "free delivery" to be made through the relevant clearing system if specified in the applicable Pricing Supplement, in which case these Settlement Procedures will be amended accordingly.
Original Issue Date		The relevant Selling Agent instructs Euroclear and/or Clearstream, Luxembourg to credit the interests in the Registered Global Note(s) representing Bank Notes purchased by or through such Selling Agent to such accounts as the relevant Selling Agent has directed with Euroclear and/or Clearstream, Luxembourg. Euroclear and/or Clearstream, Luxembourg debit and credit accounts in accordance with instructions received by them. The Closing Bank makes payment to the Bank on the Original Issue Date of the aggregate amount received by it to such account of the Bank as shall have been notified to the Closing Bank for that purpose by the relevant bank.
On or subsequent to the Original Issue Date		The London Issuing Agent notifies the Bank forthwith in the event that the relevant Selling Agent does not pay the purchase price due from it in respect of the Bank Notes. The relevant Selling Agent notifies the London Issuing Agent that the distribution of the Bank Notes purchased or placed by it has been completed.

Exhibit J to
Global Agency Agreement

FORM OF CERTIFICATE TO BE PRESENTED
BY EUROCLEAR OR CLEARSTREAM, LUXEMBOURG

BANK OF AMERICA, N.A.
(the "Issuer")

BANK NOTES DUE [YEAR OF MATURITY DATE/
REDEMPTION MONTH]

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 amount set forth below (our "Member Organizations") substantially to the effect set forth in the Global Agency Agreement, as of the date hereof, [$] _____ principal 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)(3) 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 Global Agency Agreement.

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__][1]

Yours faithfully,

[Euroclear Bank S.A./N.V.,
as operator of the
Euroclear System]

or

[Clearstream Banking, société anonyme]

By: _____

[1] To be dated no earlier than the date to which this certification relates, namely (a) the payment date, or (b) the Exchange Date.

Exhibit K to
Global Agency Agreement

FORM OF CERTIFICATE OF BENEFICIAL OWNER

BANK OF AMERICA, N.A.
(the "Issuer")

BANK NOTES DUE [YEAR OF MATURITY DATE/
REDEMPTION MONTH]

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 U.S. or its possessions.

The Securities are of the category contemplated in Rule 903(b)(3) 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 permanent or 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.

SUPPLEMENT TO
GLOBAL AGENCY AGREEMENT

dated as of December 19, 2008

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

THIS SUPPLEMENT TO GLOBAL AGENCY AGREEMENT, dated as of December 19, 2008 (the "*Supplement*"), 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 the Global Agency Agreement dated as of July 25, 2007, among the Bank, Deutsche Bank Trust Company Americas, Deutsche Bank AG, London Branch and Deutsche Bank Luxembourg, S.A. (the "*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*"); expressions shall also include any successors appointed in accordance with Section 27 of the 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 the Agreement.

WHEREAS:

A. The Bank has established the Global Bank Note Program described in the Offering Circular, dated July 25, 2007 (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) in an 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;

C. The Bank has determined that it is advisable and in the interests of the Bank and the holders of certain series of its senior unsecured debt with a stated maturity of more than 30 days (the "*Eligible Notes*") that such indebtedness be issued subject to a guarantee of the FDIC pursuant to 12 CFR Part 370 (as such regulations may be amended or supplemented from time to time, the "*FDIC Guarantee*");

D. As a condition to the FDIC Guarantee, the Bank will enter into this Supplement prior to the issuance of the Eligible Notes, which shall be applicable to those securities issued subject to the FDIC Guarantee and only for so long as the FDIC Guarantee remains in effect for any such senior debt securities or such later time as may be required by the rules and regulations of the FDIC or any successor entity (the "*Termination Date*");

E. This Supplement shall lapse and be without further effect upon the later to occur of (a) payment in full of all senior debt securities subject to the FDIC Guarantee or (b) the Termination Date;

F. This Supplement has been duly authorized and approved by an Authorized Representative, effective as of the date hereof; and

G. Section 34 of the Agreement provides that the Bank and the Agents may modify, amend or supplement the Agreement without the consent of any holder of Notes, Talons, Receipts or Coupons so long as such action does not adversely effect the rights of the holders of a series of outstanding Notes;

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants, representations, warranties and agreements contained herein, the parties agree as follows:

ARTICLE I
ADDITIONAL TERMS

Section 1.1 Section 4(a) of the Agreement is hereby amended by renumbering paragraph 27 as paragraph 28 and inserting a new paragraph 27, which shall read as follows:

"27. Whether the Eligible Notes are issued subject to a FDIC Guarantee."

Section 1.2 The Agreement is hereby amended by the addition of a new Section 40, which shall read as follows:

"Section 40. Federal Deposit Insurance Corporation Guaranteed Senior Unsecured Debt

(a) Acknowledgement of the FDIC's Temporary Liquidity Guarantee Program

(i) The parties to this Agreement acknowledge that the Bank has not opted out of the temporary liquidity guarantee program (the "*TLG Program*") established by the FDIC's Final Rule, 12 C.F.R. Part 370 (as may be amended or supplemented from time to time, the "*Rule*"). The TLG Program applies to any Eligible Notes issued on or after October 14, 2008 through June 30, 2009 (the "*Effective Issue Period*") that constitute unsecured senior debt, as defined in the Rule and as to which the Bank has not duly made an election in accordance with Section 370.3(g) of the Rule and with respect to each such Eligible Note, for the period from October 14, 2008 to the earlier of the date such Note matures pursuant to the terms thereof and June 30, 2012 (the "*Effective Maturity Period*" and together with the Effective Issue Period, the "*Effective Period*"). As a result,

this debt is guaranteed under the FDIC Temporary Liquidity Guarantee Program and is backed by the full faith and credit of the United States. The details of the FDIC Guarantee are provided in the FDIC's regulations, 12 C.F.R. Part 370, and at the FDIC's website, www.fdic.gov/tlgp. The expiration date of the FDIC's Guarantee is the earlier of the maturity date of this debt or June 30, 2012.

The provisions of this Section shall be applicable only to any Notes issued under this Agreement which affirmatively indicate that they are subject to the FDIC Guarantee and the security certificate, note or other instrument evidencing each applicable Eligible Note shall bear a legend, upon which the Representative (as defined below) shall be entitled to conclusively rely, to the effect that such security certificate, note or other instrument is guaranteed by the FDIC under the TLG Program.

(ii) In the event of any conflict between the provisions of this Section 40 and the rules and regulations of the TLG Program, or the Master Agreement (and any amendments thereto) entered into by the Bank and the FDIC (the "*Master Agreement*") with respect thereto, such rules and regulations, and/or such Master Agreement shall control.

(b) Representative

(i) Deutsche Bank Trust Company Americas is designated under this Agreement as the duly authorized representative of the holders for purposes of making claims and taking other permitted or required actions under the TLG Program (the "*Representative*"). Any holder may elect not to be represented by the Representative by providing written notice of such election to the Representative.

(ii) Upon an uncured failure by the Bank to make a timely payment of principal or interest under any applicable Eligible Notes (a "*Payment Default*"), the Representative, on behalf of all holders of such Notes that are represented by the Representative, shall submit to the FDIC a demand for payment by the FDIC of such unpaid principal and interest, together with proof of such claim and such other documentation as may be required by the FDIC under the Rule (i) in the case of any payment due by the Bank prior to the final maturity or redemption of such Notes, on the earlier of the date that the applicable cure period ends (or if such date is not a Business Day, the immediately succeeding Business Day) and 60 days following such Payment Default and (ii) in the case of any payment due by the Bank on the final maturity date or on a redemption date for such Notes, on such final maturity date or redemption date (or if such date is not a Business Day, the immediately succeeding Business Day).

(c) Subrogation

The FDIC shall be subrogated to all of the rights of the holders and the Representative under this Agreement against the Bank in respect of any amounts

paid to the holders, or for the benefit of the holders, by the FDIC pursuant to the TLG Program.

(d) Agreement to Execute Assignment upon Guarantee Payment

(i) The holders hereby authorize the Representative, at such time as the FDIC shall commence making any guarantee payments to the Representative for the benefit of the holders pursuant to the TLG Program, to execute an assignment substantially in the form attached to this Agreement as Exhibit L pursuant to which the Representative shall assign to the FDIC its right as Representative to receive any and all payments from the Bank under this Agreement and under the applicable Notes on behalf of the holders. The Bank hereby consents and agrees that the FDIC is an acceptable transferee for all or any portion of the indebtedness hereunder and under the applicable Notes for all purposes of this Agreement and upon any such assignment (or any assignment by any holder that elects not to be represented by the Representative, as provided above), the FDIC shall be deemed a holder under this Agreement for all purposes hereof, and the Bank hereby agrees to take such reasonable steps as are necessary to comply with any relevant provision of this Agreement as a result of such assignment.

(ii) If a holder has exercised its right not to be represented by the Representative, such holder hereby agrees that, at such time as shall be required by the Rule, such Holder shall execute an assignment in the form attached as Exhibit L (or such other form as may be then required by the Rule), pursuant to which such holder shall assign to the FDIC its right to receive any and all payments from the Bank under this Agreement.

(e) Surrender of Senior Unsecured Debt Instrument to the FDIC

If, at any time on or prior to the expiration of the Effective Period, payment in full hereunder shall be made pursuant to the TLG Program on the outstanding principal and accrued interest to such date of payment, the holder shall, or the holder shall cause the person or entity in possession to, promptly surrender to the FDIC the security certificate, note or other instrument evidencing such debt, if any.

(f) Notice Obligations to FDIC of Payment Default

If, at any time prior to the earlier of (a) full satisfaction of the payment obligations hereunder, or (b) expiration of the Effective Period, the Bank is in default of any payment obligation hereunder, including timely payment of any accrued and unpaid interest, without regard to any cure period, the Representative covenants and agrees that it shall provide written notice to the FDIC within one (1) Business Day of such payment default.

(g) Ranking

Any indebtedness of the Bank to the FDIC arising under Section 2.03 of the Master Agreement entered into by the Bank and the FDIC in connection with the TLG Program will constitute a senior unsecured general obligation of the Bank, ranking *pari passu* with any indebtedness hereunder.

(h) No Event of Default during Time of Timely FDIC Guarantee Payments

There shall not be deemed to be an event of default under the Agreement or under any provision of the applicable Notes which would permit or result in the acceleration of amounts due hereunder, if such an event of default is due solely to the failure of the Bank to make timely payment hereunder or under the applicable Notes, provided that the FDIC is making timely guarantee payments with respect to the debt obligations hereunder in accordance with 12 C.F.R Part 370.

Without limiting the foregoing, no provision of the Notes shall result in any acceleration of the amounts due under those Notes at any time at which the FDIC is making such timely guarantee payments, or the Bank is making the required payments under such Notes.

(i) No Modifications Without FDIC Consent

Without the express written consent of the FDIC, the parties hereto agree not to amend, modify, supplement or waive any provision in this Agreement or the Notes governed hereby that is related to the principal, interest, payment, default or ranking of the indebtedness hereunder or that is required to be included herein pursuant to the Master Agreement executed by the Bank in connection with the TLG Program."

Section 1.3 Section 25(b) of the Agreement is hereby amended by adding the following phrase at the beginning of such section:

"Except for (i) the FDIC in connection with the FDIC Guarantee, (2) the holders of the Notes as provided in Section 40 of this Agreement, or (3) as otherwise provided in 12 CFR Part 370, …"

Section 1.4 The Agreement is hereby amended by the insertion of a new "Exhibit L" in the form attached hereto.

ARTICLE II
MISCELLANEOUS

Section 2.1 **Agreement Remains in Full Force and Effect** Except as supplemented hereby, all provisions in the Agreement shall remain in full force and effect.

Section 2.2 **Agreement and Supplement Construed Together**. This Supplement is supplemental to the Agreement, and the Agreement and this Supplement shall henceforth be read and construed together.

Section 2.3 **Severability**. In case any provision in this Supplement 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 2.4 **Terms Defined in the Agreement**. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

Section 2.5 **Headings**. The headings of this Supplement have been inserted for convenience of reference only, are not to be considered part of this Supplement and shall in no way modify or restrict any of the terms or provisions hereof.

Section 2.6 **Benefits of Supplement**. Nothing in this Supplement or the Notes, express or implied, shall give to any Person, other than (a) the parties hereto and thereto and their successors hereunder and thereunder, (b) the FDIC (to the extent set forth herein) and (c) the holders of the Notes, any benefit of any legal or equitable right, remedy or claim under the Agreement, this Supplement or the Notes.

Section 2.7 **Certain Duties and Responsibilities of the Representative**. In entering into this Supplement, the Representative shall be entitled to the benefit of every provision of the Agreement relating to the conduct or affecting the liability or affording protection to the Agents, whether or not elsewhere herein so provided.

Section 2.8 **Counterparts**. The parties may sign any number of copies of this Supplement. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 2.9 **Governing Law**. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York but without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby.

Section 2.10 **Effective Date**. This Supplement shall be effective on the date first set forth above.

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

McGuireWoods LLP
201 North Tryon Street
Charlotte, North Carolina 28202
Telephone: (704) 343-2030
Facsimile: (704) 343-2300
Attention: Boyd C. Campbell, Jr.

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 LUXEMBOURG S.A.

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

Exhibit L

FORM OF ASSIGNMENT[1]

This Assignment is made pursuant to the terms of Section 40 of the Global Agency Agreement, dated as of July 25, 2007, as amended from time to time (the "Agreement"), between Deutsche Bank Trust Company Americas, et al, or its successor hereunder (the "Representative"), acting on behalf of the holders of the debt issued under the Agreement who have not opted out of representation by the Representative (the "Holders"), and Bank of America, N.A. (the "Bank") with respect to the debt obligations of the Company that are guaranteed under the TLG Program. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Agreement.

For value received, the Representative, on behalf of the Holders (the "Assignor"), hereby assigns to the Federal Deposit Insurance Corporation (the "FDIC"), without recourse, all of the Assignor's respective rights, title and interest in and to: (a) the promissory note or other instrument evidencing the debt issued pursuant to the terms of the Agreement (the "Note"); (b) the Agreement pursuant to which the Note was issued; and (c) any other instrument or agreement executed by the Bank regarding obligations of the Bank under the Note or the Agreement (collectively, the "Assignment").

The Assignor hereby certifies that:

1. Without the FDIC's prior written consent, the Assignor has not:

   (a) agreed to any material amendment of the Note or the Agreement or to any material deviation from the provisions thereof; or

   (b) accelerated the maturity of the Note.

[**Instructions to the Assignor**: If the Assignor has not assigned or transferred any interest in the Note and related documentation, such Assignor must include the following representation.]

2. The Assignor has not assigned or otherwise transferred any interest in the Note or the Agreement;

[**Instructions to the Assignor**: If the Assignor has assigned a partial interest in the Note and related documentation, the Assignor must include the following representation.]

2. The Assignor has assigned part of its rights, title and interest in the Note and the Agreement to_____ pursuant to the _____ agreement, dated as of _____, 20__, between _____, as assignor, and _____, as assignee, an executed copy of which is attached hereto.

[1] This Form of Assignment shall be modified as appropriate if the assignment is being made by an individual debt holder rather than the Representative or if the debt being assigned is not in certificated form or otherwise represented by a written instrument.

The Assignor acknowledges and agrees that this Assignment is subject to the Agreement and to the following:

1. In the event the Assignor receives any payment under or related to the Note or the Agreement from a party other than the FDIC (a "Non-FDIC Payment"):

(a) after the date of demand for a guarantee payment on the FDIC pursuant to 12 C.F.R. Part 370, but prior to the date of the FDIC's first guarantee payment under the Agreement pursuant to 12 C.F.R. Part 370, the Assignor shall promptly but in no event later than five (5) Business Days after receipt notify the FDIC of the date and the amount of such Non-FDIC Payment and shall apply such payment as payment made by the Bank, and not as a guarantee payment made by the FDIC, and therefore, the amount of such payment shall be excluded from this Assignment; and

(b) after the FDIC's first guarantee payment under the Agreement, the Assignor shall forward promptly to the FDIC such Non-FDIC Payment in accordance with the payment instructions provided in writing by the FDIC.

2. Acceptance by the Assignor of payment pursuant to the TLG Program on behalf of the Holders shall constitute a release by such Holders of any liability of the FDIC under the TLG Program with respect to such payment.

The Person who is executing this Assignment on behalf of the Assignor hereby represents and warrants to the FDIC that he/she/it is duly authorized to do so.

******

IN WITNESS WHEREOF, the Assignor has caused this instrument to be executed and delivered this_____ day of _____, 20__.

Very truly yours,
[ASSIGNOR]

By: _____
(Signature)

Name: _____
(Print)

Title: _____
(Print)

Exhibit 4(z)

AMENDED AND RESTATED 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 MELLON
as Principal Agent

and

THE BANK OF NEW YORK (LUXEMBOURG) S.A.
as Paying Agent and Luxembourg Listing Agent

DATED AS OF DECEMBER 5, 2008

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THIS AMENDED AND RESTATED AGENCY AGREEMENT (this "Agreement") dated as of December 5, 2008 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 and its registered address at Herengracht 469, 1017 BS Amsterdam, The Netherlands and registered with the Trade Register of the Chamber of Commerce and Industries in Amsterdam under number 34263380 (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 Mellon, a national banking association organized under the laws of the United States (the "Agent" and the "Principal Agent"); and

(iv) 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(2) 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 senior guarantee agreement and the subordinated guarantee agreement (the "Guarantees") 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);

WHEREAS, the Issuer, the Principal Agent and the Paying Agent wish to amend and restate arrangements originally agreed among them pursuant to an Agency Agreement dated January 16, 2007, as supplemented by a Supplemental Agreement dated January 21, 2008, in accordance with the terms of this Agreement, with respect to the Securities to be issued by the Issuer under this Agreement on and after the date hereof; and

WHEREAS, unless otherwise determined by the Issuer and specified in the applicable Final Terms, 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 under some circumstances be exchangeable for Definitive Securities, in each case, as further described herein and in accordance with the terms 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 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 entity, or person;

"Calculation Agency Agreement" means the Calculation Agency Agreement, dated January 16, 2007, among the Issuer, the Guarantor and Bank of America, N.A., as Calculation Agent (the "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 Registered Certificates, Definitive Certificates and Coupons;

"CGN" and "Classic Global Note" mean a Temporary Global Note in the form set out in Schedule 1 hereto or a Permanent Global Note in the form set out in Schedule 2 hereto, in either case where the applicable Final Terms specify the Notes as being in CGN form;

"Coupons" means the interest coupons substantially in the form set out in Schedule 9 hereto (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 substantially in the form set out in Schedule 6 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 under certain circumstances pursuant hereto;

"Definitive Note" means a Note in definitive form 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) issued or to be issued under certain circumstances pursuant hereto;

"Definitive Security" means a Definitive Certificate, Definitive Note or Definitive Warrant;

"Definitive Warrant" means a Warrant in definitive form substantially in the form set out in Schedule 8 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 under certain circumstances pursuant hereto;

"Delivery Agency Agreement" means the Delivery Agency Agreement, dated January 16, 2007, among the Issuer, the Guarantor and Banc of America Securities Limited, as Delivery Agent (the "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;

"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;

"Instruments" means, collectively, the Certificates and the Warrants;

"NGN" and "New Global Note" mean a Temporary Global Note in the form set out in Schedule 1 hereto or a Permanent Global Note in the form set out in Schedule 2 hereto, 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 Registered Notes, 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 Conditions, (b) those in respect of which the redemption date in accordance with the 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 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 under General Note Condition 8 or General Instrument Condition 15, (d) those which have been purchased and cancelled as provided in General Note Condition 6 or General Instrument Condition 11 (or as otherwise provided in the applicable Global Security), (e) those mutilated or defaced Securities which have been surrendered in exchange for replacement Securities pursuant to General Note Condition 10 or General Instrument Condition 16, (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 pursuant to General Note Condition 10 and General Instrument Condition 16, (g) any Temporary Global Security to the extent that it shall have been exchanged for a Permanent Global Security and any Global Security to the extent that it shall have been exchanged for one or more Definitive Securities, 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 for the purposes of Schedule 15, 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 Agent referred to above and such other paying agent or paying 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 5 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 or Securities Note) by the Issuer pursuant to this Agreement in exchange for the Temporary Global Certificate issued in respect of Certificates of the same Series;

"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 or Securities Note) by the Issuer pursuant to this Agreement in exchange for the Temporary Global Note issued in respect of Notes of the same Series;

"Permanent Global Security" means a Permanent Global Note, Permanent Global Certificate or Permanent Global Warrant;

"Permanent Global Warrant" means a permanent global warrant substantially in the form set out in Schedule 7 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 or Securities Note) by the Issuer pursuant to this Agreement;

"Registered Certificate" means a Certificate in registered form and as to which the Issuer and the Guarantor will appoint a transfer agent, paying agent and registrar, all as more fully described in the applicable Final Terms or Securities Note;

"Registered Note" means a Note in registered form and as to which the Issuer and the Guarantor will appoint a transfer agent, paying agent and registrar, all as more fully described in the applicable Final Terms or Securities Note;

"Registered Security" means a Registered Note, Registered Certificate or Registered Warrant;

"Registered Warrant" means a Warrant in registered form and as to which the Issuer and the Guarantor will appoint a transfer agent, paying agent and registrar, all as more fully described in the applicable Final Terms or Securities Note;

"Restricted Period" shall be determined as set forth in Clause 4(2), unless otherwise indicated;

"Temporary Global Certificate" means a temporary 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) initially representing Certificates issued or to be issued pursuant to this Agreement and issued in respect of the Certificates of the same Tranche;

"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) initially representing Notes issued or to be issued pursuant to this Agreement and issued in respect of Notes of the same Tranche;

"Temporary Global Security" means a Temporary Global Note or a Temporary Global Certificate;

"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 Registered Warrants and Definitive Warrants.

(3) The term "Securities" as used in this Agreement shall include the Temporary Global Security and the Permanent Global Security, Definitive Security, Registered Security 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" shall have the same meaning in this Agreement as given in the General Note Conditions or the General Instrument Conditions, as applicable.

(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 monies payable or amounts deliverable by the Issuer in respect of the Securities under this Agreement shall have the meaning set out in General Note Condition 5 or General Instrument Condition 12, 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 Guarantees, the Delivery Agency Agreement, the Calculation Agency Agreement and any 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 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 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.

(10) All references to Condition or Conditions shall be a reference to the corresponding conditions set out in the Terms and Conditions of the relevant Securities.

2. Appointments of Principal Agent, Paying Agents, Luxembourg Listing Agent, Delivery Agent and Calculation Agent

(1) The Offerors hereby continue the appointment of The Bank of New York Mellon as Principal Agent, and The Bank of New York Mellon 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, as required by their terms and (ii) instructing Euroclear and Clearstream, Luxembourg to make appropriate entries in their records in respect of all Global Notes which are NGNs;

(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, 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;

(e) paying sums due on Global Securities and Definitive Securities, Receipts and Coupons and instructing Euroclear and Clearstream, Luxembourg to make appropriate entries in their records in respect of all Global Notes which are NGNs (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, on behalf of the Issuer, from Euroclear or Clearstream, Luxembourg relating to the certifications of non-United States beneficial ownership of the Securities and providing copies of such notices to the Issuer; and

(k) performing all other obligations and duties imposed upon it by the applicable Conditions, this Agreement or as may be agreed 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 (as defined in General Note Condition 6 and General Instrument Condition 13, as applicable), on the Notes and Certificates. The Offerors hereby continue the appointment of: (a) 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; and (b) The Bank of New York (Luxembourg) S.A. as Luxembourg Listing Agent for purposes of the Securities. Upon its written acceptance of such continuing 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. As used herein, "possessions" shall include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

(3) The Offerors will appoint, or continue the appointment of, one or more agents to make certain calculations with respect to the Securities (the "Calculation Agent") pursuant to the Conditions.

(4) The Offerors will appoint, or continue the appointment of, one or more agents to deliver relevant Physical Delivery Amount(s) with respect to Physical Delivery Securities (the "Delivery Agent") pursuant to the Conditions.

(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 Permanent 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 Final Terms to a copy of the relevant master Temporary Global Security;

(b) to prepare a Permanent Global Warrant in accordance with such Confirmation by attaching a copy of the applicable Final Terms to a copy of the relevant master Permanent Global Warrant;

(c) to authenticate (or cause to be authenticated) such Temporary Global Security or Permanent Global Warrant;

(d) to deliver the Temporary Global Security or Permanent 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 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, 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 and Clearstream, Luxembourg 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, instruct Euroclear and Clearstream, Luxembourg 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 or master Permanent Global Warrants, as the case may be, 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) or Permanent Global Warrants in accordance with Clause 3(1)(b); and

(b) master Permanent Global Notes or master Permanent Global Certificates, 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 in accordance with Clause 4 below.

(3) The Agent will provide Euroclear and/or Clearstream, Luxembourg with the notifications, instructions or other information to be given by the Agent to Euroclear and/or Clearstream, Luxembourg in accordance with the standard procedures of Euroclear and/or Clearstream, Luxembourg.

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 and Clearstream, Luxembourg.

(b) The Agent shall deliver, upon notice from Euroclear or Clearstream, Luxembourg, a Permanent Global Note, Permanent Global Certificate, 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, provided that in each case the Agent has received 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 Final Terms 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, where the Permanent Global Note is a CGN, 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 Certificates, 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 in Schedule 2 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) in the case of a subsequent Tranche of any Series of Notes, where the Permanent Global Note is a CGN, or Certificates, to attach a copy of the applicable Final Terms 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; and

(vi) in the case of a subsequent Tranche of any Series of Notes where the Permanent Global Note is a NGN, to deliver the applicable Final Terms to the specified common safekeeper for attachment to the Permanent Global Note applicable to the relevant Series.

(c) The certifications of non-U.S. beneficial ownership received pursuant to paragraph (b) above shall contain all certifications and information set forth in the form

set out in Schedule 13 hereto and shall be retained by the Principal Agent for the period specified in the U.S. Treasury Regulations. A copy of such certification shall upon request by the Issuer be promptly furnished to the Issuer, in no event later than 10 calendar days after receipt of such request. The Principal Agent shall confirm that 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).

(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 an Instrument, 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, instruct Euroclear and Clearstream, Luxembourg 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, Talons and Coupons) authenticated and delivered under this Agreement, subject as set out in the 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, 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, to instruct Euroclear and Clearstream, Luxembourg 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 Security for an interest in a Permanent Global Security, as applicable, or any exchange of all or a part of an interest in a Global Security for

Definitive Securities, and any delivery of a Security, 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 (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 Conditions) occurs and is continuing, (iii) if the Issuer is notified that either Euroclear or Clearstream, Luxembourg 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 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 Note, Temporary Global Certificate 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.

Notwithstanding the foregoing, the Principal Agent shall not deliver a Bearer Definitive Security unless a certification of non-U.S. beneficial ownership is furnished or has previously been received. Any such certification shall contain all certifications and information set forth in the form set out in Schedule 13 hereto, and shall be retained by the Principal Agent, and a copy shall be furnished to the Issuer, in accordance with Clause 4(1)(c) above.

6. Terms of Issue

(1) The Agent shall cause all Temporary Global Securities, 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 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, 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 17(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 17(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 cancelled 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 facsimile or e-mail 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 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 to 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 New York, New York and any additional business center(s) specified in the relevant Final Terms ("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 centers (as defined below) 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 ("TARGET2 System") or any successor thereto is operating. Unless otherwise provided in the applicable Final Terms, the principal financial center of any Specified Currency for the purpose of this Clause 7 shall be the relevant financial centers (if any) specified for the relevant Specified Currency in Section 1.5 or Section 1.6 of the ISDA Definitions, except that the principal financial centers for Australian Dollars shall be Melbourne

and Sydney, the principal financial center for Canadian Dollars shall be Toronto and the principal financial center for New Zealand Dollars shall be Wellington.

(3) The Agent shall ensure that payments of 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. Treasury regulations has been received from Euroclear and/or Clearstream, Luxembourg in accordance with the terms thereof. Any such certification shall contain all certifications and information set forth in the form set out in Schedule 13, and be retained by the Principal Agent, and a copy shall be furnished to the Offerors in accordance with Clause 4(1)(c).

(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 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 or e-mail.

(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 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. For the avoidance of doubt, the provisions of the General Note Conditions as to subordination shall not apply to the Issuer's obligations under this sub-clause (8).

(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, 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, the Agent shall instruct Euroclear and Clearstream, Luxembourg 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 Guarantees) 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 sentence 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, 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, the Agent shall instruct Euroclear and Clearstream, Luxembourg 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, as defined in the General Note Conditions, or Physical Delivery Instruments, as defined in the General Instrument Conditions, including pursuant to sub-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 General Note Conditions or the General Instrument 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 (the term U.S. person as defined in Regulation S of the Securities Act of 1933, as amended). 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 shall make all such determinations and calculations (howsoever described) as it is required to do under the Conditions, all subject to and in accordance with the Conditions, provided that certain calculations with respect to the Securities, and associated publication or notification, shall be made by the relevant Calculation Agent in accordance with the relevant Calculation Agency Agreement.

(2) 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 and other Securities that are issued at a discount or premium (other than a *de minimis* discount in the ordinary course), 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

(1) If the Issuer, in respect of any payment under the Securities, or the Guarantor, in respect of any payment under the Guarantees, 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 Principal Agent and any Paying Agent as soon as it becomes aware of the requirement to make such withholding or deduction and shall give to the Principal Agent and any Paying Agent such information as it shall require to enable it to comply with such requirement, and the Principal Agent and Paying Agent shall comply with such requirement.

(2) Prior to the first payment on any Security, the Principal Agent shall have submitted to the Issuer, or shall have on file with the Issuer, a properly executed Internal Revenue Service ("IRS") Form W-9, and any Paying Agent with respect to such Security shall have submitted to the Issuer, or shall have on file with the Issuer, such IRS form as the Issuer shall determine to be necessary or advisable.

(3) The Principal Agent and any Paying Agent with respect to a Security shall report payments to the Security holders and the IRS as appropriate under U.S. law.

(4) The Principal Agent and any Paying Agent with respect to a Security shall provide the Issuer with any information required by the Issuer in connection with the Principal Agent's and Paying Agent's compliance with the tax requirements of this Clause 9.

(5) The Issuer, Principal Agent and any Paying Agent shall agree on applicable procedures with respect to any Registered Security.

10. Optional Early Redemption, Put Notices, Certificate Settlement Notices, Asset Transfer Notices and Exercise Notices

(1) If so permitted by the applicable Final Terms, and subject always to the provisions set forth in the Conditions and the applicable Final Terms, 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 Conditions, the Issuer shall give 7 calendar days' written notice of such decision to the Agent on or prior to the date on which the Issuer will give notice of such redemption to the Holders in accordance with the Conditions in order to enable the Agent to undertake its obligations herein and in the Conditions.

(2) If only some of the Securities of like tenor and of the same Series are to be redeemed on such date, the Agent shall make the required drawing in accordance with the Conditions but shall give the Issuer reasonable notice of the time and place proposed for such drawing. Where partial redemptions are to be effected when there are Definitive Securities outstanding, the Principal Agent will select by lot the Securities to be redeemed from the outstanding Securities in compliance with all applicable laws and stock exchange requirements and deemed

by the Agent to be appropriate and fair. Where partial redemptions are to be effected when there are no Definitive Securities outstanding, the rights of Holders will be governed by the standard provisions of Euroclear and Clearstream, Luxembourg (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount, at their discretion). Notice of any partial redemption and, when there are Definitive Securities outstanding, of the serial numbers of the Securities so drawn, will be given by the Agent to the Holders in accordance with the terms of the Securities and this Agreement.

(3) 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 and the nominal amounts of the Securities to be redeemed. Such notice will be published in accordance with the Conditions. The Agent also will notify the other Paying Agents of any date fixed for redemption of any Securities.

(4) 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 Conditions.

(5) Each Paying Agent will keep a stock of Put Notices (as defined in the General Note Conditions) for Definitive Notes held outside of a clearing system in the form set out in Schedule 16, which shall be delivered in accordance with General Note Condition 6(d), and will make such notices available on demand to Holders of such Notes for which the Conditions provide for redemption at the option of Holders of Notes. 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 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 Holder of Notes (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 Conditions and shall pay such amounts in accordance with General Note Condition 5, and if applicable, the directions of such Holder contained in the Put Notice. In the event of exercise of any other option, each Paying Agent shall take steps required of it in the Conditions. 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 monies is improperly withheld or refused, the applicable Paying Agent shall post such Note (together with any such Coupons, if any) by uninsured post to, and at the risk of, the relevant Holder of such Note 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 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.

(6) Each Paying Agent will keep a stock of Asset Transfer Notices (as defined in the General Note Conditions) for Physical Delivery Notes held outside of a clearing system in the form set out in Schedule 17, which shall be delivered in accordance with General Note Condition 5(f)(A)(1), and will make such notices available on demand to Holders of such Notes. 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 Holder of such Note (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 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 monies is improperly withheld or refused, the Paying Agent shall post such Note (together with any such Coupons, if any) by uninsured post to, and at the risk of, the relevant Holder of such Note 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.

(7) Each Paying Agent will keep a stock of Certificate Settlement Notices (as defined in the General Instrument Conditions) for Definitive Certificates held outside of a clearing system in the form set out in Schedule 19, which shall be delivered in accordance with General Instrument Condition 8, 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 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 Conditions and shall pay or deliver such amounts in accordance with General Instrument Condition 8(b), 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 General Instrument Condition 8(a)), 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.

(8) Each Paying Agent will keep a stock of Exercise Notices (as defined in the General Instrument Conditions) for Definitive Warrants held outside of a clearing system in the form set out in Schedule 18, which shall be delivered in accordance with General Instrument Condition 6(a), 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 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 Conditions and shall pay or deliver such amounts in accordance with General Instrument Condition 6(c), 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 General Instrument Condition 5) 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.

(9) 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 General Note

Condition 5(f)(A)(2) in the case of Notes or General Instrument Condition 9(b) in the case of Instruments, 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 of Notes, Certificates or Warrants (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).

(10) 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 and any persons authorized by it for inspection and for the taking of copies thereof or extracts therefrom.

(11) 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) or the common safekeeper (in the case of a Global Note issued in NGN form) 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, upon written request of the Issuer, certify such destruction to the Issuer.

(12) 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 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 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 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 cancelled 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 cancelled 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 cancelled 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 cancelled; 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 cancelled 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 General Note Condition 10 and General Instrument Condition 16) 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, 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, to instruct Euroclear and Clearstream, Luxembourg to make appropriate entries in their records to reflect such redemption or purchase and cancellation, as the case may be.

(7) The Issuer shall have the right, at its option, to compel any beneficial owner of any Securities to void the transfer of such Securities to any person that is a U.S. person or to redeem any Securities held any person that is a U.S. person, as provided in General Note Condition 1 or General Instrument Condition 1.

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 Luxembourg (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 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) the latest available audited financial statements of (a) the Guarantor and its consolidated subsidiaries, beginning with such financial statements for the fiscal year ended December 31, 2006; and (b) the Issuer, beginning with such financial statements for the period from its inception through December 31, 2007;

(3) the Program Agreement, this Agreement, the Delivery Agency Agreement, the Calculation Agency Agreement and the Guarantees;

(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 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. Meetings of Holders

(1) The provisions of Schedule 15 hereto shall apply to meetings of the Holders and shall have effect in the same manner as if set out in this Agreement.

(2) Without prejudice to sub-clause (l), each of the Agent and the Paying Agents on the request of any Holder shall issue voting certificates and block voting instructions in accordance with Schedule 15 and shall forthwith give notice to the Issuer and the Guarantor in writing of any revocation or amendment of a block voting instruction. Each of the Agent and the Paying Agents will keep a full and complete record of all voting certificates and block voting instructions issued by it and, not less than 24 hours before the time appointed for holding a meeting or adjourned meeting, will deposit at such place as the Agent shall designate or approve, full particulars of all voting certificates and block voting instructions issued by it in respect of such meeting or adjourned meeting.

16. 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 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.

17. 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 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 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.

18. 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.

19. Changes in Agent and Paying Agents

(1) The Offerors agree that, for so long as any Security is outstanding, or until monies 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 2003/48/EC on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, 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 the final paragraph of General Note Condition 5(b) and General Instrument Condition 12(b). 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 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 21. 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 21, 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 monies 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 25.

(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.

20. 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.

21. 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 Conditions.

22. 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 19 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 Conditions.

23. 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. Herengracht 469 1017 BS Amsterdam The Netherlands Attn: Armstrong Okobia Facsimile: +31 20 4214 970 Email: armstrong.okobia@bankofamerica.com
The Guarantor:	Bank of America Corporation Bank of America Corporate Center NC1-007-07-13 100 North Tryon Street Charlotte, North Carolina 28255-0065 U.S.A. Attn: Corporate Treasury – Securities Administration Facsimile: +1 (980) 387-8044 Email: dg.securities_admin@bankofamerica.com with a copy to: Bank of America Corporation Legal Department NC1-002-29-01 101 South Tryon Street Charlotte, North Carolina 28255 U.S.A. Attn: General Counsel Facsimile: +1 (704) 386-1670
The Agent:	The Bank of New York Mellon One Canada Square London E14 5AL United Kingdom Attn: Corporate Trust Administration Facsimile: +44 20 7964 2536 The Bank of New York (Luxembourg) S.A. Aerogolf Center 1A, Hoehenhof L-1736 Senningerberg Luxembourg Attn: Corporate Trust Administration Facsimile: +352 34 20 90 6035 Email: LUXMB-CT_New_Issues@bnymellon.com

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 to the relevant number specified above and, if so sent, shall be deemed to have been delivered immediately after transmission provided the sending facsimile machine prints a successful confirmation of transmission; or

(3) if sent by email to the relevant email address specified above, and if so sent, shall be deemed to have been delivered at the time of receipt.

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.

24. 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.

25. 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 dated January 16, 2007 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 and postage expenses) properly incurred by the Agent and the Paying Agents in connection with their services hereunder, including, without limitation, the expenses contemplated this Clause 25(2).

26. Indemnity

(1) The Issuer, failing whom the Guarantor, 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. In no event shall the Issuer be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special or consequential damages, whether or not the Issuer has been advised of the possibility of such loss or damages.

(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. In no event shall the Principal Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special or consequential damages, whether or not the Principal Agent has been advised of the possibility of such loss or damages.

(3) 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 26, "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.

(4) The provisions of this Clause 26 shall survive the termination or expiration of this Agreement and the resignation or removal of the Agent and the Paying Agents.

27. 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.

28. Governing Law

(1) This Agreement, the Securities, and any Receipts, Coupons or Talons appertaining thereto 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 the Agents 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 Guarantees, any Security, Receipt, Coupon or Talon, as the case may be (together, the "Proceedings"). The Offerors and the Agents 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 the Agents each agree that final judgment in the Proceedings brought in such a court shall be conclusive and binding upon the Offerors or the Agents, as the case may be, and may be enforced in any court of the jurisdiction to which the relevant Offeror or the Agents is subject by a suit upon such judgment, provided that the service of process is effected upon such Offeror and the Agents 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 continues the appointment of the New York office of CT Corporation System presently situated at 111 Eighth Avenue, New York, New York 10011, U.S.A., as its respective 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.

29. 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 Guarantees, the Receipts or the Coupons solely as set forth in General Note Condition 14 or General Instrument Condition 19.

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 General Note Condition 13 and General Instrument Condition 18 as soon as practicable thereafter.

30. Descriptive Headings

The descriptive headings in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof.

31. 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/ KAREN A. GOSNELL
Name: /s/ Karen A. Gosnell
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 MELLON
as Agent and Principal Agent

By /s/ PAUL CATTERMOLE
Name: Paul Cattermole
Title: Assistant Vice President

THE BANK OF NEW YORK (LUXEMBOURG) S.A.
as Paying Agent and Luxembourg Listing Agent

By /s/ PAUL CATTERMOLE
Name: Paul Cattermole
Title: Assistant Vice President

Schedule 1 to
Amended and Restated Agency Agreement

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, PLEDGED 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 REGULATIONS UNDER THE SECURITIES ACT. THIS NOTE MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

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 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 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 representing Notes with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

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 Notes (the "Notes") 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 applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the General Note Conditions shall be to the Terms and Conditions of the Notes as set out in Schedule 12-1, including any applicable Product Annex as set out in Schedule 12-3, to the 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 those Schedules and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the General Note 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 General Note Conditions and an Amended and Restated Agency Agreement (the "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 [•] and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A. and the other agents named therein.

For value received, the Issuer, subject to and in accordance with the General Note 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, on the Interest Payment Date or on the Delivery Date, as the case may be, or on such earlier date as any of the Notes represented by this Global Note may become due and payable in accordance with the General Note Conditions, the amount payable or deliverable, as the case may be, on redemption of such Notes then represented by this Global Note becoming so due and payable, and to pay interest (if any) or to deliver any Physical Delivery Amount (if any) on the Notes from time to time represented by this Global Note calculated and payable as provided in the General Note Conditions together with other sums payable under the General Note Conditions, upon presentation and following the delivery of an Asset Transfer Notice (in the case of Physical Delivery Notes) as provided in the Agency Agreement, 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 General Note 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.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement or the Subordinated Guarantee Agreement, as applicable, each executed by the Guarantor on January 16, 2007.

If the applicable Final Terms indicate 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 indicate 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, delivery 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 indicate that this Global Note is intended to be 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; or

(b) if the applicable Final Terms indicate that this Global Note is intended to be a Classic Global Note, 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 shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or the amount of such Installment Amount.

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 13 to the 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 14 to the Agency Agreement. Payments or deliveries 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 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 indicate 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 indicate 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 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 Schedules 3, 9, 10 and 11, respectively, to the 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 calendar 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 calendar 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 indicate 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 13 to the 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 14 to the 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 indicate 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 indicate that this Global Note is intended to be a Classic Global Note, 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 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 such bearer were the bearer of Definitive Notes and (if applicable) Coupons, Receipts and/or Talons in the form set out in Schedules 3, 9, 10 and 11, respectively, to the Agency Agreement.

Notwithstanding any provision to the contrary contained in this Temporary Global Note, the Issuer irrevocably agrees, for the benefit of such Holders and their successors and assigns, that each Holder 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 Holder'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 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 hereon on or after the Exchange Date.

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 Agency Agreement. If the applicable Final Terms indicate 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.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

[CERTIFICATE OF AUTHENTICATION OF THE AGENT]

This Temporary Global Note is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
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.

[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[1]

PART I

INTEREST PAYMENTS

Interest Payment Date	Date of Payment	Total Amount of Interest Payable[2]	Amount of Interest Paid[2]	Confirmation of payment by or on behalf of the Issuer
[3]First				

1 Schedule 1 should only be completed where the applicable Final Terms indicate that this Global Note is intended to be a Classic Global Note.
2 Including Physical Delivery Amount(s), if applicable.
3 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[1]	Amount of Installment Amounts Paid[1]	Remaining principal amount of this Global Note following such payment[2]	Confirmation of payment by or on behalf of the Issuer
[3]First					

1 Including Physical Delivery Amount(s), if applicable.
2 See most recent entry in Part II, III or IV of Schedule 1 or in Schedule 2 in order to determine this amount.
3 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[1]	Principal amount Redeemed[1]	Remaining principal amount of this Global Note following such redemption[2]	Confirmation of redemption by or on behalf of the Issuer

1 Including Physical Delivery Amount(s), if applicable.
2 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 purchased and cancelled	Remaining principal amount of this Global Note following such purchase and cancellation[1]	Confirmation of purchase and cancellation by or on behalf of the Issuer

[1] 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[1]

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[2]	Notation made by or on behalf of the Issuer

1 Schedule 2 should only be completed where the applicable Final Terms indicate that this Global Note is intended to be a Classic Global Note.
2 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
Amended and Restated Agency Agreement

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, PLEDGED 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 MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

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.]

B OF A ISSUANCE B.V.

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 Notes (the "Notes") 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 applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the General Note Conditions shall be to the Terms and Conditions of the Notes as set out in Schedule 12-1, including any applicable Product Annex as set out in Schedule 12-3, to the 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 those Schedules and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the General Note 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 General Note Conditions and an Amended and Restated Agency Agreement (the "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 [•] 2008 and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A., and the other agents named therein.

For value received, the Issuer, subject to and in accordance with the General Note 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, on the Interest Payment Date or on the Delivery Date, as the case may be, or on such earlier date as any of the Notes represented by this Global Note may become due and payable in accordance with the General Note Conditions, the amount payable or deliverable, as the case may be, on redemption of such Notes then represented by this Global Note becoming so due and payable, and to pay interest (if any) or to deliver any Physical Delivery Amount (if any) on the Notes from time to time represented by this Global Note calculated and payable as provided in the General Note Conditions together with other sums payable under the General Note Conditions, upon presentation and following the delivery of an Asset Transfer Notice (in the case of Physical Delivery Notes) as provided in the Agency Agreement, 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 General Note 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.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement or the Subordinated Guarantee Agreement, as applicable, each executed by the Guarantor on January 16, 2007.

If the applicable Final Terms indicate 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 indicate 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, delivery 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 indicate that this Global Note is intended to be 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; or

(b) if the applicable Final Terms indicate that this Global Note is intended to be a Classic Global Note, 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 shall be reduced by the principal amount of the Notes so redeemed or purchased and cancelled or the amount of such Installment Amount.

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 indicate 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 indicate 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:

(a) if the applicable Final Terms indicate 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

(b) if the applicable Final Terms indicate 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 in 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 for security-printed Definitive Notes, under the circumstances and in accordance with the terms provided for in the General Note Conditions, and (if applicable) Coupons, Receipts and/or Talons in the form set out in Schedules 3, 9, 10 and 11, respectively, to the 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 60 calendar 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 in Schedule 2 hereto (if the applicable Final Terms indicate that this Global Note is not intended to be a New 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 such bearer were the bearer of Definitive Notes and (if applicable) Coupons, Receipts and/or Talons in the form set out in Schedules 3, 9, 10 and 11, respectively, to the Agency Agreement (on the basis that all 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).

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 such holder's 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 or deliveries 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 Agency Agreement. If the applicable Final Terms indicate 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.

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 MELLON
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.

[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[1]

PART I

INTEREST PAYMENTS

Interest Payment Date	Date of Payment	Total Amount of Interest Payable[2]	Amount of Interest Paid[2]	Confirmation of payment by or on behalf of the Issuer
[3]First				

1 Schedule 1 should only be completed where the applicable Final Terms indicate that this Global Note is intended to be a Classic Global Note.
2 Including Physical Delivery Amount(s), if applicable.
3 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[1]	Amount of Installment Amounts Paid[1]	Remaining principal amount of this Global Note following such payments[2]	Confirmation of payment by or on behalf of the Issuer
[3]First					

1 Including Physical Delivery Amount(s), if applicable.
2 See most recent entry in Part II, III or IV of Schedule 1 or in Schedule 2 in order to determine this amount.
3 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[1]	Principal amount redeemed[1]	Remaining principal amount of this Global Note following such redemption[2]	Confirmation of redemption by or on behalf of the Issuer

1 Including Physical Delivery Amount(s), if applicable.
2 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 purchased and cancelled	Remaining principal amount of this Global Note following such purchase and cancellation[1]	Confirmation of purchase and cancellation by or on behalf of the Issuer

[1] 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[1]

SCHEDULE OF EXCHANGES

The following exchanges relating to this Global Note 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 [2]	Decrease in principal amount of this Global Note due to exchanges of this Global Note for Definitive Notes	Notation made by or on behalf of the Issuer

[1] Schedule 2 should only be completed where the applicable Final Terms indicate that this Global note is intended to be a Classic Global Note.
[2] If this Global Note 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 3 to
Amended and Restated Agency Agreement

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, PLEDGED 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 REGULATIONS UNDER THE SECURITIES ACT. THIS NOTE MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

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 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]

[Legend on definitive bearer Notes:

[Unless between individuals not acting in the conduct of a profession or business, each transaction regarding this Note which involves the physical delivery thereof within, from or into the Netherlands must be effected (as required

[1] [This language is applicable only to Notes with maturities of 183 days or less from the date of original issue.]

by the Dutch Savings Certificates Act (*Wet inzake spaarbewijzen*)) through the mediation of the Issuer or a member of Euronext Amsterdam N.V. and, unless this Note 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.][2]

[2] Include on zero coupon or discounted bearer Notes and other bearer Notes 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.

[Specified Currency and Principal Amount of Tranche]
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 Notes (the "Notes") 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") 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 General Note Conditions shall be to the Terms and Conditions of the Notes, as set out in Schedules 12-1 and 12-3 to the Agency Agreement, including any applicable Product Annex, as 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 General Note Conditions (including any applicable Product Annex) 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 General Note Conditions and an Amended and Restated Agency Agreement (the "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 [•] and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A., and the other agents named therein.

For value received, the Issuer, subject to and in accordance with the General Note 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 Definitive Note (if the Notes represented by this Definitive Note are Installment Notes) and on the Maturity Date, on the Interest Payment Date or on the Delivery Date, as the case may be, or on such earlier date as any of the Notes represented by this Definitive Note may become due and payable in accordance with the General Note Conditions, the amount payable or deliverable, as the case may be, on redemption of such Notes then represented by this Definitive Note becoming so due and payable, and to pay interest (if any) or to deliver any Physical Delivery Amount (if any) on the Notes from time to time represented by this Definitive Note calculated and payable as provided in the General Note Conditions together with other sums payable under the General Note Conditions provided that all payments will be made outside the United States and its possessions.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement or the Subordinated Guarantee Agreement, as applicable, each executed by the Guarantor on January 16, 2007.

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 Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this 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 Note is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

(REVERSE OF NOTE)

The General Note Conditions and Product Annexes, attached to or endorsed upon this Note, are set forth in Schedule 12-1 of the Agency Agreement dated as of [•] by and among B of A Issuance B.V., as Issuer, Bank of America Corporation, as Guarantor, The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A. and the other agents named therein.

Schedule 4 to
Amended and Restated Agency Agreement

FORM OF TEMPORARY GLOBAL CERTIFICATE

THIS 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 CERTIFICATE NOR ANY INTEREST OR PARTICIPATION IN THIS CERTIFICATE MAY BE OFFERED, SOLD, PLEDGED 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 REGULATIONS UNDER THE SECURITIES ACT. THIS CERTIFICATE MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS 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 CERTIFICATE IS A TEMPORARY GLOBAL CERTIFICATE IN BEARER FORM, WITHOUT COUPONS, EXCHANGEABLE FOR A BEARER CERTIFICATE IN PERMANENT GLOBAL FORM. THE RIGHTS ATTACHING TO THIS TEMPORARY GLOBAL CERTIFICATE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR A PERMANENT GLOBAL CERTIFICATE, ARE AS SPECIFIED IN THE AGENCY AGREEMENT (AS DEFINED HEREIN).

THIS 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 GLOBAL 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] [This language is applicable only to Temporary Global Certificates representing Certificates with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

CERTIFICATES

TEMPORARY GLOBAL CERTIFICATE

COMMON CODE: ISIN:

This Global Certificate is a Temporary Global Certificate in bearer form without interest coupons in respect of a duly authorized Series of Certificates (the "Certificates") 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 applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the General Instrument Conditions shall be to the Terms and Conditions of the Instruments as set out in Schedule 12-2, including any applicable Product Annex as set out in Schedule 12-3, to the 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 those Schedules and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the General Instrument Conditions and/or the Final Terms shall bear the same meaning when used herein.

This Global Certificate is issued subject to, and with the benefit of, the General Instrument Conditions and an Amended and Restated Agency Agreement (the "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 [•] and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A. and the other agents named therein.

For value received, the Issuer, subject to and in accordance with the General Instrument Conditions, promises to pay to the bearer hereof on the Settlement Date, on any Interest Payment Date, as the case may be, or on such earlier date as any of the Certificates represented by this Global Certificate may become due and payable in accordance with the General Instrument Conditions, the amount payable or deliverable, as the case may be, on redemption of such Certificates then represented by this Global Certificate becoming so due and payable, and to pay interest (if any) or to deliver any Physical Delivery Amount (if any) on the Certificates from time to time represented by this Global Certificate calculated and payable as provided in the General Instrument Conditions together with other sums payable under the General Instrument Conditions, upon presentation and following the delivery of a certificate settlement notice as provided in the Agency Agreement, and, at final settlement, surrender of this Global Certificate 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 General Instrument Conditions) from time to time appointed by the Issuer in respect of the Certificates, but in each case subject to the requirements as to certification provided herein.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement executed by the Guarantor on January 16, 2007.

The Notional Amount of the Certificates represented by this Global Certificate shall be the amount stated in the applicable Final Terms or, if lower, the Notional Amount most recently recorded by or on behalf of the Issuer, in the relevant column in Part II or III of Schedule 1 or in Schedule 2 hereto.

On any settlement or purchase and cancellation of any of the Certificates represented by this Global Certificate, the Issuer shall procure that details of such settlement, payment, delivery or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part II or III of Schedule 1 or in Schedule 2 hereto recording any such settlement, 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 settlement or purchase and cancellation, the number of such Certificates represented by this Global Certificate shall be reduced by the number of Certificates so redeemed or purchased and cancelled.

Prior to the Exchange Date (as defined below), all payments (if any) on this Global Certificate will only be made to the bearer hereof to the extent that there is presented to the Agent by Clearstream Banking, société anonyme ("Clearstream, Luxembourg") or Euroclear Bank S.A./N.V. ("Euroclear"), a certificate, substantially in the form set out in Schedule 13 to the Agency Agreement, to the effect that it has received from or in respect of a person entitled to a particular Notional Amount of the Certificates (as shown by its records) a certificate in or substantially in the form of the certificate as set out in Schedule 14 to the Agency Agreement. Payments or deliveries due in respect of Certificates for the time being represented by this Global Certificate shall be made to the bearer of this Global Certificate 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 Certificate will not be entitled to receive any payment hereon.

On or after the Exchange Date (as defined below) this Global Certificate may be exchanged in whole or in part (free of charge) for, as specified in the Final Terms, either (a) a Permanent Global Certificate in or substantially in the form set out in Schedule 5 to the 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 Certificate or, (b) under certain limited circumstances, security printed Definitive Certificates and, (if applicable) Coupons in the form set out in Schedules 6 or 9, respectively, to the Agency Agreement (on the basis that all the appropriate details have been included on the face of such Definitive Certificates and (if applicable) Coupons and the Final Terms have been incorporated on such Definitive Certificates) and subject to such notice period as is specified in the Final Terms. The "Exchange Date" for this Global 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 Certificate and the closing date for the Global 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 Certificate represented by this Global 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 Certificate and the closing date for the Global Certificate, the Exchange Date with respect to such Certificate will be the day after the date on which the Issuer, Dealer or distributor sells such Certificate.

This Global 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. The Issuer shall procure that Definitive Certificates and interests in the Permanent Global Certificate shall be so issued and delivered in exchange for only that portion of this Global 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 13 to the Agency Agreement, to the effect that it has received from or in respect of a person entitled to a beneficial interest in a particular Notional Amount of the Certificates (as shown by its records) a certificate from such person in or substantially in the form of the certificate set out in Schedule 14 to the Agency Agreement, unless such certificate has already been given in accordance with the above provisions. The aggregate Notional Amount of interests in a Permanent Global Certificate issued upon an exchange of this Global Certificate subject to the terms hereof, will be equal to the aggregate Notional Amount of this Global Certificate submitted by the bearer hereof for exchange (to the extent that such Notional Amount does not exceed the aggregate Notional Amount of this Global Certificate).

On an exchange of the whole of this Global Certificate, this Global Certificate shall be surrendered to the Agent. On an exchange of only part of this Global Certificate, the Issuer shall procure that 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 Notional Amount of this Global Certificate and the Certificates represented by this Global Certificate shall be reduced by the Notional Amount so exchanged.

If, following the issue of a Permanent Global Certificate in exchange for some of the Certificates represented by this Global Certificate, further Certificates represented by this Global Certificate are to be exchanged for interests in a Permanent Global Certificate, such exchange may be effected, subject as provided herein, without the issue of a new Permanent Global Certificate by the Issuer or its agent endorsing Schedule 2 of the Permanent Global Certificate previously issued to reflect an increase in the aggregate Notional Amount of such Permanent

Global Certificate by an amount equal to the aggregate Notional Amount of the Permanent Global Certificate which would otherwise have been issued on such exchange.

Until the exchange of the whole of this Global Certificate as aforesaid, the bearer hereof shall in all respects (except as otherwise provided herein) be entitled to the same benefits as if such bearer were the bearer of Definitive Certificates and (if applicable) Coupons in the form set out in Schedules 6 or 9, respectively, to the Agency Agreement.

Notwithstanding any provision to the contrary contained in this Temporary Global Certificate, the Issuer irrevocably agrees, for the benefit of such Holders and their successors and assigns, that each Holder 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 Certificate represented by this Temporary Global Certificate which is credited to such Holder's securities account with Euroclear or Clearstream, Luxembourg without the production of this Temporary Global Certificate; 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 Certificate.

Until exchanged in full for the Permanent Global Certificate, this Temporary Global Certificate in all respects shall be entitled to the same benefits under, and subject to the same terms and conditions of, the Agency Agreement as the Permanent Global Certificate authenticated and delivered thereunder, except that neither the Holder hereof nor the beneficial owners of this Temporary Global Certificate shall be entitled to receive payment hereon on or after the Exchange Date.

This Temporary Global Certificate 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 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 acting in accordance with the Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this Temporary Global 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 Certificate is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
As Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

Schedule 1 to the
Temporary Global Certificate

PART I

INTEREST PAYMENTS

Interest Payment Date	Date of Payment	Total Amount of Interest Payable[1]	Amount of Interest Paid[1]	Confirmation of payment by or on behalf of the Issuer
[2]First				

1 Including Physical Delivery Amount(s), if applicable.
2 Continue numbering until the appropriate number of interest payment dates for the particular Tranche of Certificates is reached.

PART II

REDEMPTIONS

Date of Redemption	Total number of Certificates represented by this Global Certificate to be redeemed [1]	Remaining number of Certificates represented by this Global Certificate following such redemption[2]	Confirmation of redemption by or on behalf of the Issuer

[1] Including Physical Delivery Amount(s), if applicable.
[2] See most recent entry in Part II or III of Schedule 1 or in Schedule 2 in order to determine this amount.

PART III

PURCHASES AND CANCELLATIONS

Date of purchase and cancellation	Number of Certificates represented by this Global Certificate purchased and cancelled	Remaining number of Certificates represented by this Global Certificate following such purchase and cancellation[1]	Confirmation of purchase and cancellation by or on behalf of the Issuer

[1] 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
Temporary Global Certificate

SCHEDULE OF EXCHANGES
FOR DEFINITIVE CERTIFICATES OR PERMANENT GLOBAL CERTIFICATE

The following exchanges of a part of this Global Certificate for Definitive Certificates or Certificates represented by a Permanent Global Certificate have been made:

Date of exchange	Number of Certificates represented by this Global Certificate exchanged for Definitive Certificates or Certificates represented by a Permanent Global Certificate	Remaining number of Certificates represented by this Global Certificate following such exchange[1]	Notation made by or on behalf of the Issuer

1 See most recent entry in Part II or III of Schedule 1 or in Schedule 2 in order to determine this amount.

Schedule 5 to
Amended and Restated Agency Agreement

FORM OF PERMANENT GLOBAL CERTIFICATE

THIS 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 CERTIFICATE NOR ANY INTEREST OR PARTICIPATION IN THIS CERTIFICATE MAY BE OFFERED, SOLD, PLEDGED 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 CERTIFICATE MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS 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 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 BEARER 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 Certificates representing Certificates with maturities of 183 days or less from the date of original issue.]

B OF A ISSUANCE B.V.

CERTIFICATES

PERMANENT GLOBAL CERTIFICATE

COMMON CODE: ISIN:

This Global Certificate is a Permanent Global Certificate in bearer form without interest coupons in respect of a duly authorized Series of Certificates (the "Certificates") 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 applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the General Instrument Conditions shall be to the Terms and Conditions of the Instruments as set out in Schedule 12-2, including any applicable Product Annex as set out in Schedule 12-3, to the 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 those Schedules and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the General Instrument Conditions and/or the Final Terms shall bear the same meaning when used herein.

This Global Certificate is issued subject to, and with the benefit of, the General Instrument Conditions and an Amended and Restated Agency Agreement (the "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 [•] and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A., and the other agents named therein.

For value received, the Issuer, subject to and in accordance with the General Instrument Conditions, promises to pay to the bearer hereof on the Settlement Date, on any Interest Payment Date or on the Delivery Date, as the case may be, or on such earlier date as any of the Certificates represented by this Global Certificate may become due and payable in accordance with the General Instrument Conditions, the amount payable or deliverable, as the case may be, on redemption of such Certificates then represented by this Global Certificate becoming so due and payable, and to pay interest (if any) or to deliver any Physical Delivery Amount (if any) on the Certificates from time to time represented by this Global Certificate calculated and payable as provided in the General Instrument Conditions together with other sums payable under the General Instrument Conditions, upon presentation and following the delivery of a certificate settlement notice as provided in the Agency Agreement, and, at final settlement, surrender of this Global Certificate 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 General Instrument Conditions) from time to time appointed by the Issuer in respect of the Certificates, but in each case subject to the requirements as to certification provided herein.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement executed by the Guarantor on January 16, 2007.

The Notional Amount of the Certificates represented by this Global Certificate shall be the amount stated in the applicable Final Terms or, if lower, the Notional Amount most recently envisaged by or on behalf of the Issuer, in the relevant column in Part II or III of Schedule 1 or in Schedule 2.

On any settlement or purchase and cancellation of, any of the Certificates represented by this Global Certificate, the Issuer shall procure that details of such settlement, payment, delivery or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part II or III of Schedule 1 or in Schedule 2 hereto recording any such settlement, 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 settlement or purchase and cancellation, the number of such Certificates represented by this Global Certificate shall be reduced by the number of Certificates so redeemed or purchased and cancelled.

The Certificates represented by this Global Certificate were represented originally by one or more Temporary Global Certificates (each Tranche of Certificates comprised in the Series of Certificates to which this Global Certificate relates having been represented originally by one Temporary Global Certificate). Unless any such Temporary Global Certificate was exchanged in whole on the issue hereof, an interest in such Temporary Global Certificate may be further exchanged, on the terms and conditions set out therein, for an interest in this Global Certificate. The Issuer shall procure that details of such exchange shall be entered in Schedule 2 hereto to reflect the increase in the aggregate Notional Amount of this Global Certificate due to each such exchange, whereupon the Notional Amount hereof shall be increased for all purposes by the Notional Amount so exchanged and endorsed.

In certain circumstances further certificates may be issued which are intended on issue to be consolidated and form a single Series with the Certificates. In such circumstances the Issuer shall procure that details of such further certificates shall be entered in the relevant column in Part II or III of Schedule 1 or in Schedule 2 hereto recording such exchange and shall be signed by or on behalf of the Issuer, whereupon the Notional Amount of the Certificates represented by this Global Certificate shall be increased by the Notional Amount of any such Temporary Global Certificate so exchanged.

This Global Certificate may be exchanged for security-printed Definitive Certificates, under the circumstances and in accordance with the General Instrument Conditions, and (if applicable) Coupons in the form set out in Schedules 6 or 9, respectively, to the Agency Agreement (on the basis that all the appropriate details have been included on the face of such Definitive Certificates and (if applicable) Coupons and the Final Terms have been incorporated on such Definitive Certificates). Subject as aforesaid and to at least 60 calendar days' written notice expiring after the Exchange Date (as defined in the Temporary Global Certificate referred to above) being given to the Agent by Euroclear Bank S.A./N.V. ("Euroclear") and/or Clearstream Banking, société anonyme ("Clearstream, Luxembourg"), acting on the instructions of any Holder of an interest in the Global Certificate, this exchange will be made upon presentation of this Global 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 Notional Amount of Definitive Certificates issued upon an exchange of this Global Certificate will be equal to the aggregate Notional Amount of this Global Certificate submitted by the bearer hereof for exchange (to the extent that such amount does not exceed the aggregate Notional Amount of this Global Certificate most recently entered in the relevant column in Part II or III of Schedule 1 or in Schedule 2 hereto).

On an exchange of the whole of this Global Certificate, this Global Certificate shall be surrendered to the Agent.

Until the exchange of the whole of this Global Certificate as aforesaid, the bearer hereof in all respects shall be entitled to the same benefits as if such bearer were the bearer of Definitive Certificates and (if applicable) Coupons in the form set out in Schedules 6 or 9, respectively, to the Agency Agreement (on the basis that all appropriate details have been included on the face of such Definitive Certificates and (if applicable) Coupons and the Final Terms have been incorporated on such Definitive Certificates).

Notwithstanding any provision to the contrary contained in this Permanent Global Certificate, the Holder of this Permanent Global Certificate shall be the only person entitled to receive payments in respect to the Certificates represented by this Permanent Global Certificate and the Issuer will be discharged by payment to, or to the order of, the Holder of this Permanent Global Certificate 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 amount of Certificates represented by this Permanent Global Certificate 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 Certificate. No person other than the Holder of this Permanent Global Certificate shall have any claim against the Issuer in respect of any payments or deliveries due on this Permanent Global Certificate.

This Permanent Global Certificate 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 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 acting in accordance with the Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this Permanent Global 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 Permanent Global Certificate is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

Schedule 1 to the
Permanent Global Certificate

PART I

INTEREST PAYMENTS

Interest Payment Date	Date of Payment	Total Amount of Interest Payable[1]	Amount of Interest Paid[1]	Confirmation of payment by or on behalf of the Issuer
[2]First				

1 Including Physical Delivery Amount(s), if applicable.
2 Continue numbering until the appropriate number of interest payment dates for the particular Tranche of Certificates is reached.

PART II

REDEMPTIONS

Date of Redemption	Total number of Certificates represented by this Global Certificate to be redeemed [1]	Remaining number of Certificates represented by this Global Certificate following such redemption [2]	Confirmation of redemption by or on behalf of the Issuer

[1] Including Physical Delivery Amount(s), if applicable.
[2] See most recent entry in Part II or III of Schedule 1 or in Schedule 2 in order to determine this amount.

PART III

PURCHASES AND CANCELLATIONS

Date of purchase and cancellation	Number of Certificates represented by this Global Certificate purchased and cancelled	Remaining number of Certificates represented by this Global Certificate following such purchase and cancellation[1]	Confirmation of purchase and cancellation by or on behalf of the Issuer

[1] 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 Certificate

SCHEDULE OF EXCHANGES

The following exchanges relating to this Global Certificate have been made:

Date of exchange	Increase in the number of Certificates represented by this Global Certificate due to exchanges of a Temporary Global Certificate for this Global Certificate[1]	Decrease in the number of Certificates represented by this Global Certificate due to exchanges of this Global Certificate for Definitive Certificates	Notation made by or on behalf of the Issuer

[1] 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 6 to
Amended and Restated Agency Agreement

FORM OF DEFINITIVE CERTIFICATE

THIS 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 CERTIFICATE NOR ANY INTEREST OR PARTICIPATION IN THIS CERTIFICATE MAY BE OFFERED, SOLD, PLEDGED 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 REGULATIONS UNDER THE SECURITIES ACT. THIS CERTIFICATE MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS 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 CERTIFICATE IS A DEFINITIVE CERTIFICATE WITH INTEREST COUPONS. THE RIGHTS ATTACHING TO THIS DEFINITIVE CERTIFICATE ARE AS SPECIFIED IN THE AGENCY AGREEMENT (AS DEFINED HEREIN).

THIS 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 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]

[Legend on definitive bearer Certificates:

[1] [This language is applicable only to Certificates with maturities of 183 days or less from the date of original issue.]

[Unless between individuals not acting in the conduct of a profession or business, each transaction regarding this 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 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 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]
CERTIFICATES DUE [year of Settlement Date/Settlement Month]

Series No. [ ]
Tranche No. [ ]

CERTIFICATE

COMMON CODE: ISIN:

This Certificate is one of a duly authorized issue of Certificates (the "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") payable on the Redemption Date or, as the case may be, on the Interest Payment Date. References herein to the General Instrument Conditions shall be to the Terms and Conditions of the Instruments, including any applicable Product Annex, 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 General Instrument Conditions (including any applicable Product Annex) and the information set out in the Final Terms, the Final Terms will prevail.

This Certificate is issued subject to, and with the benefit of, the General Instrument Conditions and an Amended and Restated Agency Agreement (the "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 [•] 2008 and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A., and the other agents named therein.

For value received, the Issuer, subject to and in accordance with the General Instrument Conditions, promises to pay to the bearer hereof on the Settlement Date, on any Interest Payment Date or on the Delivery Date, as the case may be, or on such earlier date as any of the Certificates represented by this Definitive Certificate may become due and payable in accordance with the General Instrument Conditions, the amount payable or deliverable, as the case may be, on redemption of such Certificates then represented by this Definitive Certificate becoming so due and payable, and to pay interest (if any) or to deliver any Physical Delivery Amount (if any) on the Certificates from time to time represented by this Definitive Certificate calculated and payable as provided in the General Instrument Conditions together with other sums payable under the General Instrument Conditions provided that all payments will be made outside the United States and its possessions.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement executed by the Guarantor on January 16, 2007.

This Certificate 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 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 acting in accordance with the Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this 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 Certificate is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

(REVERSE OF CERTIFICATE)

The General Instrument Conditions and Product Annexes, attached to or endorsed upon this Certificate, are set forth in Schedule 12-2 of the Agency Agreement dated as of [•] 2008 by and among B of A Issuance B.V., as Issuer, Bank of America Corporation, as Guarantor, The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A. and the other agents named therein.

Schedule 7 to
Amended and Restated Agency Agreement

FORM OF PERMANENT GLOBAL WARRANT

THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS WARRANT NOR ANY INTEREST OR PARTICIPATION IN THIS WARRANT MAY BE OFFERED, SOLD, PLEDGED 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 REGULATIONS UNDER THE SECURITIES ACT. THIS WARRANT MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THIS WARRANT 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.

B OF A ISSUANCE B.V.

WARRANTS

PERMANENT GLOBAL WARRANT

COMMON CODE: ISIN:

This Global Warrant is a Permanent Global Warrant in bearer form in respect of a duly authorized Series of Warrants (the "Warrants") 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 applicable Final Terms (the "Final Terms"), which provisions are incorporated herein. References herein to the General Instrument Conditions shall be to the Terms and Conditions of the Instruments as set out in Schedule 12-2 to the 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 those Schedules and the information set out in the Final Terms, the Final Terms will prevail.

Words and expressions defined or set out in the General Instrument Conditions and/or the Final Terms shall bear the same meaning when used herein.

This Global Warrant is issued subject to, and with the benefit of, the General Instrument Conditions and an Amended and Restated Agency Agreement (the "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 [•] 2008 and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A., and the other agents named therein.

For value received, the Issuer, subject to the exercise of this Global Warrant pursuant to an Exercise Notice as set out in Schedule 18 to the Agency Agreement and in accordance with the General Instrument Conditions, promises to pay to the bearer hereof on the Settlement Date, the amount payable or deliverable, as the case may be, on the exercise of such Warrants then represented by this Global Warrant, and to pay such amount or to deliver any Physical Delivery Amount (if any) on the Warrants from time to time represented by this Global Warrant calculated and payable as provided in the General Instrument Conditions together with any other sums payable under the

General Instrument Conditions, upon presentation or following the delivery of an exercise notice as provided in the Agency Agreement.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement executed by the Guarantor on January 16, 2007.

The number of the Warrants represented by this Global Warrant shall be the number stated in the applicable Final Terms or, if lower, the number most recently envisaged by or on behalf of the Issuer, in the relevant column in Part I or II of Schedule 1 or in Schedule 2.

On any exercise or purchase and cancellation of, any of the Warrants represented by this Global Warrant, the Issuer shall procure that details of such exercise, payment or purchase and cancellation (as the case may be) shall be entered in the relevant column in Part I or II of Schedule 1 or in Schedule 2 hereto recording any such exercise, payment or purchase and cancellation (as the case may be) and shall be signed by or on behalf of the Issuer. Upon any such exercise or purchase and cancellation, the number of such Warrants represented by this Global Warrant shall be reduced by the number of the Warrants so exercised or purchased and cancelled.

This Global Warrant may be exchanged in whole, but not in part (free of charge), for security-printed Definitive Warrants, in the circumstances provided for in the General Instrument Conditions. Subject as aforesaid, this exchange will be made upon presentation of this Global Warrant 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 number of Definitive Warrants issued upon an exchange of this Global Warrant will be equal to the aggregate number of Warrants represented by this Global Warrant submitted by the bearer hereof for exchange (to the extent that such number does not exceed the aggregate number of Warrants represented by this Global Warrant most recently entered in the relevant column in Part I or II of Schedule 1 or in Schedule 2 hereto), provided that, subject as aforesaid, the first notice given to the Agent by Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, société anonyme ("Clearstream, Luxembourg") shall give rise to the issue of Definitive Warrants in exchange for the total number of the Warrants represented by this Global Warrant.

On an exchange of the whole of this Global Warrant, this Global Warrant shall be surrendered to the Agent.

Until the exchange of the whole of this Global Warrant as aforesaid, the bearer hereof in all respects shall be entitled to the same benefits as if such bearer were the bearer of a Definitive Warrant.

Notwithstanding any provision to the contrary contained in this Permanent Global Warrant, the Holder of this Permanent Global Warrant shall be the only person entitled to receive payments in respect to the Warrants represented by this Permanent Global Warrant and the Issuer will be discharged by payment to, or to the order of, the Holder of this Permanent Global Warrant 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 number of Warrants represented by this Permanent Global Warrant 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 Warrant. No person other than the Holder of this Permanent Global Warrant shall have any claim against the Issuer in respect of any payments or deliveries due on this Permanent Global Warrant.

This Permanent Global Warrant 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 Warrant 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 Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this Permanent Global Warrant 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 Warrant is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

Schedule 1 to the
Permanent Global Warrant

PART I

EXERCISES

Date of Exercise	Total number of Warrants represented by this Global Warrant to be exercised[1]	Remaining number of Warrants represented by this Global Warrant following such exercise[2]	Confirmation of exercise by or on behalf of the Issuer

1 Including Physical Delivery Amount(s), if applicable.
2 See most recent entry in Part I or II of Schedule 1 or in Schedule 2 in order to determine this amount.

PART II

PURCHASES AND CANCELLATIONS

Date of purchase and cancellation	Number of Warrants represented by this Global Warrant purchased and cancelled	Remaining number of Warrants represented by this Global Warrant following such purchase and cancellation[1]	Confirmation of purchase and cancellation by or on behalf of the Issuer

[1] See most recent entry in Part I or II of Schedule 1 or in Schedule 2 in order to determine this amount.

Schedule 2 to the
Permanent Global Warrant

SCHEDULE OF EXCHANGES

The following exchanges of a part of this Global Warrant for Definitive Warrants have been made:

Date of exchange	**Notation made by or on behalf of the Issuer**

Schedule 8 to
Amended and Restated Agency Agreement

FORM OF DEFINITIVE WARRANT

THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS WARRANT NOR ANY INTEREST OR PARTICIPATION IN THIS WARRANT MAY BE OFFERED, SOLD, PLEDGED 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 REGULATIONS UNDER THE SECURITIES ACT. THIS WARRANT MAY NOT BE LEGALLY OR BENEFICIALLY OWNED AT ANY TIME BY ANY U.S. PERSON.

THE RIGHTS ATTACHING TO THIS DEFINITIVE WARRANT ARE AS SPECIFIED IN THE AGENCY AGREEMENT (AS DEFINED HEREIN).

THIS WARRANT 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.

B OF A ISSUANCE B.V.

WARRANTS
[Expiration Date]

Series No. [ ]
Tranche No. [ ]

WARRANTS

COMMON CODE: ISIN:

This Warrant is one of a duly authorized issue of Warrants (the "Warrant") 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"). References herein to the General Instrument Conditions shall be to the Terms and Conditions of the Instruments 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 General Instrument Conditions and the information set out in the Final Terms, the Final Terms will prevail.

This Warrant is issued subject to, and with the benefit of, the General Instrument Conditions and an Amended and Restated Agency Agreement (the "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 [•] 2008 and made among B of A Issuance B.V., as Issuer, Bank of America Corporation (the "Guarantor"), The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A., and the other agents named therein.

For value received, the Issuer, subject to the exercise of this Definitive Warrant pursuant to an Exercise Notice as set out in Schedule 18 to the Agency Agreement and in accordance with the General Instrument Conditions, promises to pay to the bearer hereof on the Settlement Date, the amount payable or deliverable, as the case may be, on exercise of such Warrants then represented by this Definitive Warrant, and to pay such amount or to deliver any Physical Delivery Amount (if any) on the Warrants from time to time represented by this Definitive

Warrant calculated and payable as provided in the General Instrument Conditions together with any other sums payable under the General Instrument Conditions.

Payment hereunder is guaranteed by the Guarantor, as set forth in the Senior Guarantee Agreement executed by the Guarantor on January 16, 2007.

The number of the Warrants represented by this Definitive Warrant shall be the number stated in the applicable Final Terms or, if lower, the number most recently envisaged by or on behalf of the Issuer, in the relevant column in Schedule 1 hereto.

On any exercise of any of the Warrants represented by this Definitive Warrant, the Issuer shall procure that details of such exercise shall be entered in the relevant column in Schedule 1 hereto recording any such exercise and shall be signed by or on behalf of the Issuer. Upon any such exercise the number of such Warrants represented by this Definitive Warrant shall be reduced by the number of the Warrants so exercised.

This Warrant 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 Warrant 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 Agency Agreement.

IN WITNESS WHEREOF the Issuer has caused this Warrant 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 Warrant is authenticated by or on behalf of the Agent.

THE BANK OF NEW YORK MELLON
as Agent

By: _____
Authorized Signatory
For the purposes of authentication only.

(REVERSE OF WARRANT)

The General Instrument Conditions, attached to or endorsed upon this Warrant, are set forth in Schedule 12-2 of the Agency Agreement dated as of [ ] 2008 by and among B of A Issuance B.V., as Issuer, Bank of America Corporation, as Guarantor, The Bank of New York Mellon (the "Agent"), The Bank of New York (Luxembourg) S.A. and the other agents named therein.

Schedule 1 to the
Definitive Warrant

EXERCISES

Date of Exercise	Total number of Warrants represented by this Definitive Warrant to be exercised[1]	Remaining number of Warrants represented by this Definitive Warrant following such exercise[2]	Confirmation of exercise by or on behalf of the Issuer

1 Including Physical Delivery Amount(s), if applicable.
2 See most recent entry in Part I or II of Schedule 1 or in Schedule 2 in order to determine this amount.

Schedule 9 to
Amended and Restated 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, PLEDGED 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. [ ]

COMMON CODE: ISIN:

Part A

[For Fixed Rate [Notes/Certificates]]:

This Coupon is payable to bearer, separately negotiable and subject to the General [Note/Instrument] 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 General [Note/Instrument] 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 General [Note/Instrument] 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).][1]

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

[1] [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 Mellon
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

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 10 to
Amended and Restated 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, PLEDGED 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 REGULATIONS 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 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 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 of the Notes endorsed on the Note to which this Receipt appertains (the "General Note Conditions") on [ ].

This Receipt is issued subject to and in accordance with the General Note 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/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 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.

B OF A ISSUANCE B.V.

By: _____
Managing Director A

By: _____
Managing Director B

Schedule 11 to
Amended and Restated 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, PLEDGED 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 REGULATIONS 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 with maturities of 183 days or less from the date of original issue.]

(On the front)

[Specified Currency and Principal Amount of Tranche]
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 Holders) upon production and surrender of this Talon.

This Talon may, in certain circumstances, become void under the Terms and Conditions of the Notes endorsed on the Notes 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 Mellon
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

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.

TERMS AND CONDITIONS OF THE NOTES

[To be adapted from the completed Base Prospectus.]

TERMS AND CONDITIONS OF THE INSTRUMENTS

[To be adapted from the completed Base Prospectus.]

PRODUCT ANNEXES

[To be adapted from the completed Base Prospectus.]

Schedule 13 to
Amended and Restated Agency Agreement

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 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 Amended and Restated Agency Agreement dated [•] 2008 among the Issuer, The Bank of New York Mellon, as Principal Agent, and The Bank of New York (Luxembourg) S.A., as Paying Agent, as of the date hereof, $_____ 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.

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 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]

Yours faithfully,

[Euroclear Bank S.A./N.V.]

or

[Clearstream Banking, société anonyme]

By: _____

[1] To be dated no earlier than the date to which this certification relates, namely, (a) the payment date or (b) the Exchange Date.

Schedule 14 to
Amended and Restated Agency Agreement

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.

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 or email 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 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 15 to
Amended and Restated Agency Agreement

PROVISIONS FOR MEETINGS OF HOLDERS

1. Terms used, but not otherwise defined in this Schedule shall have the respective meanings set forth in the Amended and Restated Agency Agreement dated [•] 2008 among the Issuer, The Bank of New York Mellon, as Principal Agent, and The Bank of New York (Luxembourg) S.A., as Paying Agent. As used in this Schedule, the following expressions shall have the following meanings, unless the context otherwise requires:

(i) "voting certificate" shall mean an English language certificate issued by a Paying Agent and dated in which it is stated:

(a) that on the date thereof Securities (not being Securities 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 Securities will cease to be so deposited or held until the first to occur of:

(1) the conclusion of the meeting specified in such certificate or, if applicable, any adjourned such meeting; and

(2) the surrender of the certificate to the Paying Agent who issues the same;

(b) that the bearer thereof is entitled to attend and vote at such meeting and any adjourned such meeting in respect of the Securities represented by such certificate;

(ii) "block voting instruction" shall mean an English language document issued by a Paying Agent and dated in which:

(a) it is certified that Securities (not being Securities in respect of which a voting certificate has been issued and is outstanding in respect of the meeting specified in such block voting instruction and any adjourned such meeting) have been 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 Securities will cease to be so deposited or held until the first to occur of:

(1) the conclusion of the meeting specified in such document or, if applicable, any adjourned such meeting; and

(2) the surrender to the Paying Agent not less than 48 hours before the time for which such meeting or any adjourned such meeting is convened of the receipt issued by such Paying Agent in respect of each such deposited Security which is to be released or (as the case may require) the Security or Securities ceasing with the agreement of the Paying Agent to the Issuer in accordance with paragraph 17 hereof of the necessary amendment to the block voting instruction;

(b) it is certified that each Holder of such Securities has instructed such Paying Agent that the vote(s) attributable to the Security or Securities so deposited or held 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;

(c) the total number and (in the case only of Definitive Securities) the serial numbers (if applicable) of the Securities so deposited or held 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

(d) one or more persons (who need not be Holders) named in such document (each hereinafter called a "Proxy") is or are authorized and instructed by such Paying Agent to cast the votes attributable to the Securities so listed in accordance with the instructions referred to in paragraph (c) 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 Holders be deemed to be the Holder of the Securities to which such voting certificate or block voting instruction related and the Paying Agent with which such Securities have been deposited or the person holding the same to the order or under the control of such Paying Agent shall be deemed for such purposes not to be the Holder of those Securities.

(iii) References herein to the "Securities" are to the Securities in respect of which the relevant meeting is convened.

2. The Agent may at any time and, upon a requisition in writing of Holders holding not less than 33% in principal amount of the Notes, or 33% of the aggregate number or notional amount of the Instruments, as the case may be, for the time being outstanding, shall convene a meeting of the Holders and if the 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 the 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 City of New York or London as the Agent may approve.

3. Notice of every meeting of Holders shall be published on behalf and at the expense of the Issuer in accordance with General Note Condition 13 or General Instrument Condition 18, as applicable. 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 calendar days prior to the date fixed for the meeting. Such notice shall include a statement to the effect that Securities may be deposited with Paying Agents 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, or 33% of the aggregate number or notional amount of Instruments, as the case may be, outstanding shall have requested the Principal Agent to call a meeting of Holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Agent shall not have given the first notice of such meeting within 21 calendar 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 Holders of Securities 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 Holder) 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 Holders present shall choose one of their number to be Chairman. To be entitled to vote at any meeting of Holders, a person shall be (i) a Holder of one or more Securities, or (ii) a Proxy, which Proxy need not be a Holder. The only persons who shall be entitled to be present or to speak at any meeting of Holders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Agent and its counsel and any representatives of the Issuer and its counsel.

6. At any such meeting, one or more persons present holding Securities or voting certificates or being Proxies and holding or representing in the aggregate not less than a majority in principal amount of the Notes, or a majority in aggregate number or notional amount of the Instruments, as the case may be, 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 Securities or voting certificates or being Proxies and holding or representing in the aggregate 67% in principal amount of the Notes, or 67% of the aggregate number or notional amount of the Instruments, as the case may be, 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:

(i) modification of the Maturity Date or, as the case may be, redemption month, Settlement Date or Expiration Date, as applicable of the Securities or reduction or cancellation of the principal amount or other amount payable upon maturity, settlement or exercise, as applicable; or

(ii) reduction or cancellation of the amount payable or modification of the payment date in respect of any interest in respect of the Securities or variation of the method of calculating the Rate of Interest (if applicable) in respect of the Securities; or

(iii) reduction of any Minimum Interest Rate and/or Maximum Interest Rate specified in the applicable Final Terms of any Floating Rate Note or Floating Rate Certificate; or

(iv) modification of the currency in which payment under the Securities and/or any Coupons appertaining thereto are to be made; or

(v) modification of the majority required to pass an Extraordinary Resolution; or

(vi) the sanctioning of any such scheme or proposal as is described in paragraph 19(F) below; or

(vii) alteration of this proviso or the proviso to paragraph 7 below; or

(viii) any modification of the Senior Guarantee or the Subordinated Guarantee that is adverse to the rights of the Holders thereunder;

the quorum shall be one or more persons present holding Securities or voting certificates or being Proxies and holding or representing in the aggregate not less than two-thirds in principal amount of the Notes, or two-thirds in aggregate number or notional amount of the Instruments, as the case may be, for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Holders of Securities will be binding on all Holders of Securities whether or not they are present at the meeting, and on all Couponholders (if any) appertaining to such Securities.

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 Holders (as provided in Section 4 hereof), be dissolved. In any other case, the meeting shall be adjourned for a period of not less than 10 calendar 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 calendar 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, or 33% of the aggregate number or notional amount of the Instruments, as the case may be, 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, or the aggregate number or notional amount of the Instruments, as the case may be, 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 General Note Condition 14 or by General

Instrument Condition 19, as applicable) shall be effectively passed and decided if passed or decided by the persons entitled to vote a majority in principal amount of the Notes, or a majority in aggregate number or notional amount of the Instruments, as the case may be, represented and voting at such meeting, provided that such amount shall be not less than 33% in principal amount of the Notes outstanding, or 33% of the aggregate number or Notional Amount of the Instruments, as the case may be. Any Holder 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 Holder 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 Holders duly held in accordance with this paragraph 7 shall be binding on all Holders whether or not present or represented at the meeting and whether or not notation of such decision is made upon the Securities.

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 Securities or voting certificates or being Proxies at the adjournment meeting whatever the principal amount of the Notes, or aggregate number or notional amount of the Instruments, as the case may be, 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 Holder 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 Securities or voting certificates or being Proxies and holding or representing in the aggregate not less than two percent in principal amount of the Securities, or two percent in aggregate number or notional amount of the Instruments, as the case may be, 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 favor 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, but without prejudice to the proviso to the definition of "outstanding" in sub-clause 1(b) of this Agreement, no person shall be entitled to attend and speak nor shall any person be entitled to vote at any meeting of the Holders or join with others in requisitioning the convening of such a meeting unless he either produces the Security or Securities 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 Securities 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 Securities 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 Security 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:

(i) in the case of a meeting of the Holders of Notes all of which are denominated in a single currency, each minimum integral amount of such currency;

(ii) in the case of a meeting of the Holders of Notes denominated in more than one currency, each U.S. $1.00 or, in the case of a Note denominated in a currency other than U.S. Dollars, the equivalent of U.S. $l.00 in such currency at the Agent's spot buying rate for the relevant currency against U.S. Dollars at or about 11:00 a.m. (London time) on the date of publication of the notice of the relevant meeting (or of the original meeting of which such meeting is an adjournment), or such other amount as the Agent shall in its absolute discretion stipulate in principal amount of Notes so produced or represented by the voting certificate so produced or in respect of which he is a Proxy; and

(iii) in the case of a meeting of the Holders of Instruments, each such Instrument.

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 Holders.

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 shall be deposited at such place as the 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 Agent before the commencement of the meeting or adjourned meeting, but the 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 Holders' 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 Paying Agent by the Issuer at its registered office (or such other place as may have been approved by the 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 Holders 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 Holders, the Receiptholders (if applicable) and the Couponholders (if applicable) or any of them.

(B) Power to sanction any abrogation, modification, compromise or arrangement in respect of the rights of the Holders, the Receiptholders (if applicable) and the Couponholders (if applicable) against the Issuer or against any of its property whether such rights shall arise under this Agreement, the Securities, the Receipts (if applicable) or the Coupons (if applicable) or otherwise.

(C) Power to assent to any modification of the provisions contained in this Agreement or the General Note Conditions, the General Instrument Conditions, the Securities, the Receipts (if applicable) or the Coupons (if applicable) which shall be proposed by the Issuer.

(D) Power to give any authority or sanction which under the provisions of this Agreement or the Securities is required to be given by Extraordinary Resolution.

(E) Power to appoint any persons (whether Holders or not) as a committee or committees to represent the interest of the Holders and to confer upon such committee or committees any powers or descriptions which the Holders could themselves exercise by Extraordinary Resolution.

(F) Power to sanction any scheme or proposal for the exchange or sale of the Securities for, or the conversion of the Securities into or the cancellation of the Securities in consideration of, shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/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 and/or other obligations and/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 Securities, the Receipts (if applicable) and the Coupons (if applicable).

20. Any resolution passed at a meeting of the Holders duly convened and held in accordance with this Agreement shall be binding upon all the Holders whether present or not present at such meeting and whether or not voting and upon all Receiptholders (if applicable) and Couponholders (if applicable) 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 Holders shall be published in accordance with General Note Condition 13 or General Instrument Condition 18, as applicable, 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 this Agreement, the General Note Conditions or the General Instrument Conditions means a resolution passed at a meeting of the Holders 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 Holders shall be by written ballots on which shall be subscribed the signatures of Holders or of their representatives by Proxy (and the serial number or numbers of the Securities 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 Holders 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 Agent to be preserved by the Agent, the copy delivered to the 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 Agent may without the consent of the Issuer, the Guarantor, the Holders or the Couponholders (if applicable) prescribe such further regulations regarding the requisition and/or the holding of meetings of Holders and attendance and voting thereat as the Agent may in its sole discretion think fit.

Schedule 16 to
Amended and Restated 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 Mellon
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 Holder of such of the Notes referred to below irrevocably exercises its option to have such Notes redeemed on [ ] under General Note Condition 6(d).

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 under Clause 10(5) of the Amended and Restated Agency Agreement dated [•] 2008 among the Issuer, The Bank of New York Mellon, as Principal Agent, and The Bank of New York (Luxembourg) S.A., as Paying Agent, 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

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

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 17 to
Amended and Restated 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 Mellon
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 General Note Condition 5(f), the undersigned Holder of such of the Notes 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 General Note Condition 5(f).

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 under Clause 10(6) of the Amended and Restated Agency Agreement dated [•] 2008 among the Issuer, The Bank of New York Mellon, as Principal Agent, and The Bank of New York (Luxembourg) S.A., as Paying Agent, 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

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

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 18 to
Amended and Restated Agency Agreement

FORM OF EXERCISE NOTICE

B OF A ISSUANCE B.V.

WARRANTS

ISIN [ ]

Principal Agent

To: The Bank of New York Mellon
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 Holder of such of the Warrants with this Exercise Notice and referred to below irrevocably exercises such Warrants on [ ] under General Instrument Condition 6.

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(8) of the Amended and Restated Agency Agreement dated [•] 2008 among the Issuer, The Bank of New York Mellon, as Principal Agent, and The Bank of New York (Luxembourg) S.A., as Paying Agent, 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: _____

1 Include in the case of Cash Settled Warrants.
2 Include in the case of Physical Delivery Warrants.

Dated: _____

To be completed by recipient Paying Agent in respect of physical definitive securities held outside of Euroclear and/or Clearstream, Luxembourg

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 19 to
Amended and Restated Agency Agreement

FORM OF CERTIFICATE SETTLEMENT NOTICE

B OF A ISSUANCE B.V.

CERTIFICATES

ISIN [ ]

Principal Agent

To: The Bank of New York Mellon
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 General Instrument Condition 8(a), the undersigned Holder of such of the Certificates 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 General Instrument Condition 8.

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 Clause 10(7) of the Amended and Restated Agency Agreement dated [•] 2008 among the Issuer, The Bank of New York Mellon, as Principal Agent, and The Bank of New York (Luxembourg) S.A., as Paying Agent, 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: _____

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 relevant Certificates.

(ii) 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.

(iii) 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

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.

BANK OF AMERICA PENSION RESTORATION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

BANK OF AMERICA PENSION RESTORATION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

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BANK OF AMERICA PENSION RESTORATION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

THIS INSTRUMENT OF AMENDMENT AND RESTATEMENT is executed by BANK OF AMERICA CORPORATION, a Delaware corporation (the "Corporation");

Statement of Purpose

The Corporation and certain of its affiliates (collectively with the Corporation, the "Participating Employers") sponsor the Bank of America Pension Restoration Plan (the "Restoration Plan"). The purpose of the Restoration Plan is to provide benefits to certain employees whose benefits under The Bank of America Pension Plan (the "Basic Plan") are adversely affected by certain benefit limitations imposed by the Internal Revenue Code.

The Corporation is amending and restating the Restoration Plan effective January 1, 2009 as set forth herein to (i) provide for the Restoration Plan's documentary compliance with the requirements of Section 409A of the Code and (ii) otherwise meet current needs. The Corporation has reserved the right to amend the Restoration Plan at any time and the Participating Employers have delegated to the Corporation the right to amend the Restoration Plan on behalf of all Participating Employers.

NOW, THEREFORE, for the purposes aforesaid, the Corporation, on its own behalf and on behalf of the Participating Employers, hereby amends and restates the Restoration Plan effective January 1, 2009 to consist of the following Articles I through V:

ARTICLE I

DEFINITIONS

Unless defined herein, any word, phrase or term used in the Restoration Plan shall have the meaning given to it in the Basic Plan. However, the following terms have the following meanings unless a different meaning is clearly required by the context:

1.1 Amendment or Termination Date

The date on which an amendment to or termination of the Restoration Plan is adopted by the Corporation or, if later, the effective date of such amendment or termination.

1.2 Applicable Minimum Benefits Provisions

(a) If Basic Plan benefits are payable in a lump sum, Section 6.5(b)(1) of the Basic Plan; and

(b) If Basic Plan benefits are payable in an annuity method, Section 6.5(b)(2) of the Basic Plan.

1.3 Basic Plan

The Bank of America Pension Plan, as in effect from time to time.

1.4 Beneficiary

The "beneficiary" of a Participant under the Basic Plan unless the Participant elects a different Beneficiary for purposes of the Restoration Plan in accordance with such procedures as the Global Human Resources Group may establish from time to time. If there is no Beneficiary election in effect under the Basic Plan or the Restoration Plan at the time of a Participant's death, or if the designated Beneficiary fails to survive the Participant, then the Beneficiary shall be the Participant's surviving spouse, or if there is no surviving spouse, the Participant's estate.

1.5 Benefit Commencement Date

The date that a Participant's Restoration Plan Benefit is paid or begins to be paid.

1.6 Change of Control

The occurrence of any of the following events:

(a) The acquisition by any person, individual, entity or "group" (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) (collectively, a "Person") of Beneficial Ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 25% or more of either:

(i) The then-outstanding shares of common stock of the Corporation (the "Outstanding Shares"); or

(ii) The combined voting power of the then-outstanding voting securities of the Corporation entitled to vote generally in the election of directors of the Corporation (the "Outstanding Voting Securities");

provided, however, that the following acquisitions shall not constitute a Change of Control for purposes of this subparagraph (a): (i) any acquisition directly from the Corporation, (ii) any acquisition by the Corporation or any of its subsidiaries, (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Corporation or any of its subsidiaries, or (iv) any acquisition by any corporation pursuant to a transaction which complies with clauses (i), (ii) and (iii) of subparagraph (c) below; or

(b) Individuals who, as of September 30, 1998, constitute the Board of Directors of the Corporation (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board of Directors of the Corporation; provided, however, that any individual who becomes a director subsequent to September 30, 1998 and whose election, or whose nomination for election by the Corporation's shareholders, to the Board of Directors of the Corporation was either (i) approved by a vote of at least a majority of the directors then comprising the Incumbent Board or (ii) recommended by a corporate governance committee comprised entirely of directors who are then Incumbent Board members shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of either an actual or threatened election contest, other actual or threatened solicitation of proxies or consents or an actual or threatened tender offer; or

(c) Consummation of a reorganization, merger, or consolidation or sale or other disposition of all or substantially all of the assets of the Corporation (a "Business Combination"), in each case, unless following such Business Combination, (i) all or substantially all of the Persons who were the Beneficial Owners (within the meaning of Rule 13d-3 promulgated under the Exchange Act), respectively, of the Outstanding Shares and Outstanding Voting Securities immediately prior to such Business Combination own, directly or indirectly, more than 50% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from the Business Combination (including, without limitation, a corporation which as a result of such transaction owns the Corporation or all or substantially all of the Corporation's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination, of the Outstanding Shares and Outstanding Voting Securities, as the case may be (provided, however, that for purposes of this clause (i), any shares of common stock or voting securities of such resulting corporation

received by such Beneficial Owners in such Business Combination other than as the result of such Beneficial Owners' ownership of Outstanding Shares or Outstanding Voting Securities immediately prior to such Business Combination shall not be considered to be owned by such Beneficial Owners for the purposes of calculating their percentage of ownership of the outstanding common stock and voting power of the resulting corporation), (ii) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Corporation or such corporation resulting from the Business Combination) beneficially owns, directly or indirectly, 25% or more of, respectively, the then outstanding shares of common stock of the corporation resulting from the Business Combination or the combined voting power of the then outstanding voting securities of such corporation unless such Person owned 25% or more of, respectively, the Outstanding Shares or Outstanding Voting Securities immediately prior to the Business Combination and (iii) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or the action of the Board of Directors of the Corporation, providing for such Business Combination; or

(d) Approval by the Corporation's shareholders of a complete liquidation or dissolution of the Corporation.

Notwithstanding the preceding provisions of this Section, a Change of Control shall not be deemed to have occurred for purposes of the Restoration Plan as a result of the transactions contemplated by that certain Agreement and Plan of Reorganization between the Corporation and BankAmerica Corporation dated April 10, 1998.

1.7 CMG Plan

The Columbia Management Group Mutual Fund Units Plan, as in effect from time to time.

1.8 Code

The Internal Revenue Code of 1986, as amended. References to the Code shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial authority issued or rendered thereunder.

1.9 Code Limitations

Any one or more of the limitations and restrictions that Sections 401(a)(17) and 415 of the Code place on the accrual of benefits under the Basic Plan.

1.10 Committee

The committee designated pursuant to Section 3.1 of the Restoration Plan.

1.11 Completion Incentive

An incentive award payable to a Participant upon completion of an assignment outside the United States, which incentive award relates to one or more Plan Years, all pursuant to an incentive arrangement approved for purposes of the Restoration Plan by the Committee.

1.12 Conversion Date

July 1, 1998.

1.13 Corporation

Bank of America Corporation, a Delaware corporation, and any successor thereto.

1.14 Delink Calculation Date

The date determined by the Global Human Resources Group that is no more than 75 days after the Participant's Termination of Employment.

1.15 EIP

The Bank of America Corporation Equity Incentive Plan, as in effect from time to time.

1.16 Eligible Employee

A Covered Employee as defined in the Basic Plan.

1.17 Employee

A common-law employee of a Participating Employer.

1.18 ERISA

The Employee Retirement Income Security Act of 1974, as amended. References to ERISA shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial authority issued or rendered thereunder.

1.19 Global Human Resources Group

The Global Human Resources Group of the Corporation.

1.20 Legacy West Participant

(a) An Eligible Employee who has an accrued retirement benefit under the BankAmerica Pension Plan as of June 30, 2000 and who is eligible for benefits under the Restoration Plan as provided in Article II; or

(b) A former Eligible Employee who has an accrued retirement benefit under the BankAmerica Pension Plan as of June 30, 2000 and who is eligible for benefits under the Restoration Plan as provided in Article II.

1.21 Participant

(a) An Eligible Employee who has a Restoration Account and who is eligible for benefits under the Restoration Plan as provided in Article II;

(b) A former Eligible Employee who has a Restoration Account and who is eligible for benefits under the Restoration Plan as provided in Article II; or

(c) A Legacy West Participant.

1.22 Participating Employer

Each "Participating Employer" under (and as defined in) the Basic Plan which has adopted the Restoration Plan. In addition, the Global Human Resources Group, in its sole and exclusive discretion, may designate certain other entities as "Participating Employers" under the Restoration Plan for such purposes as the Global Human Resources Group may determine from time to time.

1.23 Plan Year

The 12-month period commencing January 1 and ending the following December 31.

1.24 Restoration Account

The bookkeeping account established and maintained on the books and records of the Restoration Plan for a Participant pursuant to Article II.

1.25 Restoration Credit

The amount credited to a Participant's Restoration Account pursuant to Section 2.2(c).

1.26 Restoration Plan

The Bank of America Pension Restoration Plan, as in effect from time to time.

1.27 Restoration Plan Benefit

The amount payable to the Participant under the Restoration Plan as determined in accordance with Section 2.4.

1.28 Rule of 60

At the time of Termination of Employment, a Participant's having (a) completed at least 10 years of Vesting Service, and (b) attained a combined age and years of Vesting Service equal to at least 60.

1.29 Termination of Employment

For the purposes of the Restoration Plan, whether a "Termination of Employment" has occurred shall be determined consistent with the requirements of Section 409A of the Code and the Bank of America 409A Policy.

1.30 Vesting Service

"Vesting Service" as defined under the Basic Plan.

ARTICLE II

PENSION RESTORATION BENEFITS

2.1 Eligibility for Benefits

A Participant who has a Restoration Plan Benefit determined in accordance with Section 2.4 shall be eligible to receive benefits under the Restoration Plan. The amount of a Participant's Restoration Plan Benefit shall be determined in accordance with Section 2.4, and the Restoration Plan Benefit shall become payable as provided in Sections 2.5, 2.6 and 2.7 below, as applicable.

2.2 Restoration Accounts

A Restoration Account shall be established and maintained on the books and records of the Restoration Plan for each Participant who has an amount credited in accordance with the provisions of this Section.

(a) **Initial Restoration Account Balance:** The Restoration Account established for a Participant shall be credited with an initial balance equal to the excess (if any) of **Amount A** over **Amount B**, where:

(i) **Amount A** equals the initial balance that would have been credited to the Participant's "account" under the Basic Plan as of the Conversion Date if (i) the Code Limitations did not apply to the Basic Plan and (ii) the Participant's "compensation" under the Basic Plan included any amounts which were disregarded because of the Participant's deferral of such amounts pursuant to an election under the Bank of America 401(k) Restoration Plan or any other nonqualified deferred compensation plan designated by the Global Human Resources Group; and

(ii) **Amount B** equals the initial balance actually credited to the Participant's "account" under the Basic Plan as of the Conversion Date.

(b) Restoration Credits:

(i) **Timing of Restoration Credits:** The Restoration Account of each Participant shall be credited with a Restoration Credit at the end of each Plan Year; provided, however, that the Restoration Account of a Participant whose Termination of Employment occurs during the Plan Year shall be credited with a Restoration Credit within 75 days of such Participant's Termination of Employment.

(ii) **Amount of Restoration Credits:** The Restoration Account of each Participant shall be credited with a Restoration Credit the amount of which shall be equal to the excess (if any) of **Amount A** over **Amount B**, where:

(A) **Amount A** equals the compensation credit that would have been allocated to the Participant's "account" under the Basic Plan as of such date if (i) the Code Limitations did not apply to the Basic Plan, (ii) the Participant's "compensation" under the Basic Plan included the amounts, if any, deferred by the Participant under the Bank of America 401(k) Restoration Plan or any other nonqualified deferred compensation plan designated by the Global Human Resources Group, (iii) the Participant's "compensation" under the Basic Plan included the "principal amount" (as defined under the EIP) of any annual incentive awards earned for performance periods beginning on or after January 1, 2002, and (iv) the Participant's "compensation" under the Basic Plan included the "principal amount" (as defined under the CMG Plan) of any annual incentive awards earned for performance periods beginning on or after January 1, 2006; provided, however, that a Participant's compensation taken into account for purposes of determining this Amount A shall not exceed $250,000 for any Plan Year beginning on or after January 1, 2005 unless the Participant experiences a Termination of Employment during the Plan Year and is rehired within the same Plan Year, in which case the Participant's compensation taken into account for purposes of determining this Amount A may exceed $250,000 only to the extent necessary to allow such Participant to reach the Code Limitations under the Basic Plan; and

(B) **Amount B** equals the compensation credit actually allocated to the Participant's "account" under the Basic Plan as of such date.

For purposes of determining Amount A, the EIP principal amount and the CMG Plan principal amount for a Participant who is in Band 0 shall be the amount communicated to the Global Human Resources Group by the Corporation's Executive Compensation Group as the EIP principal amount and the CMG Plan principal amount, as applicable.

(c) **Limit on Certain Incentive Compensation:** Notwithstanding any provision of the Restoration Plan to the contrary, for Plan Years ending before January 1, 2005, in no event shall an amount be credited to a Participant's Restoration Account or otherwise accrued hereunder with respect to any portion of the Participant's bonuses, commissions or other incentive compensation payable for a Plan Year (inclusive of the EIP principal amount with respect thereto, regardless of the year earned and regardless of whether the cash portion of any such bonus, commission or other incentive compensation is paid currently to the Participant or deferred pursuant to the Bank of America 401(k) Restoration Plan or any other non-qualified deferred compensation plan) in excess of $1,000,000.

2.3 Account Adjustments

(a) **Interest Credits:** The portion of each Restoration Account attributable to Restoration Credits made on and after January 1, 2008, if any, shall be adjusted from time to time at such intervals as determined by the Global Human Resources Group based on the yield of the 10-year U.S. Treasury Note. The Global Human Resources Group may determine the frequency of such adjustments by reference to the frequency of account adjustments under another plan sponsored by a Participating Employer.

(b) **Investment Credits:** Except as otherwise provided in subsections (d) and (e) of this Section, the portion of each Restoration Account attributable to Restoration Credits made before January 1, 2008, if any, shall be adjusted from time to time at such intervals as determined by the Global Human Resources Group. The Global Human Resources Group may determine the frequency of such adjustments by reference to the frequency of account adjustments under another plan sponsored by a Participating Employer. The amount of the adjustment shall equal the amount that each Participant's Restoration Account would have earned (or lost) for the period since the last adjustment had the Restoration Account actually been invested in the deemed investment vehicle(s) designated by the Participant for such period pursuant to Section 2.3(c). The Global Human Resources Group may establish any limitations on the frequency with which Participants may make investment designations under this Section as the Global Human Resources Group may determine necessary or appropriate from time to time, including limitations related to frequent trading or marketing timing activities.

(c) **Account Adjustments for Deemed Investments:** The Committee shall from time to time designate one or more investment vehicle(s) in which the portion of a Participant's Restoration Accounts attributable to Restoration Credits made before January 1, 2008, if any, shall be deemed to be invested. The investment vehicle(s) may be designated by reference to the investments available under other plans sponsored by a Participating Employer (including the "Investment Measures" available under the Basic Plan with respect to compensation credits made before January 1, 2008). Each Participant shall designate the investment vehicle(s) in which any portion of the Participant's Restoration Account attributable to Restoration Credits made before January 1, 2008 shall be deemed to be invested according to the procedures developed by the Global Human Resources Group, except as otherwise required by the terms of the Restoration Plan. No Participating Employer shall be under an obligation to acquire or invest in any of the deemed investment vehicle(s) under this subsection, and any acquisition of or investment in a deemed investment vehicle by a Participating Employer shall be made in the name of the Participating Employer and shall remain the sole property of the Participating Employer. The Committee shall also establish from time to time a default investment vehicle into which any portion of a Participant's Restoration Account attributable to Restoration Credits made before January 1, 2008 shall be deemed to be invested if the Participant fails to provide investment instructions pursuant to this subsection. Effective July 1,

2000 through December 31, 2008, such default investment vehicle shall be the Stable Capital Fund and, effective January 1, 2009, such default investment vehicle shall be the applicable investment vehicle determined pursuant to the terms of the Basic Plan's default investment provisions.

(d) **Accounts for Legacy West Participants:** Notwithstanding anything in this Section to the contrary, account adjustments for Legacy West Participants shall be determined in accordance with the following:

(i) Any portion of a Legacy West Participant's Restoration Account attributable to benefits accruing before July 1, 1985 is not directable and is not subject to the rules regarding Restoration Account adjustments described in subsections (a) and (b) of this Section, but shall instead be credited with interest at a rate of 11% until the Legacy West Participant's Delink Calculation Date.

(ii) Any portion of a Legacy West Participant's Restoration Account attributable to benefits accruing on and after July 1, 1985 shall be adjusted as follows:

(A) For a Legacy West Participant who was not in "service" under the Basic Plan on July 1, 2000, any portion of the Restoration Account attributable to benefits accruing on and after July 1, 1985 shall be credited with interest at the rate equal to the average of 30-Year Treasury Constant Maturities as published in the Federal Reserve Statistical Release H.15(519) of the Board of Governors of the Federal Reserve System for the month of November of the year immediately preceding the applicable Plan Year. If the average is not a multiple of $^{1}/_{4}$%, the closest lowest interest rate which is a multiple of $^{1}/_{4}$% shall be used.

(B) For a Legacy West Participant who was in "service" under the Basic Plan on July 1, 2000, any portion of the Restoration Account attributable to benefits accruing on and after July 1, 1985 and before January 1, 2008 is directable and subject to the rules regarding Restoration Account adjustments described in subsections (b) and (c) of this Section.

(C) For a Legacy West Participant who was in "service" under the Basic Plan on July 1, 2000, any portion of the Restoration Account attributable to benefits accruing on and after January 1, 2008 is non-directable and subject to the rules regarding Restoration Account adjustments described in subsection (a) of this Section.

(e) **Account Adjustments in Connection with Payment of Restoration Plan Benefit:** Notwithstanding any provision of the Restoration Plan to the contrary, the Global Human Resources Group may cause a Participant's Restoration

Account to be adjusted in a manner other than as described above as the Global Human Resources Group may in its discretion determine from time to time in order to calculate the amount of the Participant's vested Restoration Plan Benefit that becomes payable in accordance with Section 2.5, 2.6 or 2.7.

2.4 Restoration Plan Benefit

(a) **Eligibility for Restoration Plan Benefit:** Upon a Participant's Termination of Employment, the Participant will be entitled to a Restoration Plan Benefit in the amount described in this Section at the time and in the form described in Section 2.5 or Section 2.6, as applicable.

(b) **Amount of Restoration Plan Benefit:** A Participant's Restoration Plan Benefit is equal to (i) the Participant's Restoration Account as of the Participant's Delink Calculation Date (following the adjustment described in subsection (c) of this Section); plus (ii) investment credits or interest credits, as applicable, as described in subsection (d) of this Section, from the Participant's Delink Calculation Date through the last business day immediately preceding complete distribution of the Restoration Plan Benefit.

(c) **Adjustment of Restoration Account:** As of a Participant's Delink Calculation Date, the Participant's Restoration Account will be adjusted to equal the excess (but not less than $0) of Amount A over Amount B, where:

(i) **Amount A** equals the lump sum value of the Participant's Basic Plan benefit determined as of the Participant's Delink Calculation Date in accordance with the Applicable Minimum Benefits Provisions of the Basic Plan as if (i) the Code Limitations did not apply to the Basic Plan, (ii) the Participant's "compensation" under the Basic Plan included any amounts which were disregarded because of the Participant's deferral of such amounts pursuant to an election under the Bank of America 401(k) Restoration Plan or any other nonqualified deferred compensation plan designated by the Global Human Resources Group, (iii) the Participant's "compensation" under the Basic Plan included the EIP "principal amount" of any annual incentive awards earned for performance periods beginning on or after January 1, 2002 and (iv) the Participant's "compensation" under the Basic Plan included the "principal amount" (as defined under the CMG Plan) of any annual incentive awards earned for performance periods beginning on or after January 1, 2006; provided, however, that a Participant's compensation taken into account for purposes of determining this Amount A shall not exceed $250,000 for any Plan Year beginning on or after January 1, 2005 unless the Participant experiences a Termination of Employment during the Plan Year and is rehired within the same Plan Year in which the Termination of Employment occurs, in which case the Participant's compensation taken into account for purposes of determining this Amount A may exceed $250,000 only to the extent necessary to allow such Participant to reach the Code Limitations under the Basic Plan; and

(ii) **Amount B** equals the lump sum value of the Participant's actual Basic Plan benefit determined as of the Participant's Delink Calculation Date.

(iii) **Limitation on Incentive Payments:** The Restoration Plan Benefit determined in accordance with the provisions of this subsection is subject to the limitation on certain incentive compensation set forth in Section 2.2(c).

(iv) Notwithstanding any other provision of the Restoration Plan to the contrary, if an Eligible Employee, who prior to the DeLink Calculation Date does not have a Restoration Account established pursuant to Article II, is determined under this Section to be entitled to a Restoration Plan Benefit, such Eligible Employee shall have a Restoration Account established therefore on the books and records of the Restoration Plan. Such Restoration Plan Account shall be initially credited with the amount determined in subsection (c) of this Section and thereafter shall be credited with investment credits or interest credits, as applicable, in accordance with subsection (d) of this Section.

(d) **Crediting of Restoration Accounts Following a Participant's Delink Calculation Date:** To the extent that a Participant's Restoration Account is not the winning benefit used to determine the Participant's Restoration Plan Benefit, the Participant's Restoration Account shall be adjusted on a pro-rata basis in accordance with procedures established by the Committee.

(i) **Participants Other Than Legacy West Participants:** For all Participants other than Legacy West Participants, following the Participant's Delink Calculation Date, the Participant's Restoration Account shall be credited with investment credits and/or interest credits, as applicable, as follows:

(A) Any portion of the Restoration Account attributable to Restoration Credits made on and after January 1, 2008 shall be credited with interest credits based on the yield of the 10-year U. S. Treasury Note from the Participant's Delink Calculation Date through the last business day immediately preceding complete distribution of the Restoration Plan Benefit.

(B) If a Participant's Termination of Employment occurred on or before December 31, 2006 and the Participant did not have a "benefit commencement date" under the Basic Plan before January 1, 2007, or if the Participant satisfies the Rule of 60 at the time of the Participant's Termination of Employment, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 2.3(b) with respect to any portion of the Participant's Restoration Account attributable to Restoration Credits made before January 1, 2008 through the last business day immediately preceding complete distribution of the Restoration Plan Benefit.

(C) For any other Participant (other than a Legacy West Participant), the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 2.3(b) with respect to any portion of the Participant's Restoration Account attributable to Restoration Credits made before January 1, 2008 through the end of the Plan Year in which the Global Human Resources Group is notified of the Participant's Termination of Employment, and thereafter through the last business day immediately preceding complete distribution of the Restoration Plan Benefit, the Restoration Plan Benefit shall be deemed invested in the default investment vehicle designated by the Committee pursuant to Section 2.3(c).

(ii) **Legacy West Participants:** Following a Legacy West Participant's Delink Calculation Date, the Legacy West Participant's Restoration Account shall be credited with investment credits and/or interest credits, as applicable, as follows:

(A) Any portion of a Legacy West Participant's Restoration Account attributable to benefits accruing before July 1, 1985 shall be credited with interest credits at a rate of 8% from the Participant's Delink Calculation Date through the last business day immediately preceding complete distribution of the Restoration Plan Benefit.

(B) Any portion of a Legacy West Participant's Restoration Account attributable to benefits accruing on or after July 1, 1985, if any, shall be adjusted as follows:

a. For a Legacy West Participant who was not in "service" under the Basic Plan on July 1, 2000, any portion of the Restoration Account attributable to benefits accruing on and after July 1, 1985 shall be credited with interest at the rate equal to the average of 30-Year Treasury Constant Maturities as published in the Federal Reserve Statistical Release H.15(519) of the Board of Governors of the Federal Reserve System for the month of November of the year immediately preceding the applicable Plan Year from the Participant's Delink Calculation Date through the last business day immediately preceding complete distribution of the Restoration Plan Benefit. If the average is not a multiple of $^1/_4$%, the closest lowest interest rate which is a multiple of $^1/_4$% shall be used.

b. For a Legacy West Participant who was in "service" under the Basic Plan on July 1, 2000, any portion of the Restoration Account attributable to benefits accruing on and after July 1, 1985 is subject to the rules regarding Restoration Account adjustments described in paragraph (i) of this subsection.

(C) The portion of a Legacy West Participant's Restoration Account attributable to the Applicable Minimum Benefits Provisions, if any, is subject to the rules regarding Restoration Account adjustments described in paragraph (i) of this subsection.

2.5 Distribution Provisions for Participants with a Restoration Account on August 28, 2006

(a) **2006 One-Time Payment Election:** Subject to the provisions of Section 2.7, each Participant with a Restoration Account on August 28, 2006 had an opportunity during 2006 to make a one-time payment election applicable to such Participant's Restoration Plan Benefit. Each such Participant was able to elect from among the available payment methods set forth in subsection (b) of this Section, and such election was effective as of January 1, 2007. Absent such a payment election, the Participant's Restoration Plan Benefit will be paid in a single lump sum during the first 90 days of the calendar year following the Participant's Termination of Employment unless the Participant subsequently changes the payment election as provided in subsection (c) of this Section.

(b) **Available Payment Methods:** Subject to the provisions of Section 2.7, a Participant's vested Restoration Plan Benefit shall be paid in a single lump sum during the first 90 days of the calendar year following the Participant's Termination of Employment unless the Participant elects to receive payment of such Participant's vested Restoration Plan Benefit in one of the following forms:

(i) **Lump Sum Payment in Specified Year:** A single lump sum during the first 90 days of the later of (A) the calendar year following the Participant's Termination of Employment and (B) the calendar year elected by the Participant (but no later than the calendar year in which the Participant reaches age 75).

(ii) **Annual Installments Commencing following Termination of Employment:** Annual installment payments over a period of years elected by the Participant not to exceed 10 commencing during the first 90 days of the calendar year following the Participant's Termination of Employment.

(iii) **Annual Installments Commencing in Specified Year:** Annual installment payments over a period of years elected by the Participant not to exceed 10 commencing during the first 90 days of the later of (A) the

calendar year following the Participant's Termination of Employment and (B) the calendar year elected by the Participant (but not later than the calendar year in which the Participant reaches age 75).

(c) **Subsequent Changes to Payment Elections:** A Participant may change the timing or form of payment applicable under subsection (b) of this Section, or the timing or form of payment subsequently elected under this subsection, with respect to the Participant's vested Restoration Plan Benefit only if (i) such election is made at least 12 months prior to January 1 of the Plan Year in which the payment of the vested Restoration Plan Benefit would have otherwise been made or commenced and (ii) the effect of such election is to defer such payment by at least 5 years; provided, however, that no election to change the timing or form of payment may be made if the date the payment of the vested Restoration Plan Benefit would have otherwise been made or commenced is less than 5 years from the calendar year in which the Participant would have attained age 75. In the event that a Participant's election made pursuant to this subsection does not comply with the requirements of this subsection, such election shall be void and the timing and form of payment in effect at the time of such voided election governs.

(d) **Timing and Amount of Annual Installments:** Subject to the provisions of Section 2.7, for a vested Restoration Plan Benefit payable as annual installments, except as otherwise provided in Section 2.7(d), the first installment shall be paid during the first 90 days of the calendar year following the Participant's Termination of Employment or the calendar year elected by the Participant, as applicable, and each subsequent installment shall be paid during the first 90 days of each subsequent calendar year during the elected payment period. The amount of each installment payment shall equal the Restoration Plan Benefit as of the last business day immediately preceding the applicable payment date divided by the number of remaining installments (including the installment then payable).

2.6 Distribution Provisions for New Participants after August 28, 2006

(a) **Timing and Form of Payment:** Subject to the provisions of subsection (b) of this Section and Section 2.7, the vested Restoration Plan Benefit of a Participant who first becomes a Participant after August 28, 2006 shall be payable during the first 90 days of the calendar year following the Participant's Termination of Employment in a single lump sum payment.

(b) **Subsequent Changes to Timing of Payment:** A Participant may change the timing (but not the form) of payment provided under subsection (a) of this Section, or the timing (but not the form) of payment subsequently elected under this Section, with respect to the Restoration Plan Benefit only if (i) such election is made at least 12 months prior to January 1 of the Plan Year in which the payment of the Restoration Plan Benefit would have otherwise been made and (ii) the effect of such election is to defer such payment by at least 5 years; provided, however, that no election to change the timing of payment may be made if the

date the payment of the vested Restoration Plan Benefit would have otherwise been made is less than 5 years from the calendar year in which the Participant would have attained age 75. In the event that a Participant's election made pursuant to this subsection does not comply with the requirements of this subsection, such election shall be void and the timing of payment in effect at the time of such voided election governs.

2.7 General Payment Provisions

(a) **Payments for Participants Who Terminate Employment and Have a Basic Plan Benefit Commencement Date Prior to January 1, 2007:** The payment elections described in Sections 2.5 and 2.6 are effective as of January 1, 2007. Payments to any Participant whose Termination of Employment occurs prior to January 1, 2007 and who has a "benefit commencement date" under the Basic Plan prior to January 1, 2007 shall be made in accordance with the provisions of the Restoration Plan as in effect prior to January 1, 2007.

(b) **Automatic Lump Sum Payment:** Notwithstanding any provision in the Restoration Plan to the contrary, but subject to the provisions of subsection (d) of this Section, if applicable, a Participant's vested Restoration Plan Benefit shall be payable in a single lump sum during the first 90 days of the calendar year following the Participant's Termination of Employment if (i) the value of the Participant's Restoration Account as of the Delink Calculation Date is $50,000 or less or (ii) the Participant is vested but has less than 5 years of Vesting Service at the time of the Participant's Termination of Employment.

(c) **Death of Participant:** If a Participant dies before having been paid the Participant's entire Restoration Plan Benefit (including a Participant receiving installment payments), the remaining unpaid balance of the Restoration Plan Benefit shall be payable to the Participant's Beneficiary in a single lump sum within 90 days following the end of the Plan Year in which the Participant dies; provided, however, that if the Global Human Resources Group is not provided with sufficient advance notice of the Participant's death to pay the Restoration Plan Benefit within 90 days following the Plan Year in which the Participant dies, then payment shall be made within 90 days after the end of the Plan Year in which such notice of death is received by the Global Human Resources Group. The directable portion, if any, of the Restoration Plan Benefit shall be deemed invested in the default investment vehicle specified by the Committee pursuant to Section 2.3(c) from the date notice of the death is received by the Global Human Resources Group until the last business day immediately preceding the final payment of the Restoration Plan Benefit.

(d) **Special Provisions for "Specified Employees":** Notwithstanding any provision in the Restoration Plan to the contrary, to the extent applicable, in no event shall any payment hereunder be made to a "specified employee" within the meaning of Section 409A of the Code earlier than 6 months after the date of the Participant's Termination of Employment, except in connection with the Participant's death. If

a specified employee's Termination of Employment occurs before July 1 in a Plan Year, the earliest date that the specified employee's Restoration Plan Benefit shall be paid is during the first 90 days of the calendar year following the Participant's Termination of Employment. If a specified employee's Termination of Employment occurs on or after July 1 in a calendar year, the earliest date that the specified employee's Restoration Plan Benefit shall be paid is during the first 90 days of the second calendar year following the Participant's Termination of Employment.

(e) **Payroll and Withholding Taxes:** Any Restoration Plan Benefit shall be subject to applicable payroll and withholding taxes.

(f) **Payment for Benefit of Incapacitated Individual:** In the event any amount becomes payable under the provisions of the Restoration Plan to a Participant, Beneficiary or other person who is a minor or an incompetent, whether or not declared incompetent by a court, such amount may be paid directly to the minor or incompetent person or to such person's fiduciary (or attorney-in-fact in the case of an incompetent) as the Global Human Resources Group, in its sole discretion, may decide, and the Global Human Resources Group shall not be liable to any person for any such decision or any payment pursuant thereto.

(g) **Other Payment Provisions:** To be effective, any elections under this Article shall be made on such form, at such time and pursuant to such procedures as determined by the Global Human Resources Group in its sole discretion from time to time.

2.8 Vesting of Restoration Plan Benefit

Notwithstanding any provision of the Restoration Plan to the contrary, a Participant's Restoration Plan Benefit shall be vested if, and to the same extent, that the Participant's Basic Plan benefits are vested. If, and to the extent that, a Participant's Restoration Plan Benefit is not vested on the date of the Participant's Termination of Employment, such Restoration Plan Benefit shall be forfeited as of such date. However, if a former Participant whose Restoration Plan Benefit has been forfeited again becomes an Employee, any such forfeiture shall be restored (adjusted with interest on the same basis as restored forfeitures under the Basic Plan) as soon as administratively practicable after the date on which the former Participant again becomes an Employee (such restored benefits shall remain subject to the vesting requirements of this Section).

2.9 Special Provisions Related to Completion Incentives

For a Participant who receives a Completion Incentive in a Plan Year which relates to one or more prior Plan Years, the following provisions shall apply.

(a) The Global Human Resources Group, upon consultation with the appropriate business unit, shall allocate the Completion Incentive among the applicable Plan Years for which it was deemed earned.

(b) The Participant shall receive Restoration Credits with respect to the Completion Incentive based on the Participant's rate of compensation credits under the Basic Plan at the time the Completion Incentive is paid. However, for that purpose, (A) for Plan Years beginning on or after January 1, 2005, the $250,000 limit on compensation set forth in Section 2.2(b)(ii)(A) and (B) for Plan Years ending before January 1, 2005, the $1,000,000 limit on incentive compensation set forth in Section 2.2(c) shall be applied separately with respect to each prior Plan Year for which the Completion Incentive was deemed earned taking into account the portion of the Completion Incentive allocated to each such prior Plan Year under subsection (a) of this Section.

(c) The Restoration Credits attributable to the Completion Incentive shall be credited in accordance with the timing specified in Section 2.2(b)(i).

ARTICLE III

PLAN ADMINISTRATION

3.1 Committee

The Restoration Plan shall be administered by the "committee" under (and as defined in) the Basic Plan (although certain provisions of the Restoration Plan shall be administered by the Global Human Resources Group as specified herein). The Committee shall have full discretionary authority to interpret the provisions of the Plan, and decide all questions and settle all disputes which may arise in connection with the Plan, and may establish its own operative and administrative rules and procedures in connection therewith, provided such procedures are consistent with the requirements of Section 503 of ERISA. All interpretations, decisions and determinations made by the Committee will be binding on all persons concerned. No member of the Committee who is a Participant in the Restoration Plan may vote or otherwise participate in any decision or act with respect to a matter relating solely to such member (or to such member's Beneficiaries). Not in limitation, but in amplification, of the foregoing provisions of this Section, the Committee has the duty and power to modify or supplement any Restoration Plan accounting method, practice or procedure, make any adjustments to accounts or modify or supplement any other aspect of the operation or administration of the Restoration Plan in such manner and to such extent consistent with and permitted by the Code that the Committee deems necessary or appropriate to correct errors and mistakes, to effect proper and equitable account adjustments or otherwise to ensure the proper and appropriate administration and operation of the Restoration Plan.

ARTICLE IV

AMENDMENT AND TERMINATION

4.1 Amendment and Termination

The Corporation shall have the right and power at any time and from time to time to amend the Restoration Plan in whole or in part, on behalf of all Participating Employers, and at any time to terminate the Restoration Plan or any Participating Employer's participation hereunder; provided, however, that no such amendment or termination shall reduce the amount of a Participant's Restoration Plan Benefit on the date of such amendment or termination, or further defer the due dates for the payment of such benefits, without the consent of the affected person. To the extent permitted by Section 409A of the Code, in connection with any termination of the Restoration Plan, the Corporation shall have the authority to cause the Restoration Plan Benefits of all current and former Participants (and the Beneficiary(ies) of any deceased Participants) to be paid in a single lump sum as of a date determined by the Corporation or to otherwise accelerate the payment of all Restoration Plan Benefits in such manner as the Corporation shall determine in its discretion.

4.2 Change of Control

Notwithstanding any provisions of the Restoration Plan to the contrary, on and after the date of a Change of Control (i) the provisions of the Restoration Plan may not be terminated, amended or modified if the Amendment or Termination Date is prior to the date immediately following the date of the Change of Control and (ii) with respect to any amendment to the Restoration Plan otherwise permissible under clause (i) of this sentence, the provisions of the Restoration Plan may not be terminated, amended or modified to reduce, eliminate or otherwise adversely affect in any manner the total amount of benefits that would have been payable to a Participant, or the method and timing by which such benefits would have been payable to the Participant, from time to time under the Restoration Plan, assuming for this purpose that the Participant had a Termination of Employment on the date immediately preceding the Amendment or Termination Date of any such amendment or termination; provided, however, that the Corporation may terminate, amend or modify the Restoration Plan at any time prior to the date of a Change in Control in accordance with, and subject to, the provisions of Section 4.1.

ARTICLE V

MISCELLANEOUS PROVISIONS

5.1 Nature of Plan and Rights

The Restoration Plan is unfunded and intended to constitute an incentive and deferred compensation plan for a select group of officers and key management employees of the Participating Employers. If necessary to preserve the above intended plan status, the Committee, in its sole discretion, reserves the right to limit or reduce the number of actual Participants and otherwise to take any remedial or curative action that the Committee deems necessary or advisable. The Restoration Accounts established and maintained under the Restoration Plan by a Participating Employer are for accounting purposes only and shall not be deemed or construed to create a trust fund of any kind or to grant a property interest of any kind to any Participant or Beneficiary. The amounts credited by a Participating Employer to such Restoration Accounts are and for all purposes shall continue to be a part of the general assets of such Participating Employer, and to the extent that a Participant or Beneficiary acquires a right to receive payments from such Participating Employer pursuant to the Restoration Plan, such right shall be no greater than the right of any unsecured general creditor of such Participating Employer.

5.2 Spendthrift Provision

A Participant's or Beneficiary's rights and interests under the Restoration Plan may not be assigned or transferred by the Participant or Beneficiary. No part of any amounts credited or payable hereunder shall, prior to actual payment, (i) be subject to seizure, attachment, garnishment or sequestration for the payment of debts, judgments, alimony or separate maintenance owed by the Participant or any other person, (ii) be transferable by operation of law in the event of the Participant's or any person's bankruptcy or insolvency, or (iii) be transferable to a spouse as a result of a property settlement or otherwise. Notwithstanding the foregoing, the Participating Employers shall have the right to offset from a Participant's unpaid benefits under the Restoration Plan any amounts due and owing from the Participant to the extent permitted by law.

5.3 Limitation of Rights

Neither the establishment of the Restoration Plan, nor any amendment thereof, nor the payment of any benefits will be construed as giving any individual any legal or equitable right against the Company, any Participating Employer, or the Committee. In no event will the Plan be deemed to constitute a contract between any Employee and the Company, a Participating Employer, or the Committee. The Plan shall not be deemed to be consideration for, or an inducement for, the performance of services by any employee of a Participating Employer.

5.4 Adoption by Other Participating Employers

The Restoration Plan may be adopted by any Participating Employer participating under the Basic Plan, such adoption to be effective as of the date specified by such Participating Employer at the time of adoption.

5.5 Governing Law

The Restoration Plan shall be construed, administered and governed in accordance with the laws of the State of North Carolina, except to the extent such laws are preempted by federal law.

5.6 Merged Plans

(a) **Merger of Plans:** From time to time the Participating Employers may cause other nonqualified plans to be merged into the Restoration Plan. Schedule 5.6 attached hereto sets forth the names of the plans that merged into the Restoration Plan by January 1, 2009 and their respective merger dates. Schedule 5.6 shall be updated from time to time to reflect mergers after January 1, 2009.

(b) **Effect of Merger of Plans:** Upon such a merger, the accrued benefits immediately prior to the date of merger of each participant in the merged plan shall be transferred and credited as of the merger date to a Restoration Account established under the Restoration Plan for such participant. From and after the merger date, the participant's rights shall be determined under the Restoration Plan, and the participant shall be subject to all of the restrictions, limitations and other terms and provisions of the Restoration Plan. Notwithstanding any other provision of the Restoration Plan, the Restoration Account established for the participant as a result of a merger described in this Section shall be periodically adjusted when and as provided in Section 2.3 as in effect from time to time and the Restoration Plan Benefit determined in accordance with Section 2.4 shall be paid at such time and in such manner as provided in Sections 2.5, 2.6 and 2.7 hereof, as applicable, except to the extent otherwise provided on Schedule 5.6. Notwithstanding any provision of this Section 5.6 to the contrary, a participant in a merged plan that is in pay status or is a terminated employee in a deferred vested status as of the plan merger date shall continue to be eligible to receive benefits as and when provided under the terms of the merged plan as in effect immediately prior to such merger. The Global Human Resources Group shall, in its discretion, establish any procedures it deems necessary or advisable in order to administer any such plan mergers, including without limitation procedures for transitioning from the method of account adjustments under the prior plan to the methods provided for under the Restoration Plan.

5.7 Status Under ERISA

The Restoration Plan is maintained for purposes of providing deferred compensation for a select group of management or highly compensated employees. In addition, to the extent that the Restoration Plan makes up benefits limited under the Basic Plan as a result of Section 415 of the Code, the Restoration Plan shall be considered an "excess benefit plan" within the meaning of ERISA.

5.8 Compliance With Section 409A of the Code

The Restoration Plan is intended to comply with Section 409A of the Code, and official guidance issued thereunder. Notwithstanding any provision of the Restoration Plan to the contrary, the Restoration Plan shall be interpreted, operated, and administered consistent with this intent.

5.9 Severability

If any provision of the Restoration Plan is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

5.10 Headings and Subheadings

Headings and subheadings are inserted for convenience only and are not to be considered in the construction of the provisions of the Restoration Plan.

5.11 Social Security Tax

Subject to the requirements of Section 3121(v)(2) of the Code, the Committee has the full discretion and authority to determine when Federal Insurance Contribution Act ("FICA") taxes on a Participant's Restoration Plan benefit or account are paid and whether any portion of such FICA taxes shall be withheld from the Participant's wages or deducted from the Participant's benefit or account.

5.12 Claims Procedure

Any claim for benefits under the Restoration Plan by a Participant or Beneficiary shall be made in accordance with the claims procedures set forth in the Basic Plan.

5.13 Limited Effect Of Restatement

Notwithstanding anything to the contrary contained in the Restoration Plan, to the extent permitted by ERISA and the Code, this instrument shall not affect the availability, amount, form or method of payment of benefits being paid before the effective date hereof to any Participant or former Participant (or a Beneficiary of either) in the Restoration Plan who is not an active Participant on or after the effective date hereof, said availability, amount, form or method of payment of benefits, if any, to be determined in accordance with the applicable provisions of the Restoration Plan as in effect prior to the effective date hereof.

5.14 Binding Effect

The Restoration Plan (including any and all amendments thereto) shall be binding upon the Participating Employers, their respective successors and assigns, and upon the Participants and their Beneficiaries and their respective heirs, executors, administrators, personal representatives and all other persons claiming by, under or through any of them.

IN WITNESS WHEREOF, this instrument has been executed by the Corporation on the 24th day of November, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Mark S. Behnke

Mark S. Behnke, Global Compensation, Benefits and Shared Services Executive

SCHEDULE 5.6

MERGED PLANS AS OF JANUARY 1, 2009

Plan Name	Date of Merger
BankAmerica Supplemental Retirement Plan (but only as to BankAmerica Pension Plan restored benefits)	July 1, 2000

BANK OF AMERICA 401(K) RESTORATION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

BANK OF AMERICA 401(K) RESTORATION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

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BANK OF AMERICA 401(K) RESTORATION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

THIS INSTRUMENT OF AMENDMENT AND RESTATEMENT is executed by BANK OF AMERICA CORPORATION, a Delaware corporation (the "Corporation");

Statement of Purpose

The Corporation sponsors the Bank of America 401(k) Restoration Plan (the "Restoration Plan"). The purpose of the Restoration Plan is to provide benefits, on a non-qualified and unfunded basis, to certain associates whose benefits under The Bank of America 401(k) Plan or The Bank of America 401(k) Plan for Legacy Companies are adversely affected by the limitations of Sections 401(a)(17), 401(k)(3), 401(m), 402(g) and 415 of the Internal Revenue Code, as well as any other limitations that may be placed on highly compensated participants under such plans.

The Corporation is amending and restating the Restoration Plan effective January 1, 2009 as set forth herein to (i) reflect certain design changes to the Restoration Plan, (ii) provide for the Restoration Plan's documentary compliance with the requirements of Section 409A of the Code and (iii) otherwise meet current needs.

NOW, THEREFORE, for the purposes aforesaid, the Corporation hereby amends and restates the Restoration Plan effective January 1, 2009 to consist of the following Articles I through V:

ARTICLE I

DEFINITIONS

Unless defined herein, any word, phrase or term used in the Plan shall have the meaning given to it in the 401(k) Plan. However, the following terms have the following meanings unless a different meaning is clearly required by the context:

1.1 Account

Collectively, the Deferral Account, Matching Contribution Restoration Account, Make-up Contribution Restoration Account and a predecessor company Account (if any).

1.2 Associate

A common law employee of a Participating Employer who is identified as an employee in the personnel records of the Participating Employer.

1.3 Base Salary

The portion of the Eligible Associate's compensation treated as base salary or wages by the Eligible Associate's Participating Employer, or for an Eligible Associate who receives commissions, the portion of the Eligible Associate's compensation treated as draw by the Eligible Associate's Participating Employer.

1.4 Beneficiary

The "Beneficiary" of a Participant under the 401(k) Plan unless the Participant elects a different Beneficiary for purposes of the Restoration Plan in accordance with such procedures as the Global Human Resources Group may establish from time to time. If there is no Beneficiary election in effect under the 401(k) Plan or the Restoration Plan at the time of a Participant's death, or if the designated Beneficiary fails to survive the Participant, then the Beneficiary shall be the Participant's surviving spouse, or if there is no surviving spouse, the Participant's estate.

1.5 Class Year Deferrals

(a) For each Plan Year, the deferrals of a Participant's Base Salary under Section 2.3(b) for the Plan Year plus the deferral under Section 2.3(c) of any portion of the Participant's Eligible Incentive Award earned for services rendered during the Plan Year, including any related adjustments for deemed investments in accordance with Section 2.5.

(b) In addition, in accordance with Section 2.8(a)(ii), all matching contributions credited to the Restoration Plan for a Participant after 2005 under Section 2.4 plus any other amounts credited to the Restoration Plan for the Participant after 2005 under Section 2.12, including any related adjustments for deemed investments in accordance with Section 2.5, shall collectively constitute one separate set of Class Year Deferrals for the Participant.

(c) In addition, in accordance with Section 2.8(a)(iii), all make-up contributions credited to the Restoration Plan for a Participant under Section 2.4(d), including any related adjustments for deemed investments in accordance with Section 2.5, shall collectively constitute one separate set of Class Year Deferrals for the Participant.

1.6 Code

The Internal Revenue Code of 1986. References to the Code shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial authority issued or rendered thereunder.

1.7 Code Limitations

Any one or more of the limitations and restrictions that Sections 401(a)(17), 401(k)(3), 401(m), 402(g) and 415 of the Code place on the pre-tax retirement savings contributions and employer matching contributions for a Participant under the 401(k) Plan. In addition, Code Limitations means and refers to any other limitations on contributions under the 401(k) Plan or established by the 401(k) Plan administrative committee with respect to highly compensated participants.

1.8 Committee

The committee designated pursuant to Section 3.1 of the Restoration Plan.

1.9 Completion Incentive

An incentive award payable to an Eligible Associate upon completion of an assignment outside the United States, which incentive award relates to one or more Plan Years, all pursuant to an incentive arrangement approved for purposes of the Restoration Plan by the Committee.

1.10 Corporation

Bank of America Corporation, a Delaware corporation, and any successor thereto.

1.11 Deferral Account

The account established and maintained on the books of a Participating Employer to record a Participant's interest under the Restoration Plan attributable to amounts credited to the Participant pursuant to Section 2.3.

1.12 EIP

The Bank of America Corporation Equity Incentive Plan, as in effect from time to time.

1.13 Eligible Associate

For a Plan Year, an Associate who the Global Human Resources Group has determined satisfies the eligibility requirements set forth in Section 2.1 for the Plan Year.

1.14 Eligible Incentive Award

(a) Any commissions; and

(b) Any incentive awards payable in cash pursuant to (i) the Bank of America Executive Incentive Compensation Plan or (ii) any other incentive compensation plan of the Corporation or any of its Subsidiaries approved for purposes of this Restoration Plan by the Committee. Eligible Incentive Awards may be payable annually, quarterly, or on such other basis as provided by the applicable plan. Eligible Incentive Awards shall not include contest prizes, hiring, retention or employment referral bonuses, one-time bonuses, suggestion program awards or any severance or similar benefits.

1.15 ERISA

The Employee Retirement Income Security Act of 1974, as amended. References to ERISA shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial authority issued or rendered thereunder.

1.16 401(k) Plan

With respect to an Eligible Associate, the applicable tax-qualified 401(k) plan in which the Eligible Associate participates: namely, either The Bank of America 401(k) Plan or The Bank of America 401(k) Plan for Legacy Companies, as such plans are in effect from time to time.

1.17 Global Human Resources Group

The Global Human Resources Group of the Corporation.

1.18 Make-up Contribution Restoration Account

The account established and maintained on the books of a Participating Employer to record a Participant's interest under the Restoration Plan attributable to amounts credited to the Participant pursuant to Section 2.4(d) of the Restoration Plan.

1.19 Matchable Compensation

The total gross Base Salary and Eligible Incentive Awards payable to a Participant during the portion of a Plan Year (if any) during which the Participant is eligible to receive matching contributions under the 401(k) Plan; provided, however, that in no event shall Matchable Compensation for the Plan Year exceed $250,000.

1.20 Matchable Deferrals

The aggregate pre-tax retirement savings contributions made by a Participant under the 401(k) Plan during the portion of a Plan Year (if any) during which the Participant is eligible to receive matching contributions under the 401(k) Plan plus the aggregate deferrals of Base Salary and Eligible Incentive Awards made by the Participant under the Restoration Plan during such period.

1.21 Matching Contribution Restoration Account

The account established and maintained on the books of a Participating Employer to record a Participant's interest under the Restoration Plan attributable to amounts credited to the Participant pursuant to Section 2.4(b) or Section 2.4(c) of the Restoration Plan.

1.22 Match Rate

The Participant's Matchable Deferrals for the Plan Year divided by the Participant's Matchable Compensation for the Plan Year; provided, however, that in no event shall the Match Rate for the Plan Year exceed 5%.

1.23 MFIP

The Columbia Management Group Mutual Fund Incentive Plan adopted by the Corporation, as in effect from time to time.

1.24 Participant

An Eligible Associate who has elected to participate in the Restoration Plan for a Plan Year, or any other current or former Associate who has an Account balance under the Restoration Plan.

1.25 Participating Employer

(a) The Corporation;

(b) Each other "Participating Employer" under (and as defined in) the 401(k) Plan on the date hereof;

(c) Any other incorporated or unincorporated trade or business which may hereafter adopt both the 401(k) Plan and the Restoration Plan.

In addition, the Global Human Resources Group, in its sole and exclusive discretion, may designate certain other entities as "Participating Employers" under the Restoration Plan for such purposes as the Global Human Resources Group may determine from time to time.

1.26 Plan Year

The 12-month period commencing January 1 and ending the following December 31.

1.27 Pre-2005 Account

Deferrals, matching contributions or any other contributions that were credited to the Restoration Plan prior to 2005, including any related adjustments for deemed investments in accordance with Section 2.5.

1.28 Restoration Plan

The Bank of America 401(k) Restoration Plan as in effect from time to time.

1.29 Rule of 60

At the time of Termination of Employment, a Participant's having (i) completed at least 10 years of Vesting Service; and (ii) attained a combined age and years of Vesting Service equal to at least 60.

1.30 Termination of Employment (or to Terminate Employment)

For the purposes of the Restoration Plan, whether a "Termination of Employment" has occurred shall be determined consistent with the requirements of Section 409A of the Code and the Bank of America 409A Policy.

1.31 2005 Account

(a) Deferrals, matching contributions or any other contributions that were credited to the Restoration Plan during 2005; plus

(b) Any deferral of an Eligible Incentive Award for performance year 2005 credited to the Restoration Plan after 2005;

in each case including any related adjustments for deemed investments in accordance with Section 2.5.

1.32 Vesting Service

"Vesting Service" as defined under the tax-qualified pension plan sponsored by Bank of America in which the Participant participates (namely, either The Bank of America Pension Plan, The Bank of America Pension Plan for Legacy Fleet, The Bank of America Pension Plan for Legacy MBNA, The Bank of America Pension Plan for Legacy UST or The Bank of America Pension Plan for Legacy LaSalle, as such plans are in effect from time to time).

ARTICLE II

DEFERRED COMPENSATION PROVISIONS

2.1 Eligibility

(a) **Determination of Eligible Associates:** Prior to each Plan Year, or at such other times as the Global Human Resources Group shall determine consistent with applicable law, the Global Human Resources Group shall determine which Associates shall be Eligible Associates for such Plan Year in accordance with the provisions of this Section.

(b) **Eligible Associates:** An Associate shall be an Eligible Associate with respect to a Plan Year if the Global Human Resources Group determines that the Associate either:

(i) Has an annual rate of Base Salary as of the date of eligibility determination equal to or exceeding the limitation of Section 401(a)(17) of the Code for the previous Plan Year; or

(ii) Had total cash compensation for the one-year period immediately prior to the date of eligibility determination equal to or exceeding the limitation of Section 401(a)(17) of the Code for the previous Plan Year.

A newly hired Associate shall not be an Eligible Associate unless and until the Associate satisfies the foregoing eligibility requirements for the Plan Year after the Plan Year in which the Associate is hired.

(c) **Administrative Procedures:** The Global Human Resources Group, in its discretion, shall establish the administrative procedures with respect to the foregoing eligibility determinations, including without limitation the measurement of total cash compensation for any period. Notwithstanding the foregoing, the Global Human Resources Group may, in its discretion, determine that an Associate or group of Associates who otherwise meet the foregoing requirements are nonetheless ineligible to participate in the Restoration Plan.

2.2 Form and Time of Elections

Each Eligible Associate for a Plan Year may elect to defer under the Restoration Plan such amounts as provided by this Article II in accordance with the procedures set forth in this Section 2.2. Such deferral elections shall be made prior to January 1 of the Plan Year. All elections made under this Section 2.2 shall be made in writing on a form, or pursuant to such other non-written procedures, as may be prescribed from time to time by the Global Human Resources Group and shall be irrevocable for such Plan Year. In addition, if an Eligible Associate elects to defer any Base Salary or Eligible Incentive Awards under the Restoration Plan for a Plan Year, any election by the Eligible Associate

to defer compensation under the 401(k) Plan shall also be irrevocable for the Plan Year. An election by an Eligible Associate under this Section 2.2 shall continue in effect for all subsequent Plan Years (during which the Eligible Associate remains an Eligible Associate) unless and until changed or terminated by the Eligible Associate in accordance with procedures established from time to time by the Global Human Resources Group. Any such change in or termination of an election under this Section 2.2 shall be effective as of the January 1 of the next succeeding Plan Year and shall be irrevocable for such Plan Year. If an Eligible Associate elects to participate in the Restoration Plan for a Plan Year, Terminates Employment during the Plan Year and is subsequently re-hired during the same Plan Year as an Eligible Associate, the election to defer under the Restoration Plan with respect to such Plan Year that was in effect prior to Termination of Employment shall remain in effect for the Plan Year after the re-hire date.

2.3 Deferrals

(a) **Deferral Accounts:** A Participating Employer shall establish and maintain on its books a Deferral Account for each Eligible Associate employed by such Participating Employer who elects pursuant to Section 2.2 to defer the receipt of any amount under the Restoration Plan. Such Deferral Account shall be designated by the name of the Eligible Associate for whom established. The amount to be deferred under this Section 2.3 for a payroll period shall be credited to such Deferral Account on, or as soon as administratively practicable after, the payroll date. See Section 2.10 regarding the effect of "catch-up" contribution elections under the 401(k) Plan.

(b) **Election to Defer Base Salary:** An Eligible Associate for a Plan Year may elect pursuant to Section 2.2 to defer up to 30% of the Eligible Associate's Base Salary for the Plan Year; provided, however, that no such deferral shall be made unless and until no additional deferrals may be made to the 401(k) Plan because of the Code Limitations.

(c) **Election to Defer Eligible Incentive Awards:** Each Eligible Associate for a Plan Year may elect pursuant to Section 2.2 to defer up to 90% of any Eligible Incentive Award otherwise payable to the Eligible Associate for services rendered during the Plan Year (regardless of whether the Eligible Incentive Award is payable during or after the applicable Plan Year). Such deferral shall be made without regard to the Code Limitations. Any portion of an Eligible Incentive Award not deferred under the Restoration Plan shall be excluded from the Eligible Associate's compensation under the 401(k) Plan in accordance with, and subject to, the terms and provisions of the 401(k) Plan (and therefore shall not be included in determining the amount of the Eligible Associate's pre-tax retirement savings contributions or employer matching contributions under the 401(k) Plan).

2.4 Matching and Make-up Contributions

(a) **Matching Contribution Restoration Account and Make-up Contribution Restoration Account:** A Participating Employer shall establish and maintain on its books a Matching Contribution Restoration Account and/or a Make-up Contribution Restoration Account for each Eligible Associate employed by such Participating Employer who is credited with a matching and/or make-up contribution under this Section 2.4. Such Matching Contribution Restoration Account and/or Make-up Contribution Restoration Account shall be designated by the name of the Eligible Associate for whom established.

(b) **Matching Contributions for Restoration Plan Deferrals:** Subject to the provisions of Section 2.4(e), if a Participant defers any amount under the Restoration Plan during a Plan Year in which the Participant is eligible to receive matching contributions under the 401(k) Plan, the Participant shall be eligible to be credited with a matching contribution to the Participant's Matching Contribution Restoration Account for the Plan Year. The amount of the matching contribution shall equal Amount A less Amount B (but not less than zero), where:

(i) **Amount A** equals the Participant's Match Rate for the Plan Year multiplied by the Participant's Matchable Compensation for the Plan Year; and

(ii) **Amount B** equals the aggregate amount of matching contributions allocated to the Participant's account under the 401(k) Plan for each payroll period ending during the Plan Year plus the amount of any additional "true-up" match under the 401(k) Plan for the Plan Year.

Matching contributions under the Restoration Plan shall be determined and credited as soon as administratively practicable following the end of the applicable Plan Year.

(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, the Associate's

Participating Employer shall credit to the Participant's Matching Contribution Restoration Account an amount equal to 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 2.4(b), this Section 2.4(c) and the 401(k) Plan for the Plan Year exceed $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 Global Human Resources Group by the Corporation's Executive Compensation group as the EIP Principal Amount.

(d) **Make-up Contributions for Certain Legacy U.S. Trust Participants:** For a Participant whose deferrals to the Restoration Plan reduce the amount of the Participant's account benefit accruals under the Bank of America Pension Plan for Legacy U.S. Trust for a given Plan Year, the Participant's Participating Employer shall credit to the Participant's Make-up Contribution Restoration Account an amount equal to 5% of the amount by which the Participant's plan-eligible compensation under the Bank of America Pension Plan for Legacy U.S. Trust was reduced because of the Participant's deferrals to the Restoration Plan.

(e) **Payroll Taxes:** The Global Human Resources Group may determine, in its sole and exclusive discretion, to deduct from the amount otherwise to be credited to the Matching Contribution Restoration Account of a Participant for a Plan Year an amount necessary to pay any related payroll taxes.

2.5 Account Adjustments

(a) **Account Adjustments for Deemed Investments:** The Committee shall from time to time designate one or more investment vehicle(s) in which the Accounts of Participants shall be deemed to be invested. The investment vehicle(s) may be designated by reference to the investments available under other plans sponsored by a Participating Employer (including the 401(k) Plan). Each Participant shall designate the investment vehicle(s) in which his or her Account shall be deemed to be invested according to the procedures developed by the Global Human Resources Group, except as otherwise required by the terms of the Restoration Plan. No Participating Employer shall be under an obligation to acquire or invest in any of the deemed investment vehicle(s) under this subparagraph, and any acquisition of or investment in a deemed investment vehicle by a Participating Employer shall be made in the name of the Participating Employer and shall remain the sole property of the Participating Employer. The Committee shall also establish from time to time a default fund into which a Participant's Account shall be deemed to be invested if the Participant fails to provide investment instructions pursuant to this Section 2.5(a). Effective January 1, 2009, such default fund shall be the applicable investment vehicle determined pursuant to the terms of the 401(k) Plan's default investment provisions.

(b) **Periodic Account Adjustments:** Each Account shall be adjusted from time to time at such intervals as determined by the Global Human Resources Group. The Global Human Resources Group may determine the frequency of account adjustments by reference to the frequency of account adjustments under another plan sponsored by a Participating Employer. The amount of the adjustment shall equal the amount that each Participant's Account would have earned (or lost) for the period since the last adjustment had the Account actually been invested in the 401(k) Plan in the deemed investment vehicle(s) designated by the Participant for such period pursuant to Section 2.5(a). The Global Human Resources Group may establish any limitations on the frequency in which Participants may make investment designations under this Section 2.5 as the Global Human Resources Group may determine necessary or appropriate from time to time, including limitations related to frequent trading or market timing activities.

2.6 Vesting of Accounts

All Deferral Accounts and Make-up Contribution Accounts are fully (100%) vested. Because all 401(k) matching contributions are fully (100%) vested as of January 1, 2005, all Matching Contribution Restoration Accounts shall be fully (100%) vested for any active Associate who participates in the Restoration Plan from and after January 1, 2005. The vesting provisions of the Restoration Plan as in effect prior to January 1, 2005 shall continue to apply to any Associate who Terminated Employment with the Participating Employers prior to January 1, 2005.

2.7 Special Payment Elections

Each Participant who was in the active service of a Participating Employer on any date during 2005 was given the opportunity during 2005 to make a payment election applicable separately to the Participant's (i) Pre-2005 Account and (ii) 2005 Account. The Participant could in each case elect from among the class year payment options set forth in Section 2.8(b), and such election was immediately effective. In the event a Participant covered by this Section 2.7 failed to make a payment election with respect to either the Participant's Pre-2005 Account or 2005 Account, as applicable, the payment method shall be (x) the payment method most recently elected by the Participant under the Restoration Plan according to the records of the Global Human Resources Group, even if that prior payment election had not yet become effective, or (y) in the absence of any such prior payment election, a lump sum payment following Termination of Employment as set forth in Section 2.8(b). Any subsequent change to such payment election must comply with the requirements of Section 2.8(c). Payments pursuant to such election shall otherwise be subject to the requirements of Section 2.8, including without limitation the default lump sum payment rules of Section 2.8(d) and the special rules for certain "specified employees" pursuant to Section 2.8(i).

2.8 Distribution Provisions

(a) **Class Year Payment Elections**

(i) **Class Year Deferrals:** A Participant for a Plan Year beginning on or after January 1, 2006 shall elect from among the available forms of payment set forth in Section 2.8(b) the form of payment that shall apply to the Class Year Deferrals for such Plan Year. The class year payment election shall be made coincident with the deferral elections under Sections 2.3(b) and 2.3(c) for such Plan Year.

(ii) **Matching Contributions:** As to the Class Year Deferrals comprised of all matching contributions credited after 2005 pursuant to Section 2.4 or any other amounts credited after 2005 pursuant to Section 2.12 for a Participant, the applicable class year payment election shall be made by the Participant coincident with the first time the Participant makes a deferral election under the Restoration Plan for any Plan Year beginning on or after January 1, 2006. Notwithstanding any provision of the Restoration Plan to the contrary, except for a withdrawal on account of an unforeseeable emergency pursuant to Section 2.8(h), such Class Year Deferrals shall not be payable until the Participant has Terminated Employment.

(iii) **Make-up Contributions:** Notwithstanding any provision of the Restoration Plan to the contrary, except for a withdrawal on account of an unforeseeable emergency pursuant to Section 2.8(h), the Class Year Deferrals comprised of all make-up contributions credited pursuant to Section 2.4(d) for a Participant shall be payable as a lump sum payment following Termination of Employment as set forth in Section 2.8(b) unless the Participant changes the time of such payment pursuant to Section 2.8(c). In no event shall a Participant be able to change the form of such payment.

(b) **Available Forms of Payment:** A Participant shall select from among the following forms of payment for each set of Class Year Deferrals. The Participant must select a single form of payment applicable to each set of Class Year Deferrals (i.e., a set of Class Year Deferrals may not be "split" among more than one form of payment):

(i) **Lump Sum Payment Following Termination of Employment:** The balance of the applicable Class Year Deferrals shall be payable following the Participant's Termination of Employment in a single cash payment.

(ii) **Lump Sum Payment In Specified Year:** The balance of the applicable Class Year Deferrals shall be payable in the calendar year elected by the Participant, not to exceed the calendar year in which the Participant attains age 75, in a single cash payment.

(iii) **Lump Sum Payment Upon Later of Termination of Employment or Specified Year:** The balance of the applicable Class Year Deferrals shall

be payable upon the later of the Participant's Termination of Employment or the calendar year elected by the Participant, not to exceed the calendar year in which the Participant attains age 75, in a single cash payment.

(iv) **Annual Installments Following Termination of Employment:** The balance of the applicable Class Year Deferrals shall be payable following the Participant's Termination of Employment in annual installment payments over a period of years selected by the Participant not to exceed ten (10).

(v) **Annual Installments Commencing In Specified Year:** The balance of the applicable Class Year Deferrals shall be payable commencing in the calendar year elected by the Participant, not to exceed the calendar year in which the Participant attains age 75, in annual installment payments over a period of years selected by the Participant not to exceed ten (10).

(vi) **Annual Installments Commencing Upon Later of Termination of Employment or Specified Year:** The balance of the applicable Class Year Deferrals shall be payable commencing upon the later of the Participant's Termination of Employment or the calendar year elected by the Participant, not to exceed the calendar year in which the Participant attains age 75, in annual installment payments over a period of years selected by the Participant not to exceed ten (10).

A Participant who fails to make a class year payment election for a set of Class Year Deferrals in accordance with the provisions of this Section 2.8(b) shall be deemed to have elected for such set of Class Year Deferrals a lump sum payment following Termination of Employment.

(c) **Subsequent Changes to Payment Elections:** A Participant may change the time or form of payment elected under Section 2.8(b), or the time or form of payment subsequently elected under this Section 2.8(c), with respect to a set of Class Year Deferrals only if (i) such election is made at least 12 months prior to January 1 of the Plan Year in which the payment of the Class Year Deferrals would have otherwise commenced and (ii) the effect of such election is to defer commencement of such payments by at least 5 years.

(d) **Default Lump Sum Payment:** Notwithstanding any provision herein to the contrary, a Participant's entire Account balance shall be payable in a single cash payment following the Participant's Termination of Employment if either (i) as of the last business day immediately preceding the next payment date following the end of the Plan Year in which the Termination of Employment occurs, the amount of the Participant's Account balance equals $50,000 or less or (ii) as of the Participant's date of Termination of Employment, the Participant had less than 60 months of vesting service under the 401(k) Plan.

(e) **Timing of Lump Sum Payments:**

(i) **Lump Sum Payment Following Termination of Employment:** Class Year Deferrals payable as a lump following a Participant's Termination of Employment shall be paid in a single cash payment to the Participant within ninety (90) days following the end of the Plan Year in which the Termination of Employment occurs; provided, however, that if the Global Human Resources Group is not notified of a Participant's Termination of Employment until after the end of the Plan Year in which such Termination of Employment occurs, then payment shall be made by the end of the Plan Year following the Plan Year of Termination of Employment. The Class Year Deferrals shall continue to be credited with adjustments under Section 2.5 as follows:

(A) 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 2.5 through the last business day immediately preceding the payment date; and

(B) for any other Participant, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 2.5 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 Global Human Resources Group if the Global Human Resources Group is not notified of a Participant's Termination of Employment 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 the Stable Value Fund.

(ii) **Lump Sum Payment In Specified Year:** For any Class Year Deferrals payable as a lump sum in a specified year elected by a Participant, the Participant shall be paid during the first ninety (90) days of the applicable Plan Year of payment elected by the Participant a single cash payment in an amount equal to the balance of the Class Year Deferrals as of the last business day immediately preceding the payment date. If the Plan Year of payment is after the date of the Participant's Termination of Employment, then:

(A) 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 2.5 through the last business day immediately preceding the payment date; and

(B) for any other Participant, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 2.5 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 Global Human Resources Group if the Global Human Resources Group is not notified of a Participant's Termination of Employment 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 Value Fund.

(f) **Timing of Annual Installments:**

(i) **Annual Installments Following Termination of Employment:** For any Class Year Deferrals payable as annual installments following Termination of Employment, the first installment shall be paid within ninety (90) days following the end of the Plan Year in which the Participant Terminates Employment with the Participating Employers; provided, however, that if the Global Human Resources Group is not notified of a Participant's Termination of Employment until after the Plan Year in which the Termination of Employment occurs, then the first installment shall be paid by the end of the Plan Year following the Plan Year of Termination of Employment. Each subsequent installment shall be paid within ninety (90) days following the end of each subsequent Plan Year during the selected payment period. The amount of each installment payment shall equal the balance of the Class Year Deferrals as of the last business day immediately preceding the applicable payment date divided by the number of remaining installments (including the installment then payable). For a Participant who Terminates Employment with the Participating Employers 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 2.5 through the last business day immediately preceding the final payment. For any other Participant, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 2.5 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 Global Human Resources Group if the Global Human Resources Group is not notified of a Participant's Termination of Employment until after the end of the Plan Year in which such Termination of Employment occurs), and thereafter until the last business day immediately preceding the final payment the Class Year Deferrals shall be deemed invested in the Stable Value Fund.

(ii) **Annual Installments Commencing In Specified Year:** For any Class Year Deferrals payable as annual installments commencing in a specified year elected by a Participant, the first annual installment shall be payable during the first ninety (90) days of the applicable Plan Year of commencement elected by the Participant. Each subsequent installment shall be paid within ninety (90) days following the end of each subsequent Plan Year during the selected payment period. The amount of each installment payment shall equal the balance of the Class Year Deferrals as of last business day immediately preceding the applicable payment date divided by the number of remaining installments (including the installment then payable). If the Participant Terminates Employment with the Participating Employers before or during the installment payment period, then:

(A) 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 2.5 through the last business day immediately preceding the final payment; and

(B) for any other Participant, the Participant shall continue to be eligible to elect from among the available deemed investment vehicles pursuant to Section 2.5 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 Global Human Resources Group if the Global Human Resources Group is not notified of a Participant's Termination of Employment until after the end of the Plan Year in which such Termination of Employment occurs), and thereafter until the last business day immediately preceding the final payment the Class Year Deferrals shall be deemed invested in the Stable Value Fund.

(g) **Death of a Participant:** If a Participant dies before having been paid the entire balance of the Participant's Account (including a Participant receiving installment payments), the remaining unpaid balance of the Account shall be payable to the Participant's Beneficiary in a single cash payment within ninety (90) days following the end of the Plan Year in which the Participant dies; provided, however, that if the Global Human Resources Group is not notified of a Participant's death until more than ninety (90) days after the end of the Plan Year in which such death occurs, then payment shall be made within ninety (90) days after the end of the Plan Year in which such notice of death is received by the Global Human Resources Group. The Account shall be deemed invested in the Stable Value Fund from the date notice of death is received by the Global Human Resources Group until the last business day immediately preceding the final payment of the Account.

(h) **Withdrawals on Account of an Unforeseeable Emergency:** A Participant may, in the Global Human Resources Group's sole discretion, receive a refund of all or any part of the amounts previously credited to the Participant's Accounts in the case of an "unforeseeable emergency." A Participant requesting a payment pursuant to this Section shall have the burden of proof of establishing, to the Global Human Resources Group's satisfaction, the existence of such "unforeseeable emergency," and the amount of the payment needed to satisfy the same. In that regard, the Participant shall provide the Global Human Resources Group with such financial data and information as the Global Human Resources Group may request. If the Global Human Resources Group determines that a payment should be made to a Participant under this Section, such payment shall be made within a reasonable time after the Global Human Resources Group's determination of the existence of such "unforeseeable emergency" and the amount of payment so needed. The Global Human Resources Group may in its discretion establish the order in which amounts shall be withdrawn under this Section from a Participant's Accounts. As used herein, the term "unforeseeable emergency" means a severe financial hardship to a Participant resulting from a sudden and unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. The circumstances that shall constitute an "unforeseeable emergency" shall depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved (i) through reimbursement or compensation by insurance or otherwise, or (ii) by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship. Examples of what are not considered to be "unforeseeable emergencies" include the need to send a Participant's child to college or the purchase of a home. Withdrawals of amounts because of an "unforeseeable emergency" shall not exceed an amount reasonably needed to satisfy the emergency need. The Global Human Resources Group shall also permit an "unforeseeable emergency" request to be made under this subsection (h) by a Participant's Beneficiary following the Participant's death.

(i) **Special Provisions for "Specified Employees":** Notwithstanding any provision in the Restoration Plan to the contrary, to the extent applicable, in no event shall any payment hereunder be made to a "specified employee" within the meaning of Section 409A of the Code and the Bank of America 409A Policy earlier than 6 months after the date of the Participant's Termination of Employment, except in connection with the Participant's death.

2.9 General Payment Provisions

(a) **Payments for Participants Who Terminated Employment Prior to 2005:** Payments to any Participant who Terminated Employment prior to 2005 shall be made in accordance with the provisions of the Restoration Plan as in effect prior to 2005.

(b) **Other Payment Provisions:** To be effective, any elections under Sections 2.7 or 2.8 shall be made on such form, at such time and pursuant to such procedures as determined by the Global Human Resources Group in its sole discretion from time to time. Any deferral or payment hereunder shall be subject to applicable payroll and withholding taxes. In the event any amount becomes payable under the provisions of the Restoration Plan to a Participant, Beneficiary or other person who is a minor or an incompetent, whether or not declared incompetent by a court, such amount may be paid directly to the minor or incompetent person or to such person's fiduciary (or attorney-in-fact in the case of an incompetent) as the Global Human Resources Group, in its sole discretion, may decide, and the Global Human Resources Group shall not be liable to any person for any such decision or any payment pursuant thereto.

2.10 Catch-Up Contributions

Certain Eligible Associates may become eligible under the 401(k) Plan to make "catch-up" contributions (within the meaning of Section 414(v) of the Code). Any such catch-up contributions made to the 401(k) Plan shall not in any manner affect the determination of the amount of deferrals to the Restoration Plan under Section 2.3. Instead, such catch-up contributions shall be in addition to the aggregate combined deferrals elected to the 401(k) Plan and Restoration Plan hereunder.

2.11 Special Provisions Related to Completion Incentives

For an Eligible Associate who receives a Completion Incentive in a Plan Year which relates to one or more prior Plan Years, the following provisions shall apply:

(a) The Global Human Resources Group, upon consultation with the appropriate business unit, shall allocate the Completion Incentive among the applicable Plan Years for which it was deemed earned.

(b) Any deferral under Section 2.3 shall be determined separately with respect to the Restoration Plan deferral election (if any) in effect for each Plan Year for which the Completion Incentive was deemed earned. The applicable Restoration Plan deferral election in effect for each such Plan Year shall be applied against the portion of the Completion Incentive allocated to such Plan Year under subparagraph (a). Any such portion of the Completion Incentive deferred under the Restoration Plan with respect to a Plan Year shall be part of the Class Year Deferrals for that Plan Year.

(c) Each deferral to the Restoration Plan with respect to the Completion Incentive determined under subparagraph (b) shall be eligible for a matching contribution under the Restoration Plan in accordance with, and subject to, the provisions of Section 2.4. Such matching contributions shall be determined separately with respect to each Plan Year for which the Completion Incentive was deemed earned.

(d) Although the Completion Incentive may relate to one or more prior Plan Years, the related deferrals and matching contributions to be made under subparagraphs (b) and (c) shall be credited in an administratively reasonable time following notification to the Global Human Resources Group of the Completion Incentive having been paid without any adjustment for earnings.

2.12 Other Contributions

The Participating Employers may from time to time, in their sole and exclusive discretion, elect to credit a Participant's Account with additional amounts not otherwise contemplated by this Article II.

ARTICLE III

PLAN ADMINISTRATION

3.1 Committee

The Restoration Plan shall be administered by the "committee" under (and as defined in) the 401(k) Plan (although certain provisions of the Restoration Plan shall be administered by the Global Human Resources Group as specified herein). The Committee shall have full discretionary authority to interpret the provisions of the Plan, and decide all questions and settle all disputes which may arise in connection with the Plan, and may establish its own operative and administrative rules and procedures in connection therewith, provided such procedures are consistent with the requirements of Section 503 of ERISA. All interpretations, decisions and determinations made by the Committee will be binding on all persons concerned. No member of the Committee who is a Participant in the Restoration Plan may vote or otherwise participate in any decision or act with respect to a matter relating solely to such member (or to such member's Beneficiaries). Not in limitation, but in amplification, of the foregoing provisions of this Section, the Committee has the duty and power to modify or supplement any Plan accounting method, practice or procedure, make any adjustments to accounts or modify or supplement any other aspect of the operation or administration of the Plan in such manner and to such extent consistent with and permitted by the Code that the Committee deems necessary or appropriate to correct errors and mistakes, to effect proper and equitable account adjustments or otherwise to ensure the proper and appropriate administration and operation of the Plan.

ARTICLE IV

AMENDMENT AND TERMINATION

4.1 Amendment and Termination

The Corporation shall have the right and power at any time and from time to time to amend the Restoration Plan in whole or in part, on behalf of all Participating Employers, and at any time to terminate the Restoration Plan or any Participating Employer's participation hereunder; provided, however, that no such amendment or termination shall reduce the amount actually credited to the Account(s) of any Participant (or beneficiary of a deceased Participant) on the date of such amendment or termination, or further defer the due dates for the payment of such amounts, without the consent of the affected person. To the extent permitted by Section 409A of the Code, in connection with any termination of the Restoration Plan the Corporation shall have the authority to cause the Accounts of all Participants (and beneficiary of any deceased Participants) to be paid in a single sum payment as of a date determined by the Corporation or to otherwise accelerate the payment of all Accounts in such manner as the Corporation shall determine in its discretion.

ARTICLE V

MISCELLANEOUS PROVISIONS

5.1 Nature of Plan and Rights

The Restoration Plan is unfunded and intended to constitute an incentive and deferred compensation plan for a select group of officers and key management employees of the Participating Employers. If necessary to preserve the above intended plan status, the Committee, in its sole discretion, reserves the right to limit or reduce the number of actual Participants and otherwise to take any remedial or curative action that the Committee deems necessary or advisable. The Accounts established and maintained under the Restoration Plan by a Participating Employer are for accounting purposes only and shall not be deemed or construed to create a trust fund of any kind or to grant a property interest of any kind to any Associate, designated beneficiary or estate. The amounts credited by a Participating Employer to such Accounts are and for all purposes shall continue to be a part of the general assets of such Participating Employer, and to the extent that an Associate, beneficiary or estate acquires a right to receive payments from such Participating Employer pursuant to the Restoration Plan, such right shall be no greater than the right of any unsecured general creditor of such Participating Employer.

5.2 Spendthrift Provision

A Participant's or Beneficiary's rights and interests under the Plan may not be assigned or transferred by the Participant or Beneficiary. In that regard, no part of any amounts credited or payable hereunder shall, prior to actual payment, (i) be subject to seizure, attachment, garnishment or sequestration for the payment of debts, judgments, alimony or separate maintenance owed by the Participant or any other person, (ii) be transferable by operation of law in the event of the Participant's or any person's bankruptcy or insolvency or (iii) be transferable to a spouse as a result of a property settlement or otherwise. Notwithstanding the foregoing, the Participating Employers shall have the right to offset from a Participant's unpaid benefits under the Restoration Plan any amounts due and owing from the Participant to the extent permitted by law.

5.3 Limitation of Rights

Neither the establishment of the Restoration Plan, nor any amendment thereof, nor the payment of any benefits will be construed as giving any individual any legal or equitable right against the Company, any Participating Employer, or the Committee. In no event will the Plan be deemed to constitute a contract between any Employee and the Company, a Participating Employer, or the Committee. The Plan shall not be deemed to be consideration for, or an inducement for, the performance of services by an employee of a Participating Employer.

5.4 Adoption by Other Participating Employers

The Restoration Plan may be adopted by any Participating Employer participating under the 401(k) Plan, such adoption to be effective as of the date specified by such Participating Employer at the time of adoption.

5.5 Governing Law

The Restoration Plan shall be construed, administered and governed in accordance with the laws of the State of North Carolina, except to the extent such laws are preempted by federal law.

5.6 Merged Plans

(a) **Merger of Plans:** From time to time the Participating Employers may cause other nonqualified plans to be merged into the Restoration Plan. Schedule 5.6 attached hereto sets forth the names of the plans that merged into the Restoration Plan by January 1, 2009 and their respective merger dates. Schedule 5.6 shall be updated from time to time to reflect mergers after January 1, 2009.

(b) **Effect of Merger of Plans:** Upon such a merger, the account balance(s) immediately prior to the date of merger of each participant in the merged plan shall be transferred and credited as of the merger date to one or more accounts established under the Restoration Plan for such participant, including without limitation a predecessor company Account as determined by the Global Human Resources Group. From and after the merger date, the participant's rights shall be determined under the Restoration Plan, and the participant shall be subject to all of the restrictions, limitations and other terms and provisions of the Restoration Plan. Not in limitation of the foregoing, each Restoration Plan Account established for the participant as a result of the merger shall be periodically adjusted when and as provided in Section 2.5 hereof as in effect from time to time and shall be paid at such time and in such manner as provided in Section 2.7 and Section 2.8 hereof, except to the extent otherwise provided on Schedule 5.6. The Global Human Resources Group shall, in its discretion, establish any procedures it deems necessary or advisable in order to administer any such plan mergers, including without limitation procedures for transitioning from the method of account adjustments under the prior plan to the methods provided for under the Restoration Plan. The Global Human Resources Group may also establish any special distribution or other rules with respect to such balances, which such special rules shall be specified on Schedule 5.6.

5.7 Status Under ERISA

The Restoration Plan is maintained for purposes of providing deferred compensation for a select group of management or highly compensated employees. In addition, to the extent that the Restoration Plan makes up benefits limited under the 401(k) Plan as a result of Section 415 of the Code, the Restoration Plan shall be considered an "excess benefit plan" within the meaning of ERISA.

5.8 Compliance With Section 409A Of The Code

The Restoration Plan is intended to comply with Section 409A of the Code. Notwithstanding any provision of the Restoration Plan to the contrary, the Restoration Plan shall be interpreted, operated and administered in a manner consistent with this intent.

5.9 Severability

If any provision of the Restoration Plan is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

5.10 Headings and Subheadings

Headings and subheadings are inserted for convenience only and are not to be considered in the construction of the provisions of the Restoration Plan.

5.11 Social Security Tax

Subject to the requirements of Section 3121(v)(2) of the Code, the Committee has the full discretion and authority to determine when Federal Insurance Contribution Act ("FICA") taxes on a Participant's Restoration Plan benefit or account are paid and whether any portion of such FICA taxes shall be withheld from the Participant's wages or deducted from the participant's benefit or account.

5.12 Claims Procedure

Any claim for benefits under the Restoration Plan by a Participant or Beneficiary shall be made in accordance with the claims procedures set forth in the 401(k) Plan.

5.13 Limited Effect Of Restatement

Notwithstanding anything to the contrary contained in the Restoration Plan, to the extent permitted by ERISA and the Code, this instrument shall not affect the availability, amount, form or method of payment of benefits being paid before the effective date hereof to any Participant or former Participant (or a Beneficiary of either) in the Restoration Plan who is not an active participant on or after the effective date hereof, said availability, amount, form or method of payment of benefits, if any, to be determined in accordance with the applicable provisions of the Restoration Plan as in effect prior to the effective date hereof.

5.14 Binding Effect

The Restoration Plan (including any and all amendments thereto) shall be binding upon the Participating Employers, their respective successors and assigns, and upon the Participants and their Beneficiaries and their respective heirs, executors, administrators, personal representatives and all other persons claiming by, under or through any of them.

IN WITNESS WHEREOF, this instrument has been executed by the Corporation on the 24th day of November, 2008 and effective as of January 1, 2009.

BANK OF AMERICA CORPORATION

By: /s/ Mark S. Behnke
Mark S. Behnke, Global Compensation,
Benefits and Shared Services Executive

SCHEDULE 5.6

MERGED PLANS AS OF JANUARY 1, 2009

Plan Name	Date of Merger
C&S Policy Committee Supplemental Savings Plan	December 31, 2002
C&S Key Executive Supplemental Savings Plan	December 31, 2002
C&S/Sovran Supplemental Retirement Plan for Former Sovran Executives (Thrift Restoration Benefits)	December 31, 2002
First & Merchants Corporation Deferred Management Incentive Compensation Plan	March 31, 1993
Sovran Deferred Compensation Plan	March 31, 1993
NationsBank of Texas, N.A. Profit Sharing Restoration Plan	March 31, 1993
Thrift Plan Reserve Account Maintained Under the NationsBank Corporation and Designated Subsidiaries Supplemental Executive Retirement Plan	March 31, 1993
Bank South Executive Bonus Deferral Plan	July 1, 1996
Boatmen's Bancshares, Inc. Executive Deferred Compensation Plan	December 31, 1997
Fourth Financial Corporation Executive Deferred Compensation Plan	December 31, 1997
NationsBank Corporation Key Employee Deferral Plan	April 1, 1998
Deferred compensation components of the NationsBank Corporation Executive Incentive Compensation Plan	April 1, 1998
Management Excess Savings Plan of Barnett Banks, Inc. and its Affiliates	December 31, 1998
BankAmerica Deferred Compensation Plan	June 30, 2000
BankAmerica Supplemental Retirement Plan	June 30, 2000
ABN AMRO Group Supplemental Savings Plan	April 1, 2008

Special Rules Applicable to Former Participants of and Balances Merged from the ABN AMRO Group Supplemental Savings Plan ("SSP"):

(a) **Special Payment Elections:** Each Participant with an account balance(s) merged from the ABN AMRO Group Supplemental Savings Plan ("SSP Account Balance(s)") who was in the active service of a Participating Employer on April 1, 2008 was given the opportunity during 2008 to make a payment election applicable to the Participant's SSP Account Balance(s). The Participant could elect from among the class year payment options set forth in Section 2.8(b), and such election was immediately effective. Notwithstanding the foregoing, such payment election was not applicable to any amounts otherwise payable in 2008 and did not cause any amounts to be paid in 2008 that would not otherwise be payable in such year. In the event a Participant covered by this Schedule 5.6(a) failed to make a payment election with respect to the Participant's SSP Account Balance(s), the payment method shall be a lump sum payment following Termination of Employment as set forth in Section 2.8(b). Any subsequent change to such payment election must comply with the requirements of Section 2.8(c). Payments pursuant to such election shall otherwise be subject to the requirements of Section 2.8, including the default lump sum payment rules of Section 2.8(d) and the special rules for certain "specified employees" pursuant to Section 2.8(i). Notwithstanding the foregoing sentence, no default lump sum payment was made pursuant to Section 2.8(d) if such payment would have caused any amounts to be paid in 2008 that would not otherwise have been payable in such year.

(b) **Payment Rule Applicable to Terminated SSP Participants** The SSP Account Balance(s) of each Participant who was not in the active service of a Participating Employer on April 1, 2008 shall be paid to the Participant at the time and in the form applicable to the Participant's account balance(s) under the SSP on March 31, 2008. Each such Participant shall not have the opportunity to make any subsequent change to the payment election applicable to the Participant's SSP Account Balance(s) under the SSP on March 31, 2008 as provided in Section 2.8(c). In all other respects, each such Participant's rights shall be determined under the Restoration Plan, and each such Participant shall be subject to all of the restrictions, limitations and other terms and provisions of the Restoration Plan, including the special rules for certain "specified employees" pursuant to Section 2.8(i), but excluding the default lump sum payment rules of Section 2.8(d).

(c) **Ongoing Restoration Plan Participation:** No former participant in the SSP shall be eligible to otherwise participate in the Restoration Plan unless such participant becomes eligible to participate in the Restoration Plan under Section 2.1.

RETIREMENT INCOME ASSURANCE PLAN FOR LEGACY FLEET

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

RETIREMENT INCOME ASSURANCE PLAN FOR LEGACY FLEET

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

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RETIREMENT INCOME ASSURANCE PLAN FOR LEGACY FLEET

(AS AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2009)

THIS INSTRUMENT OF AMENDMENT AND RESTATEMENT is executed by BANK OF AMERICA CORPORATION, a Delaware corporation (the "Corporation");

Statement of Purpose

The Corporation sponsors the Retirement Income Assurance Plan for Legacy Fleet (the "Plan"). The purpose of the Plan is to provide benefits, on a non-qualified and unfunded basis, to certain associates whose benefits under The Bank of America Pension Plan for Legacy Fleet are adversely affected by the limitations of Sections 401(a)(17) and 415 of the Internal Revenue Code, as well as any other limitations that may be placed on highly compensated participants under such plans.

The Corporation is amending and restating the Plan effective January 1, 2009 as set forth herein to (i) reflect certain design changes to the Plan, (ii) provide for the Plan's documentary compliance with the requirements of Section 409A of the Code and (iii) otherwise meet current needs.

NOW, THEREFORE, for the purposes aforesaid, the Corporation hereby amends and restates the Plan effective January 1, 2009 to consist of the following Articles I through VII:

ARTICLE I

DEFINITIONS

Unless defined herein, any word, phrase or term used in the Plan shall have the meaning given to it in the Basic Plan. However, the following terms have the following meanings unless a different meaning is clearly required by the context:

1.1 Basic Plan

The Bank of America Pension Plan for Legacy Fleet, as amended and in effect from time to time.

1.2 Beneficiary

The "beneficiary" of a Participant under the Basic Plan unless the Participant elects a different Beneficiary for purposes of the Plan in accordance with such procedures as the Global Human Resources Group may establish from time to time. If there is no Beneficiary election in effect under the Basic Plan or the Plan at the time of a Participant's death, or if the designated Beneficiary fails to survive the Participant, then the Beneficiary shall be the Participant's surviving spouse, or if there is no surviving spouse, the Participant's estate.

1.3 Benefit Commencement Date

The date that a Participant's Pre-2005 Benefit and/or Post-2004 Benefit, as applicable, is paid or begins to be paid.

1.4 Cash Balance Participant

A Participant who is a Cash Balance Participant under the Basic Plan and whose benefits under the Basic Plan are limited by Section 415 or 401(a)(17) of the Code.

1.5 Code

The Internal Revenue Code of 1986, as amended. References to the Code shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial authority issued or rendered thereunder.

1.6 Committee

The Bank of America Corporate Benefits Committee.

1.7 Company

Bank of America Corporation, a Delaware corporation, and any successor thereto.

1.8 Delink Calculation Date

The date determined by the Global Human Resources Group that is no more than 75 days after the Participant's Termination of Employment.

1.9 Global Human Resources Group

The Global Human Resources Group of the Company.

1.10 Participant

(a) A Cash Balance Participant; and

(b) A Traditional Participant.

1.11 Participating Employer

The Company, each subsidiary or affiliate that adopts and participates in the Plan and each successor corporation that continues the Plan.

1.12 Plan

The Retirement Income Assurance Plan for Legacy Fleet as in effect from time to time.

1.13 Plan Year

The 12-month period commencing January 1 and ending the following December 31.

1.14 Post-2004 Benefit

(a) For a Cash Balance Participant, the Post-2004 Cash Balance Benefit; and

(b) For a Traditional Participant, the Post-2004 Traditional Benefit.

1.15 Post-2004 Cash Balance Benefit

The benefit payable under the Plan to a Cash Balance Participant (or the Cash Balance Participant's Beneficiary) with respect to amounts that become earned or vested after December 31, 2004, determined as of the Cash Balance Participant's Benefit Commencement Date in accordance with Section 3.4.

1.16 Post-2004 Traditional Benefit

The benefit payable under the Plan to a Traditional Participant (or the Traditional Participant's Beneficiary) with respect to amounts that become earned or vested after December 31, 2004, determined as of the Traditional Participant's Benefit Commencement Date in accordance with Section 3.2.

1.17 Pre-2005 Benefit

(a) For a Cash Balance Participant, the Pre-2005 Cash Balance Benefit; and

(b) For a Traditional Participant, the Pre-2005 Traditional Benefit.

1.18 Pre-2005 Cash Balance Benefit

The benefit payable under the Plan to a Cash Balance Participant (or the Cash Balance Participant's Beneficiary) with respect to amounts earned and vested as of December 31, 2004, determined as of the Cash Balance Participant's Benefit Commencement Date in accordance with Section 3.3.

1.19 Pre-2005 Traditional Benefit

The benefit payable under the Plan to a Traditional Participant (or the Traditional Participant's Beneficiary) with respect to amounts earned and vested as of December 31, 2004, determined as of the Traditional Participant's Benefit Commencement Date in accordance with Section 3.1.

1.20 Termination of Employment

For purposes of the Plan whether a "Termination of Employment" has occurred shall be determined consistent with the requirements of Section 409A of the Code and the Bank of America 409A Policy to the extent applicable.

1.21 Traditional Participant

A Participant who is a Traditional Participant under the Basic Plan and whose benefits under the Basic Plan are limited by Section 415 or 401(a)(17) of the Code.

1.22 Vesting Service

Vesting Service as defined under the Basic Plan.

ARTICLE II

SOURCE OF BENEFIT PAYMENTS

2.1 Obligation of Company

The Company will establish on its books a liability with respect to its obligation for benefits payable under the Plan to Participants (and their Beneficiaries). Each Participant and Beneficiary will be an unsecured general creditor of the Company with respect to all benefits payable under the Plan.

2.2 No Funding Required

Nothing in the Plan will be construed to obligate the Company to fund the Plan. However, the Company may but shall not be required to establish a trust of which the Company is treated as the owner under Subpart E of Subchapter J, Chapter 1 of the Code (a "grantor trust") and may deposit funds with the trustee of the trust sufficient to satisfy the benefits provided under the Plan. If the Company establishes such a grantor trust and, if at the time of a "change of control" as defined in the trust, the trust has not been fully funded, the Company shall, within the time and manner specified under such trust, deposit in such trust amounts sufficient to satisfy all obligations under the Plan as of the date of deposit. In all events the Company shall remain ultimately liable for the benefits payable under the Plan, and, to the extent the assets at the disposal of the trustee are insufficient to enable the trustee to satisfy all benefits, the Company shall pay all such benefits necessary to meet its obligations under the Plan.

2.3 No Claim to Specific Benefits

Nothing in the Plan will be construed to give any individual rights to any specific assets of the Company, or any other person or entity.

ARTICLE III

BENEFITS

3.1 Pre-2005 Traditional Benefit

(a) **Amount of Pre-2005 Traditional Benefit:** The amount of the Pre-2005 Traditional Benefit payable under the Plan to a Traditional Participant (or to the Traditional Participant's Beneficiary, in the event of the Traditional Participant's death) is the Traditional Participant's accrued benefit as of December 31, 2004 determined in accordance with subsection (b) of this Section, valued as a single life annuity at the Traditional Participant's Benefit Commencement Date using Basic Plan assumptions in effect at the Traditional Participant's Delink Calculation Date.

(b) **Traditional Participant's Accrued Benefit as of December 31, 2004:** A Traditional Participant's accrued benefit as of December 31, 2004 is equal to Amount A minus Amount B, assuming benefits commence on January 1, 2005 as a single life annuity and based on the Traditional Participant's Vesting Service through December 31, 2004 and age as of January 1, 2005, where:

(i) **Amount A** is the amount of the accrued benefit the Traditional Participant (or Beneficiary) would have been entitled to receive under the Basic Plan as of December 31, 2004 if "earnings" under the Basic Plan included deferrals of base pay, commissions or non-discretionary incentive pay made under the Bank of America 401(k) Restoration Plan; provided, however, that if the limits of Section 1.14(iv) of the Basic Plan apply to the Traditional Participant, such deferrals will be taken into account under this Section only to the extent the deferrals, when added to the commissions, non-discretionary incentive pay and actual base pay previously counted under the Basic Plan in the same year, do not exceed the limit described in Section 1.14(iv) of the Basic Plan, and the limitations of Sections 401(a)(17) and 415 of the Code (and the provisions of the Basic Plan applying those limitations) did not exist; and

(ii) **Amount B** is the amount of the accrued benefit payable to the Traditional Participant (or Beneficiary) under the Basic Plan as of December 31, 2004.

3.2 Post-2004 Traditional Benefit

(a) **Amount of Post-2004 Traditional Benefit:** The amount of the Post-2004 Traditional Benefit payable under the Plan to a Traditional Participant (or to the Traditional Participant's Beneficiary, in the event of the Traditional Participant's death) is the difference between (i) the lump sum value of the total accrued benefit payable to the Traditional Participant at the Traditional Participant's Delink Calculation Date determined in accordance with subsection (b) of this

Section and (ii) the lump sum value of the Traditional Participant's accrued benefit as of December 31, 2004 (determined in accordance with Section 3.1(b)) as of the first day of the month on or after the Traditional Participant's Delink Calculation Date using the Basic Plan assumptions in effect on the first day of the month on or after the Traditional Participant's Delink Calculation Date (but not less than zero). The Post-2004 Traditional Benefit is valued as of the Traditional Participant's Benefit Commencement Date using Basic Plan assumptions.

(b) **Lump Sum Value of Total Accrued Benefit:** The lump sum value of the total accrued benefit payable under the Plan to a Traditional Participant (or to the Traditional Participant's Beneficiary, in the event of the Traditional Participant's death) at the Traditional Participant's Delink Calculation Date is equal to Amount A minus Amount B, assuming that benefits commence as of the first day of the month on or after the Traditional Participant's Delink Calculation Date as a single life annuity and based on the Traditional Participant's Vesting Service and age as of the Traditional Participant's Delink Calculation Date, valued as a lump sum using the Basic Plan assumptions in effect on the first day of the month on or after the Traditional Participant's Delink Calculation Date where:

(i) **Amount A** is the amount of the accrued benefit the Traditional Participant (or Beneficiary) would have been entitled to receive under the Basic Plan as of the first day of the month on or after the Traditional Participant's Delink Calculation Date if "earnings" under the Basic Plan included deferrals of base pay, commissions or non-discretionary incentive pay made under the Bank of America 401(k) Restoration Plan; provided, however, that if the limits of Section 1.14(iv) of the Basic Plan apply to the Traditional Participant, such deferrals will be taken into account under this Section 3.2(b) only to the extent the deferrals, when added to the commissions, non-discretionary incentive pay and actual base pay previously counted under the Basic Plan in the same year, do not exceed the limit described in Section 1.14(iv) of the Basic Plan, and the limitations of Sections 401(a)(17) and 415 of the Code (and the provisions of the Basic Plan applying those limitations) did not exist; and

(ii) **Amount B** is the amount of the accrued benefit payable to the Traditional Participant (or Beneficiary) under the Basic Plan as of the first day of the month on or after the Traditional Participant's Delink Calculation Date.

3.3 Pre-2005 Cash Balance Benefit

(a) **Amount of Pre-2005 Cash Balance Benefit:** The amount of the Pre-2005 Cash Balance Benefit payable under the Plan to a Cash Balance Participant (or to the Cash Balance Participant's Beneficiary, in the event of the Cash Balance Participant's death) is the Cash Balance Participant's account balance as of December 31, 2004 determined in accordance with subsection (b) of this Section, increased with interest credits from December 31, 2004 to the Benefit Commencement Date using the Basic Plan's interest crediting rates.

(b) **Pre-2005 Account Balance at December 31, 2004:** The Cash Balance Participant's pre-2005 account balance at December 31, 2004 is determined as Amount A minus Amount B, based on the Basic Plan assumptions and the Cash Balance Participant's Vesting Service and age as of December 31, 2004 where:

(i) **Amount A** is the amount of the benefit the Cash Balance Participant (or Beneficiary) would have been entitled to receive under the Basic Plan as of December 31, 2004 (expressed as a lump sum if not otherwise a lump sum) if "earnings" under the Basic Plan included deferrals of base pay, commissions or non-discretionary incentive pay made under the Bank of America 401(k) Restoration Plan; provided, however, that if the limits of Section 1.14(iv) of the Basic Plan apply to the Cash Balance Participant, such deferrals will be taken into account under this Section only to the extent the deferrals, when added to the commissions, non-discretionary incentive pay and actual base pay previously counted under the Basic Plan in the same year, do not exceed the limit described in Section 1.14(iv) of the Basic Plan, and "earnings" under the Basic Plan were not limited by Section 401(a)(17) of the Code, and the limitations of Section 415 of the Code (and provisions of the Basic Plan applying those limitations) did not exist; and

(ii) **Amount B** is the amount of the benefit payable to the Cash Balance Participant (or Beneficiary) under the Basic Plan as of December 31, 2004 (expressed as a lump sum if not otherwise a lump sum).

3.4 Post-2004 Cash Balance Benefit

(a) **Amount of Post-2004 Cash Balance Benefit:** The amount of the Post-2004 Cash Balance Benefit payable under the Plan to a Cash Balance Participant (or to the Cash Balance Participant's Beneficiary, in the event of the Cash Balance Participant's death) is the difference between (i) the Cash Balance Participant's total account balance at the Cash Balance Participant's Delink Calculation Date determined in accordance with subsection (b) of this Section and (ii) the Cash Balance Participant's pre-2005 account balance at December 31, 2004 (determined in accordance with Section 3.3(b)), increased with interest from December 31, 2004 to the Delink Calculation Date (but not less than zero). The Post-2004 Cash Balance Benefit is increased with interest credits from the Cash Balance Participant's Delink Calculation Date to the last business day immediately preceding complete distribution of the Post-2004 Cash Balance Benefit using the Basic Plan's interest crediting rates.

(b) **Total Account Balance at Delink Calculation Date:** The total account balance at Delink Calculation Date is determined as Amount A minus Amount B, based on the Basic Plan assumptions and the Cash Balance Participant's Vesting Service and age as of the Delink Calculation Date where:

(i) **Amount A** is the amount of the benefit the Cash Balance Participant (or Beneficiary) would have been entitled to receive under the Basic Plan as of the Cash Balance Participant's Delink Calculation Date (expressed as a lump sum if not otherwise a lump sum) if "earnings" under the Basic Plan included deferrals of base pay, commissions or non-discretionary incentive pay made under the Bank of America 401(k) Restoration Plan; provided, however, that if the limits of Section 1.14(iv) of the Basic Plan apply to the Cash Balance Participant, such deferrals will be taken into account under this subsection only to the extent the deferrals, when added to the commissions, non-discretionary incentive pay and actual base pay previously counted under the Basic Plan in the same year, do not exceed the limit described in Section 1.14(iv) of the Basic Plan, and "earnings" under the Basic Plan were not limited by Section 401(a)(17) of the Code but were limited to an annual maximum of $250,000, and the limitations of Section 415 of the Code (and provisions of the Basic Plan applying those limitations) did not exist; and

(ii) **Amount B** is the benefit payable to the Cash Balance Participant (or Beneficiary) under the Basic Plan as of the Cash Balance Participant's Delink Calculation Date (expressed as a lump sum if not otherwise a lump sum).

Notwithstanding anything in this subsection to the contrary, if a Cash Balance Participant experiences a Termination of Employment during the Plan Year and is rehired within the same Plan Year, such Cash Balance Participant's "earnings" for the Plan Year may exceed $250,000 only to the extent necessary to allow such Cash Balance Participant to reach the Section 401(a)(17) of the Code limit in the Basic Plan.

3.5 Payment of Pre-2005 Benefits to Participants

(a) **Payment of Pre-2005 Traditional Benefits to Traditional Participants:** The Pre-2005 Traditional Benefit payable under the Plan to or in respect of a Traditional Participant shall be paid in the same form, commence at the same time, and be paid under the same terms and conditions as the benefits paid to the Traditional Participant under the Basic Plan. Such Traditional Participant's benefit payment election under the Basic Plan shall be treated as the Traditional Participant's benefit payment election under the Plan with respect to Pre-2005 Traditional Benefit.

(b) **Payment of Pre-2005 Cash Balance Benefits to Cash Balance Participants:**

(i) A Cash Balance Participant shall separately elect the form and timing of the Cash Balance Participant's Pre-2005 Cash Balance Benefit under the Plan and benefits under the Basic Plan. Such election under the Plan, or change in any prior election, shall be made on a form approved by the Global Human Resources Group. An election under this subsection is not

treated as effective unless filed with the Global Human Resources Group at least one year before the Cash Balance Participant's Termination of Employment, except that a Cash Balance Participant may file an election, which will be treated as effective, before the Cash Balance Participant's Termination of Employment if (A) the election substitutes one form of annuity distribution for another form of annuity distribution that had been timely elected and (B) such later-elected form is the form of distribution that the Cash Balance Participant elects under the Basic Plan.

(ii) A Cash Balance Participant who does not have a valid, timely election in effect for the Pre-2005 Cash Balance Benefit on the day before such Cash Balance Participant's Termination of Employment shall have the Pre-2005 Cash Balance Benefit promptly paid out in a lump sum following Termination of Employment.

(iii) Notwithstanding the foregoing provisions of this Section, if the value of a Cash Balance Participant's Pre-2005 Cash Balance Benefit under the Plan at the time of Termination of Employment is $10,000 or less, the Cash Balance Participant's Pre-2005 Cash Balance Benefit shall be paid out in a lump sum as soon as administratively practicable following Termination of Employment.

(c) **Death Benefits:** In the event of the death of the Participant, Pre-2005 Benefits under the Plan will become payable to the Participant's Beneficiary, under the same terms and conditions specified in the Basic Plan.

3.6 Payment of Post-2004 Benefits to Participants with a Post-2004 Benefit on August 28, 2006

(a) **2006 One-Time Payment Election:** Subject to the provisions of Section 3.8, each Participant with a Post-2004 Benefit on August 28, 2006 had an opportunity during 2006 to make a one-time payment election applicable to such Participant's Post-2004 Benefit. Each such Participant was able to elect from among the available payment methods set forth in subsection (b) of this Section, and such election was effective as of January 1, 2007. Absent such a payment election, the Participant's Post-2004 Benefit will be paid in a single lump sum during the first 90 days of the calendar year following the Participant's Termination of Employment unless the Participant subsequently changes the payment election as provided in subsection (c) of this Section.

(b) **Available Payment Methods:** Subject to the provisions of Section 3.8, effective January 1, 2007, for the payment of Post-2004 Benefits, a Participant's vested Post-2004 Benefit shall be paid in a single lump sum during the first 90 days of the calendar year following the Participant's Termination of Employment unless the Participant elects to receive payment of such Participant's vested Post-2004 Benefit in one of the following forms:

(i) **Lump Sum Payment in Specified Year:** A single lump sum during the first 90 days of the later of (A) the calendar year following the Participant's Termination of Employment and (B) the calendar year elected by the Participant (but no later than the calendar year in which the Participant reaches age 75).

(ii) **Annual Installments Commencing following Termination of Employment:** Annual installment payments over a period of years elected by the Participant not to exceed 10 commencing during the first 90 days of the calendar year following the Participant's Termination of Employment.

(iii) **Annual Installments Commencing in Specified Year:** Annual installment payments over a period of years elected by the Participant not to exceed 10 commencing during the first 90 days of the later of (A) the calendar year following the Participant's Termination of Employment and (B) the calendar year elected by the Participant (but not later than the calendar year in which the Participant reaches age 75).

(c) **Subsequent Changes to Payment Elections:** A Participant may change the timing or form of payment applicable under subsection (b) of this Section, or the timing or form of payment subsequently elected under this subsection, with respect to the Post-2004 Benefit only if (i) such election is made at least 12 months prior to January 1 of the Plan Year in which the payment of the vested Post-2004 Benefit would have otherwise been made or commenced and (ii) the effect of such election is to defer such payment by at least 5 years; provided, however, that no election to change the timing or form of payment may be made if the date the payment of the vested Post-2004 Benefit would have otherwise been made or commenced is less than 5 years from the calendar year in which the Participant would have attained age 75. In the event that a Participant's election made pursuant to this subsection does not comply with the requirements of this subsection, such election shall be void and the timing and form of payment in effect at the time of such voided election governs.

(d) **Timing and Amount of Annual Installments:** Subject to the provisions of Section 3.8, for a vested Post-2004 Benefit payable as annual installments under subsection (b)(ii) or (b)(iii) of this Section, the first installment shall be paid during the first 90 days of the calendar year following the Participant's Termination of Employment or the calendar year elected by the Participant, as applicable, and each subsequent installment shall be paid during the first 90 days of each subsequent calendar year during the elected payment period. The amount of each installment payment shall equal the Post-2004 Benefit as of the last business day immediately preceding the applicable payment date divided by the number of remaining installments (including the installment then payable).

3.7 Payment of Post-2004 Benefits to New Participants after August 28, 2006

(a) **Timing and Form of Payment:** Subject to the provisions of subsection (b) of this Section and Section 3.8, the vested Post-2004 Benefit of a Participant who first becomes a Participant after August 28, 2006 shall be payable during the first 90 days of the calendar year following the Plan Year in which the Participant's Termination of Employment occurs in a single lump sum payment.

(b) **Subsequent Changes to Timing of Payment:** A Participant may change the timing (but not the form) of payment provided under subsection (a) of this Section, or the timing (but not the form) of payment subsequently elected under this subsection, with respect to the Post-2004 Benefit only if (i) such election is made at least 12 months prior to **[Confirm this is consistent with administration:** January 1 of the Plan Year in which the payment of the Post-2004 Benefit would have otherwise been made**]** and (ii) the effect of such election is to defer such payment by at least 5 years; provided, however, that no election to change the timing of payment may be made if the date the payment of the Post-2004 Benefit would have otherwise commenced is less than 5 years from the calendar year in which the Participant would have attained age 75. In the event that a Participant's election made pursuant to this subsection does not comply with the requirements of this subsection, such election shall be void and the timing of payment in effect at the time of such voided election governs.

3.8 General Payment Provisions for Post-2004 Benefits

(a) **Payments of Post-2004 Benefits to Participants Who Terminate Employment Prior to January 1, 2007:**

(i) **Traditional Participants:** Payments of the Post-2004 Traditional Benefit to any Traditional Participant whose Termination of Employment occurs prior to January 1, 2007 and who has an Annuity Starting Date under the Basic Plan prior to January 1, 2007 shall be made in accordance with the provisions of Section 3.5(a) of the Plan at the same time and in the same form as if such Post-2004 Traditional Benefit were a Pre-2005 Traditional Benefit.

(ii) **Cash Balance Participants:** Payments of the Post-2004 Cash Balance Benefit to any Cash Balance Participant whose Termination of Employment occurs prior to January 1, 2007 shall be made in accordance with the provisions of Section 3.5(b) at the same time and in the same form as if such Post-2004 Cash Balance Benefit were a Pre-2005 Cash Balance Benefit.

(b) **Automatic Lump Sum Payment for Cash Balance Participants:** Notwithstanding any provision in the Plan to the contrary, but subject to the provisions of subsection (d) of this Section, if applicable, a Cash Balance Participant's Post-2004 Benefit shall be payable in a single cash payment during

the first 90 days of the calendar year following the Participant's Termination of Employment if the sum of the Pre-2005 Cash Balance Benefit and the Post-2004 Cash Balance Benefit determined at the Delink Calculation Date is $10,000 or less, or the Participant is vested but has less than 5 years of Vesting Service.

(c) **Death of a Participant:** If a Participant dies before having been paid the Participant's entire Post-2004 Benefit (including a Participant receiving installment payments), the remaining unpaid balance of the Post-2004 Benefit shall be payable to the Participant's Beneficiary in a single cash payment within 90 days following the end of the Plan Year in which the Participant dies; provided, however, that if the Global Human Resources Group is not provided with sufficient advance notice of the Participant's death to pay the Post-2004 Benefit within 90 days following the Plan Year in which the Participant dies, then payment shall be made within 90 days after the end of the Plan Year in which such notice of death is received by the Global Human Resources Group.

(d) **Special Provisions for "Specified Employees":** Notwithstanding any provision in the Plan to the contrary, to the extent applicable, in no event shall any payment hereunder be made to a "specified employee" within the meaning of Section 409A of the Code earlier than 6 months after the date of the Participant's Termination of Employment, except in connection with the Participant's death. If a specified employee's Termination of Employment occurs before July 1 of a Plan Year, the earliest date that the specified employee's Post-2004 Benefit shall be paid is during the first 90 days of the calendar year following the Participant's Termination of Employment. If a specified employee's Termination of Employment occurs on or after July 1 in a calendar year, the earliest date that the specified employee's Post-2004 Benefit shall be paid is during the first 90 days of the second calendar year following the Participant's Termination of Employment.

3.9 Vesting

If a Participant or Beneficiary is not entitled to receive a benefit under the Basic Plan because the benefit is not vested, the Participant or Beneficiary shall also not be entitled to receive benefits under the Plan.

3.10 Other Payment Provisions

To be effective, any elections under this Article shall be made on such form, at such time and pursuant to such procedures as determined by the Global Human Resources Group in its sole discretion from time to time.

ARTICLE IV

ADMINISTRATION

4.1 Committee

The Plan shall be administered by the Committee (although certain provisions of the Plan shall be administered by the Global Human Resources Group as specified herein). The Committee shall have full discretionary authority to interpret the provisions of the Plan, and decide all questions and settle all disputes which may arise in connection with the Plan, and may establish its own operative and administrative rules and procedures in connection therewith, provided such procedures are consistent with the requirements of Section 503 of ERISA. All interpretations, decisions and determinations made by the Committee will be binding on all persons concerned. No member of the Committee who is a Participant in the Plan may vote or otherwise participate in any decision or act with respect to a matter relating solely to such member (or to such member's Beneficiaries). Not in limitation, but in amplification, of the foregoing provisions of this Section, the Committee has the duty and power to modify or supplement any Plan accounting method, practice or procedure, make any adjustments to accounts or modify or supplement any other aspect of the operation or administration of the Plan in such manner and to such extent consistent with and permitted by the Code that the Committee deems necessary or appropriate to correct errors and mistakes, to effect proper and equitable account adjustments or otherwise to ensure the proper and appropriate administration and operation of the Plan.

ARTICLE V

AMENDMENT OR TERMINATION OF PLAN

5.1 Amendment and Termination

The Plan may be amended or terminated in writing by the Committee or the Company in any manner at any time. Notwithstanding the previous sentence, no such amendment or termination shall reduce the amount of a Participant's benefit or the Participant's distribution rights related thereto as determined under the provisions of the Plan in effect immediately prior to such amendment or termination, and this second sentence of this Article is irrevocable and may not be amended.

ARTICLE VI

MISCELLANEOUS

6.1 Assignment or Alienation

(a) Except as provided in subsection (b) of this Section or as otherwise required by applicable law, the interest hereunder of any Participant or Beneficiary shall not be alienable by the Participant or Beneficiary by assignment or any other method and will not be subject to be taken by the Participant's or Beneficiary's creditors by any process whatsoever, and any attempt to cause such interest to be so subjected shall not be recognized.

(b) All or a portion of a Participant's benefit under the Plan may be paid to another person as specified in a "Qualified Domestic Relations Order." For this purpose, a "Qualified Domestic Relations Order" means a judgment, decree, or order (including the approval of a settlement agreement) which is:

(i) issued pursuant to a State's domestic relations law;

(ii) relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of the Participant;

(iii) creates or recognizes the right of a spouse, former spouse, child or other dependent of the Participant to receive all or a portion of the Participant's benefits under the Plan;

(iv) provides for payment in an immediate lump sum as soon as practicable after the Committee determines that a Qualified Domestic Relations Order exists; and

(v) meets such other requirements established by the Committee.

(c) The Committee shall determine whether any document received by it is a Qualified Domestic Relations Order. In making this determination, the Committee may consider:

(i) the rules applicable to "domestic relations orders" under Section 414(p) of the Code and Section 206(d) of ERISA;

(ii) the procedures used under the Basic Plan to determine the qualified status of domestic relations orders; and

(iii) such other rules and procedures as it deems relevant.

6.2 Limitation of Rights

Neither the establishment of the Plan, nor any amendment thereof, nor the payment of any benefits will be construed as giving any individual any legal or equitable right against the Company, any Participating Employer, or the Committee. In no event will the Plan be deemed to constitute a contract between any Employee and the Company, a Participating Employer, or the Committee. The Plan shall not be deemed to be consideration for, or an inducement for, the performance of services by any employee of a Participating Employer.

6.3 Receipt and Release

Any payment under the Plan to any Participant or Beneficiary, or to any individual as described in Section 6.12 shall be in satisfaction of all claims with respect to benefits under the Plan against the Company, any Participating Employer, and the Committee.

6.4 Governing Law

The Plan will be construed, administered, and governed in accordance with the laws of the State of North Carolina, except to the extent such laws are preempted by federal law.

6.5 Status Under ERISA

The Plan is maintained for purposes of providing deferred compensation for a select group of management or highly compensated employees. In addition, to the extent that the Plan makes up benefits limited under the Basic Plan as a result of Section 415 of the Code, the Plan shall be considered an "excess benefit plan" within the meaning of ERISA.

6.6 Compliance with Section 409A of the Code

The Plan is intended to comply with Section 409A of the Code, with respect to amounts earned or vested under the Plan after 2004. Further, the Plan is intended to be operated and administered in a manner (a) that will not constitute a "material modification" of the Plan for purposes of the effective date provisions of Section 409A of the Code or (b) that would otherwise cause amounts earned and vested prior to 2005 to become subject to the requirements of Section 409A of the Code. Notwithstanding any provision of the Plan to the contrary, the Plan shall be interpreted, operated and administered in a manner consistent with this intent.

6.7 Severability

If any provision of the Plan is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

6.8 Headings and Subheadings

Headings and subheadings are inserted for convenience only and are not to be considered in the construction of the provisions of the Plan.

6.9 Nonduplication of Benefits

The benefits payable to a Participant under this Plan shall be reduced on an Actuarial Equivalent basis by the benefit such Participant earned under any other similar nonqualified excess defined benefit plan that does not provide for a reduction of benefits under such plan, for benefits payable under this Plan, to the extent that the benefits under such plan were accrued upon the Participant's service that was included as credited service under this Plan.

6.10 Social Security Tax

Subject to the requirements of Section 3121(v)(2) of the Code, the Committee has the full discretion and authority to determine when Federal Insurance Contribution Act ("FICA") taxes on a Participant's Plan benefit or account are paid and whether any portion of such FICA taxes shall be withheld from the Participant's wages or deducted from the Participant's benefit or account.

6.11 Claims Procedure

Any claim for benefits under the Plan by a Participant or Beneficiary shall be made in accordance with the claims procedures set forth in the Basic Plan.

6.12 Payment for Benefit of Incapacitated Individual

In the event any amount becomes payable under the provisions of the Plan to a Participant, Beneficiary, or other person who is a minor or an incompetent, whether or not declared incompetent by a court, such amount may be paid directly to the minor or incompetent person or to such person's fiduciary (or attorney-in-fact in the case of an incompetent) as the Global Human Resources Group, in its sole discretion, may decide, and the Global Human Resources Group shall not be liable to any person for any such decision or any payment pursuant thereto.

6.13 Limited Effect of Restatement

Notwithstanding anything to the contrary contained in the Plan, to the extent permitted by ERISA and the Code, this instrument shall not affect the availability, amount, form or method of payment of benefits being paid before the effective date hereof to any Participant for former Participant (or a Beneficiary of either) in the Plan who is not an active Participant on or after the effective date hereof, said availability, amount, form or method of payment of benefits, if any, to be determined in accordance with the applicable provisions of the Plan as in effect prior to the effective date hereof.

6.14 Binding Effect

The Plan (including any and all amendments thereto) shall be binding upon the Participating Employers, their respective successors and assigns, and upon the Participants and their Beneficiaries and their respective heirs, executors, administrators, personal representatives and all other persons claiming by, under or through any of them.

IN WITNESS WHEREOF, Bank of America Corporation has caused the Plan to be executed by its duly authorized officer this 24th day of November, 2008.

BANK OF AMERICA CORPORATION

By: /s/ Mark S. Behnke

Mark S. Behnke, Global Compensation, Benefits and Shared Services Executive

APPENDIX A

SPECIAL RULES FOR SERVICE WITH ACQUIRED ENTITIES

This Appendix A is part of the Plan and contains special rules applicable only to the Participants described herein. If provisions of this Appendix A conflict with any other provisions of the Plan with respect to such Participants, the provisions of this Appendix A shall govern.

A. Shawmut National Corporation

1. The Shawmut National Corporation Excess Benefit Plan ("Shawmut Excess Plan") merged into the Plan effective as of January 1, 1997. As of that date, the liabilities of the Shawmut Excess Plan became the liabilities of the Plan and the Shawmut Excess Plan ceased to exist. Notwithstanding anything in the Plan to the contrary, the benefit under the Plan of a Participant who was a former participant in the Shawmut Excess Plan shall not be less than the benefit such Participant would be deemed to have accrued under the terms of the Shawmut Excess Plan as of the date this Appendix A was adopted.

2. Each individual who was a participant in the Shawmut Excess Plan or the Shawmut National Corporation Executive Supplemental Retirement Plan ("Shawmut SERP") immediately prior to the date as of which Shawmut National Corporation merged with Fleet Financial Group, Inc. (predecessor to the Company), and who became an employee of the Company or a subsidiary or affiliate as of said merger date, became a Participant in the Plan as of January 1, 1997. This Section A of Appendix A applies solely to former participants in the Shawmut Excess Plan or Shawmut SERP ("Shawmut Participants").

3. The benefits of Shawmut Participants shall be determined by taking into account the principles and provisions of Specification Schedule J of the Basic Plan. For Traditional Participants, this includes adjustment of their December 31, 1996 benefit, transferred from the Shawmut Excess Plan, for increases in Average Annual Compensation after 1996.

4. As of January 1, 1997, the following Cash Balance Participants shall have the following opening amounts credited to their Cash Balance Accounts under the Plan, which represents the total value of their benefits under the Shawmut Excess Plan as of December 31, 1996, reduced by the deemed Shawmut Excess Plan offset described in Section 5, where applicable, expressed as a single sum:

NAME	PERSON NUMBER	OPENING CASH BALANCE
CLAFFEE, JAMES	Not Available	$ 2,418.50
DELFINO, PAUL	Not Available	$ 6,747.34
EYLES, DAVID	Not Available	$17,775.70
FALK, MICHAEL	Not Available	$ 1,509.82
HEDGES JR., ROBERT	Not Available	$ 3,074.22
HUSTON, JOHN	Not Available	$ 7,843.30
MALLON, WILLIAM	Not Available	$ 4,567.26

5. Because participants in the Shawmut SERP were not also participants in the Shawmut Excess Plan, their benefit under the Plan, which is calculated by taking into account their service with Shawmut, shall be reduced by the following amounts, or the Actuarial Equivalent thereof, which are the benefits that they would have accrued under the Shawmut Excess Plan as of December 31, 1996, with Credited Service frozen as of December 1, 1995, if they had been participants in the Shawmut Excess Plan:

NAME	PERSON NUMBER	EXCESS PLAN OFFSET OF MONTHLY NORMAL RETIREMENT BENEFIT
BERGER, JOHN	Not Available	$ 382.62
BROMAGE, WILLIAM	Not Available	$ 364.00
KRAUS, EILEEN	Not Available	$2,294.25
OVERSTROM, GUNNAR	Not Available	$8,170.96
ROTTNER, SUSAN	23510624	$ 565.74

B. Liberty Wanger Asset Management

No employee who was employed with Liberty Wanger Asset Management, L.P. at the time of the acquisition by Fleet National Bank (predecessor to the Company) of the asset management business of Liberty Financial Companies, Inc., shall be a Participant in the Plan at any time prior to January 1, 2005.

C. Progress Investment Management Company, Inc.

Notwithstanding anything in the Plan to the contrary, Marx Cazenave, a former employee of Progress Investment Management Company, Inc., shall not be a Participant in the Plan, and neither Mr. Cazenave nor any Beneficiary of his shall be entitled to a benefit under the Plan.

D. Fleet Capital Corporation

1. **Merger:**

The Fleet Capital Corporation Retirement Restoration Plan ("Fleet Capital Restoration Plan") shall merge into the Plan effective as of January 1, 2006. As of that date, the liabilities of the Fleet Capital Restoration Plan shall become the liabilities of the Plan and the Fleet Capital Restoration Plan shall cease to exist.

2. **Eligibility:**

This Section D of Appendix A shall apply solely to employees who had been participants in the Fleet Capital Restoration Plan ("Fleet Capital Participants"), determined as follows:

(a) Subject to the provisions of subsections (b) and (c) of this Section 2, the Committee shall in its sole discretion determine which Participants of the Retirement Plan of Fleet Capital Corporation shall be entitled to participate in the Plan. Such Participants shall be memorialized in a Schedule of Plan Participants, which Schedule may from time to time be modified by the Committee, and which Schedule is set forth in Section 8 of this Section D.

(b) Any Plan Participant who is not included in the Schedule of Participants described in subsection (a) of this Section, but who has accrued a benefit under the Fleet Capital Restoration Plan as of February 28, 1997, shall cease to accrue further benefits under the Fleet Capital Restoration Plan as of March 1, 1997, but shall continue to be a Participant with respect to benefits accrued prior to such date until the earlier of the date such Participant ceases to be entitled to benefits under the terms of the Plan, or the date such Participant receives payment from a Participating Employer with respect to all amounts accrued to him under the terms of the Plan.

(c) In no event shall a Participant or Beneficiary who is not entitled to benefits under Specification Schedule M of the Basic Plan become entitled to benefits under the Plan.

(d) Any Plan Participant who is not included in the Schedule of Participants described in subsection (a) of this Section 2, but who has accrued a benefit under the Fleet Capital Restoration Plan as of June 30, 1997 shall cease to accrue further benefits under the Fleet Capital Restoration Plan as of June 30, 1997, but shall continue to be a Participant with respect to benefits accrued prior to such date until the

earlier of the date such Participant ceases to be entitled to benefits under the terms of the Plan, or the date such Participant receives payment from a Participating Employer with respect to all amounts accrued to him under the terms of the Plan.

3. **Amount Of Benefit:**

Notwithstanding Article IV, the benefits of Fleet Capital Participants shall be determined as follows:

(a) The benefit which a Participating Employer shall provide to a Fleet Capital Participant who is eligible to participate as a Class I Participant pursuant to the provisions of the Schedule of Participants as revised effective June 1, 1998, or the Participant's Beneficiary(ies) under the Plan shall equal the benefit determined under subsection (c) of this Section 3, provided that if such Participant's employment with the Participating Employers is for any reason involuntarily terminated by the Participating Employers, such Participant shall for purposes of this Section 3 be credited with additional Years of Service equal in number to the additional Years of Service he would have earned under the terms of Specification Schedule M of the Basic Plan had he continued in the employ of the Participating Employers through his Normal Retirement Date. Such additional Years of Service shall be credited as of his date of termination of employement.

(b) The benefit which the Participating Employers shall provide to a Fleet Capital Participant who is eligible to participate as a Class II Participant pursuant to the provisions of the Schedule of Participants as revised effective June 1, 1998, or the Participant's Beneficiary(ies) under the Plan shall equal the benefit determined under subsection (c) of this Section 3, provided that if such Participant's employment with the Participating Employers is for any reason involuntarily terminated by the Participating Employers, such Participant shall for purposes of this Section 3 be credited with additional Years of Service equal in number to the additional Years of Service he would have earned under the terms of Specification Schedule M of the Basic Plan had he continued in the employ of the Participating Employers through his Early Retirement Date. Such additional Years of Service shall be credited as of his date of termination of employment.

(c) Subject to the provisions of subsections (a) and (b) of this Section 3, the benefit which the Participating Employers shall provide to a Fleet Capital Participant who is eligible to participate as a Class I, Class II or Class III Participant pursuant to the provisions of the Schedule of Participants as revised effective June 1, 1998, or the Participant's Beneficiary(ies) under the Plan shall equal the excess of (i) reduced by (ii), where:

(i) equals the monthly benefit which would have been provided to such Participant or his Beneficiary under the Specification Schedule M of the Basic Plan, calculated without regard to the following:

(A) without regard to any reduction in compensation attributable to participation in a non-qualified plan of deferred compensation;

(B) without regard to any reduction in compensation attributable to participation in Specification Schedule M of the Basic Plan if such Specification Schedule M of the Basic Plan where administered without regard to the provisions of Section 415 of the Code;

(C) without regard to the provisions of Section 401(a)(17) of the Code;

(D) without regard to the reduction in bonus earnings taken into consideration in determining Specification Schedule M of the Basic Plan pensionable earnings pursuant to Part I(c)(i)(B) thereof; and

(E) without regard to any reduction applicable to such Participant who is not eligible for any early retirement subsidy otherwise available under the terms of Specification Schedule M of the Basic Plan because of such Participant's status as a Highly Compensated Employee as defined in the Basic Plan; and

(ii) equals the sum of (A), (B) and (C) where:

(A) equals the benefit which will be provided to such Participant or his Beneficiary under Specification Schedule M of the Basic Plan subject to the restrictions and limitations described in paragraph (i) hereof;

(B) equals the benefit, if any, accrued to such Participant or his Beneficiary under the terms of the Restated Retirement Plan of BarclaysAmericanCorporation, or the Restated Retirement Plan of Barclays Bank PLC, as applicable, on January 31, 1995; and

(C) equals the benefit, if any, accrued to such Participant or his Beneficiary under the terms of the BarclaysAmericanCorporation Retirement Restoration Plan, or the Barclays Bank PLC Retirement Restoration Plan, as applicable, on January 31, 1995.

(d) The benefit which the Participating Employers shall provide to a Fleet Capital Participant who is eligible to participate as a Class IV Participant pursuant to the provisions of the Schedule of Participants as revised effective June 1, 1998, or the Participant's Beneficiary(ies) under the Plan shall equal the excess of (i) reduced by (ii), where:

(i) equals the monthly benefit which would have been provided to such Participant or his Beneficiary under Specification Schedule M of the Basic Plan, calculated without regard to the following:

(A) subject to Item (E), without regard to any reduction in compensation attributable to participation in a non-qualified plan of deferred compensation;

(B) subject to Item (E), without regard to any reduction in compensation attributable to participation in Specification Schedule M of the Basic Plan if such Specification Schedule where administered without regard to the provisions of Section 415 of the Code; (C) subject to Item (E), without regard to the provisions of Section 401(a)(17) of the Code;

(C) with respect to bonus earnings paid prior to July 1, 1997, without regard to the reduction in bonus earnings taken into consideration in determining Specification Schedule M of the Basic Plan pensionable earnings pursuant to Part I(c)(i)(B) thereof;

(D) with respect to bonus earnings paid on or after July 1, 1997, without regard to so much of the reduction in bonus earnings excluded in determining Specification Schedule M of the Basic Plan pensionable earnings pursuant to Part I(c)(i)(B) thereof as does not exceed 150% of such Participant's annual base salary or wages taken into consideration as pensionable earnings under the terms of the Specification Schedule M of the Basic Plan; and

(E) without regard to any reduction applicable to such Participant who is not eligible for any early retirement subsidy otherwise available under the terms of Specification Schedule M of the Basic Plan because of such Participant's status as a Highly Compensated Employee as defined in the Basic Plan; and

(ii) equals the sum of (A), (B) and (C) where:

(A) equals the benefit which will be provided to such Participant or his Beneficiary under Specification Schedule M of the Basic Plan subject to the restrictions and limitations described in paragraph (i);

(B) equals the benefit, if any, accrued to such Participant or his Beneficiary under the terms of the Restated Retirement Plan of BarclaysAmericanCorporation, or the Restated Retirement Plan of Barclays Bank PLC, as applicable, on January 31, 1995; and

(C) equals the benefit, if any, accrued to such Participant or his Beneficiary under the terms of the BarclaysAmericanCorporation Retirement Restoration Plan, or the Barclays Bank PLC Retirement Restoration Plan, as applicable, on January 31, 1995.

(e) The benefit which the Participating Employers shall provide to a Fleet Capital Participant who is eligible to participate as a Class V Participant pursuant to the provisions of the revised Schedule of Participants as revised effective July 1, 2000, or the Participant's Beneficiary (ies) under the Plan shall equal the excess of (i) reduced by (ii) where:

(i) equals the monthly benefit which would have been provided to such Participant or Beneficiary under Specification Schedule M of the Basic Plan, calculated with regard to the following:

(A) with respect to the provisions of Section 401(a)(17) of the Code;

(B) with respect to bonus earnings included in determining pensionable earnings pursuant to Part I(c)(i)(B) of said Specification Schedule thereof up to 20% of such Participant's annual base salary or wages taken into consideration as pensionable earnings under the terms of such Specification Schedule;

(C) with respect to the accrued benefit, if any, to such Participant under the terms of the Retirement Plan for BarclaysAmerican Corporation or the Barclays Bank PLC U.S.A. Staff Pension Plan, as applicable on January 31, 1995;

(D) with respect to accrued benefit, if any, to such Participant under the terms of the NatWest Bank, N.A. Retirement Plan determined as of December 31, 1996.

(ii) is the benefit, if any, accrued to such Participant under the terms of the Basic Plan.

(f) Notwithstanding any other provision of the Plan to the contrary, no amount received by a Fleet Capital Participant as special pay, stay pay or severance pay, including, but not limited to, any amount paid from any pool of funds created in connection with the sale of Barclays Commercial Corporation shall be taken into account for purposes of determining the amount of benefits payable under the Plan.

(g) Notwithstanding any other provision of the Plan to the contrary, a Fleet Capital Participant who was a Participant in the Fleet Capital Restoration Plan on February 28, 1997, but who is not included in the Schedule of Participants with respect to benefits accruing on and after March 1, 1997, shall cease to accrue Fleet Capital Restoration Plan benefits on and after March 1, 1997. The Committee shall pay such Participants out pursuant to the provisions of Section 4 hereof.

(h) Notwithstanding any other provision of the Plan to the contrary, a Fleet Capital Participant who was a Participant in the Fleet Capital Restoration Plan on June 30, 1997, but who is not included in the Schedule of Participants with respect to benefits accruing on and after July 1, 1997, shall cease to accrue Fleet Capital Restoration Plan benefits on and after July 1, 1997. The Committee shall pay such Participants out pursuant to the provisions of Section 4 hereof.

4. **Form and Timing of Benefits:**

Payment of Plan benefits to a Fleet Capital Participant or the Participant's Beneficiary shall be made in accordance with the provisions of Section 4 of the Plan. Plan benefits shall in all respects be subject to any applicable income tax withholding under federal or state law.

5. **Vesting:**

A Fleet Capital Participant shall have the same nonforfeitable right to benefits payable on the Participant's behalf under the Plan as such Participant has to benefits payable on the Participant's behalf pursuant to the provisions of Specification Schedule M of the Basic Plan provided, however, that such benefits are subject to complete forfeiture to the extent that, in the sole and exclusive discretion of the Participating Employer, such Participant is determined to have engaged in activities, whether before or after Plan benefit payments commence, which are both fraudulent and detrimental to a Participating Employer.

6. **Definitions:**

All terms under Section D of Appendix A of the Plan shall have the meaning set forth for such terms pursuant to the provisions of Specification Schedule M of the Basic Plan.

7. **Amendment and Funding:**

This Section D of Appendix A may be amended only with the written consent of Bank of America, N.A. All benefits determined to be payable under the Fleet Capital Restoration Plan, and all benefits earned under this Section D after the merger, shall be a liability of, and be paid by, Bank of America, N.A.

8. **Schedule of Participants:**

As described in Section 2, the Schedule of Plan Participants, executed as of September 11, 2000, is as follows:

Class II Participants

PERSON NUMBER	LAST NAME	FIRST NAME
28086101	Coppedge	Ferrell
24848406	Farley	Michael
29958700	Strauss	Philip
30119520	Swindells	William

Class III Participants

PERSON NUMBER	LAST NAME	FIRST NAME
30119129	Meyers	James

Class IV Participants

PERSON NUMBER	LAST NAME	FIRST NAME
30050784	Ausburn	Lawrence
23735129	Clack	Ronald
30117855	Dianich	Michael Sr.
22267721	Dumelin	Bruce
30120791	Gagnon	Richard
30117694	Johnson	Michael

PERSON NUMBER	LAST NAME	FIRST NAME
24464035	Meier	Alan
25059340	Pengelly	Audrey
29749184	Solomon	Stuart

Class V Participants

PERSON NUMBER	LAST NAME	FIRST NAME
21313318	Kreft	Ira
26520022	Tornow	Brian
Not Available	Terry	J. Cameron
21551974	Broderick	Timothy
25506500	Clarke	Timothy

MBNA CORPORATION

SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN

(As Amended and Restated Effective January 1, 2005)

ARTICLE I

Title and Effective Date

1.01 This Plan shall be known as the MBNA Corporation Supplemental Executive Retirement Plan (hereinafter referred to as the "***Plan***").

1.02 The initial effective date of the Plan was January 29, 1991. The Plan was subsequently amended several times. Bank of America Corporation is amending and restating the Plan as set forth herein effective as of January 1, 2005 (unless otherwise provided herein) to (i) provide for the Plan's compliance with the requirements of Code Section 409A and (ii) otherwise meet current needs.

ARTICLE II

Definitions

As used herein, the following capitalized terms shall have the meanings specified below unless a different meaning is clearly required by the context.

2.01 "***Administrator***" shall mean the committee designated pursuant to Article VIII of the Plan. For purposes of the Plan, for calendar years beginning prior to January 1, 2006 the Administrator was the Corporation and for purposes of Sections 2.15, 3.01(a) and 3.01(b), the Compensation Committee of the Board of Directors was the Administrator.

2.02 "***Attained Age***" means the Member's age as of his last birthday, except to the extent provided in Section 4.02(c).

2.03 "***Average Monthly Earnings***" means the highest average monthly base salary paid to the relevant Member for any 12-consecutive month period during the 144-month period immediately preceding the termination of the Member's employment. A Member's annual base salary for purposes of determining Average Monthly Earnings shall be limited as set forth in the applicable SERP Benefit Schedule.

2.04 "***Beneficiary***" means any person, persons, trust, estate planning entity, or estate of a Member entitled to receive any benefits under this Plan.

2.05 "***Cause***" means (a) willful and continued failure by a Member to substantially perform the Member's duties with the Corporation as such duties may be reasonably defined from time to time; (b) a significant violation of the Corporation's code of ethics; or (c) a felony conviction or guilty plea that results in a sentence that is not suspended of incarceration of 6 months or more.

2.06 "***Change of Control***" means:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***")) (a "***Person***") of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 40% or more of either (i) the then outstanding shares of the common stock of the Corporation (the "***Outstanding Corporation Common Stock***") or (ii) the combined voting power of the then outstanding voting securities of the Corporation entitled to vote generally in the election of directors (the "***Outstanding Corporation Voting Securities***"); *provided*, *however*, that for purposes of this subsection (a), the following acquisitions shall not constitute a Change of Control: (A) any acquisition directly from the Corporation, (B) any acquisition by the Corporation or any corporation or other entity controlled by the Corporation, (C) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Corporation or any corporation or other entity controlled by the Corporation, (D) any acquisition pursuant to a transaction which complies with clauses (i), (ii) and (iii) of subsection (c) of this Section 2.06, or (E) any acquisition by an underwriter temporarily holding securities pursuant to an offering; or

(b) Individuals who, as of the effective date hereof, constitute the Board of Directors of the Corporation (the "***Incumbent Board***") cease for any reason to constitute at least a majority of the Board of Directors of the Corporation; *provided*, *however*, that any individual becoming a director subsequent to the effective date hereof whose election, or nomination for election by the Corporation's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board (either by specific vote or by approval, without prior written notice to the Board of Directors objecting to the nomination, of a proxy statement in which the individual was named as nominee), shall be considered as though such individual were a member of the Incumbent Board but excluding for this purpose any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies by or on behalf of a Person other than the Board of Directors of the Corporation; or

(c) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Corporation (a "***Business Combination***"), in each case unless, following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Corporation Common Stock and Outstanding Corporation Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation or other entity resulting from such Business Combination (or a corporation or other entity which as a result of such transaction owns the Corporation or all or substantially all of the Corporation's assets either directly or through one or more subsidiaries (either corporation or entity, a "***Resulting Corporation***")) in substantially the same proportions as their ownership, immediately

prior to such Business Combination, of the Outstanding Corporation Common Stock and Outstanding Corporation Voting Securities, as the case may be, (ii) no Person (excluding any Resulting Corporation or any employee benefit plan (or related trust) of the Corporation, such Resulting Corporation or any corporation controlled by either) beneficially owns, directly or indirectly, 40% or more of, respectively, the then outstanding shares of common stock of the Resulting Corporation or the combined voting power of the then outstanding voting securities of such corporation or other entity except to the extent that such ownership existed prior to the Business Combination and (iii) at least a majority of the members of the board of directors of the corporation or other entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the board, providing for such Business Combination; or

(d) Approval by the shareholders of the Corporation of a complete liquidation or dissolution of the Corporation.

Without in any way broadening the definition of "beneficial owner," for purposes of this definition, no Person will be the "beneficial owner" of any security solely (1) because the security has been tendered into a tender or exchange offer *until* the tendered security is accepted for payment or exchange or (2) because of the power to vote or direct the voting of the security pursuant to a revocable proxy given in response to a public proxy or consent solicitation that was made to more than 10 holders of a class of security that is then registered under Section 12 of the Exchange Act. In addition, a Change of Control shall not be deemed to occur solely because any Person acquires beneficial ownership of more than 40% of the Outstanding Corporation Common Stock or Outstanding Corporation Voting Securities as a result of the acquisition of securities by the Corporation or any corporation or other entity controlled by the Corporation; provided that, if after such acquisition by the Corporation or corporation or other entity such Person becomes the beneficial owner of additional Outstanding Corporation Common Stock or Outstanding Corporation Voting Securities that increases the percentage beneficially owned by such Person and the percentage continues to be above 40%, a Change of Control of the Corporation shall then occur.

2.07 ***"Code"*** means the Internal Revenue Code of 1986, as amended. References to the Code shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial guidance issued or rendered thereunder.

2.08 "***Competition***" means obtaining a position as director, trustee, officer or employee, or acting as a consultant or advisor to, or acquiring an ownership interest in excess of 5% in any corporation, partnership, firm or other business entity that engages in any business which competes with the business of the Corporation.

2.09 "***Corporation***" means Bank of America Corporation, a Delaware corporation, and any successor thereto. In addition, as the context may require, (a) when such term is used herein in connection with or in reference to the employment of any Member or the compensation paid or benefits provided to any Member, such term shall include any direct or indirect subsidiary of Bank of America Corporation which employs such Member or pays compensation or provides benefits to such Member, and (b) when used in connection with the termination of any Member's

employment or competition with the Corporation, such term shall include all direct and indirect subsidiaries of Bank of America Corporation. For purposes of the Plan, MBNA Corporation was the predecessor the Bank of America Corporation for calendar years beginning prior to January 1, 2006.

2.10 "***Disability Retirement Date***" means the first day of the first calendar month commencing on or after the date a Disabled Member becomes Disabled.

2.11 "***Disability***" or "***Disabled***" means the Member is, by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving disability benefits for a period of not less than 3 months under the Corporation's long-term disability plan in effect at the time the Member becomes disabled. Notwithstanding anything in this Section to the contrary, the definition of "Disability" or "Disabled" shall be construed consistently with the provisions of Code Section 409A and the related regulations and guidance issued thereunder.

2.12 "***Good Reason***" means (a) any reduction in the salary or annual bonus potential or any significant reduction in aggregate compensation and benefits (other than salary and bonus potential), other than (i) an isolated, insubstantial and inadvertent reduction not occurring in bad faith and which is remedied by the Corporation promptly after receipt of notice thereof given by the affected Member, or (ii) a reduction in aggregate compensation and benefits (other than salary and bonus potential) to a level which is applicable to all similarly-situated associates of the Corporation; or (b) the Corporation's requiring the Member to be based at any office or location more than 60 miles from that at which he was based immediately before a Change of Control.

2.13 "***Member***" means an associate of the Corporation who is part of a select group of management or highly compensated employees and who has become a Member as provided in Article III hereof.

2.14 "***Qualified Plan***" means the Bank of America Pension Plan for Legacy MBNA or any successor plan thereto. For purposes of the Plan, for calendar years beginning prior to January 1, 2007 the "Qualified Plan" was referred to as the MBNA Corporation Pension Plan.

2.15 "***Retired Member***" means any Member who has terminated employment with the Corporation for any reason other than Cause, death or Disability, and who is receiving retirement income under Section 4.01 of this Plan. The term "Retired Member" shall not include any Member who has received a lump sum payment pursuant to Article VII.

2.16 "***SERP Benefit Schedule***" means the schedule specified by the Administrator, in its sole discretion, which prescribes the percentage of Average Monthly Earnings as of any particular Attained Age and the maximum annual base salary used to calculate Average Monthly Earnings.

ARTICLE III

Membership in the Plan

3.01 Membership.

(a) **Selection of Members**. The Administrator, in its sole discretion, shall select the associates of the Corporation who shall be Members. At the time the Administrator selects an individual for membership in the Plan, the Administrator shall specify a SERP Benefit Schedule applicable to such Member. Notwithstanding anything in this Section to the contrary, no associate shall become eligible to participate in the Plan after December 31, 2005.

(b) **Removal of Members.** The Administrator shall also have the right to remove a Member from the Plan, or reduce the amounts or percentages specified on the SERP Benefits Schedule applicable to such Member, at any time in its sole discretion and for any reason; *provided*, *however*, that with respect to a person who has been a Member for a period of 5 or more years or with respect to any Member following a Change of Control, the Administrator may not remove such Member from the Plan or modify the applicable SERP Benefits Schedule so as to reduce the percentage of Average Monthly Earnings or the maximum annual base salary used to calculate the Member's Plan benefits.

(c) **Removal for Cause.** Notwithstanding anything in the Plan to the contrary, a Member whose employment with the Corporation is terminated for Cause shall be removed from the Plan and immediately shall forfeit all rights and entitlements under the Plan.

3.02 Removal of Retired Members. All benefits payable under the Plan to a Retired Member shall terminate, and the Retired Member and his Beneficiaries shall not receive any further benefits under the Plan, if:

(a) the Retired Member engages in Competition unless (i) the Retired Member has received written consent to engage in Competition from the Administrator, or (ii) the Retired Member's employment terminated under the circumstances described in Section 4.02; or

(b) the Retired Member is convicted of a felony that would, if the Retired Member were employed by the Corporation, constitute Cause.

3.03 Continuous Employment Requirement. The payment of benefits to the Member or his Beneficiary under this Plan is conditioned upon the continuous employment of the Member by the Corporation (including periods of disability and authorized leaves of absence) from the date the Member becomes a Member in the Plan until the earliest of (a) entitlement to Regular Retirement Benefits as described in Section 4.01(a), (b) termination of the Member's employment under circumstances described in Section 4.02, (c) Disability or (d) death.

ARTICLE IV

Retirement Benefits

4.01 Regular Retirement Benefits.

(a) **Entitlement to Regular Retirement Benefits.** A Member shall be entitled to receive regular retirement benefits as specified in this Section 4.01 if (i) such Member has been in the employ of the Corporation until the Member has either (I) attained age 65 or (II) attained age 60 and been employed by the Corporation for at least 10 years, and (ii) such Member's employment with the Corporation terminates for any reason other than Cause, death, Disability or as provided in Section 4.02.

(b) **Amount of Regular Retirement Benefits.** A Member's regular retirement benefits under this Section 4.01 shall be a monthly amount payable to the Member, commencing on the first day of the first calendar month commencing on or after the Member's termination of employment with the Corporation and continuing for the life of the Member, equal to (i) the Regular Percentage of such Member's Average Monthly Earnings specified in the applicable SERP Benefits Schedule based on the Member's Attained Age as of the effective date of the Member's termination of employment, reduced by (ii) the sum of the amounts set forth in Section 4.03. Notwithstanding anything in this subsection to the contrary, to the extent applicable, in no event shall any payment hereunder be made to a "specified employee" within the meaning of Code Section 409A earlier than six months after the date of the Participant's termination of employment with the Corporation, except in connection with the Participant's death or Disability.

4.02 Change of Control Retirement Benefits.

(a) **Entitlement to Change of Control Retirement Benefits.** A Member shall be entitled to receive Change of Control retirement benefits as specified in this Section 4.02 if (i) the Member's employment with the Corporation is terminated at any time after a Change of Control either (I) by the Corporation without Cause or (II) by the Member for Good Reason, (ii) the Member's employment with the Corporation is terminated by the Corporation without Cause before a Change of Control or is terminated by the Member for Good Reason, in either case if (I) the Change of Control actually occurs, (II) the termination of employment occurred within 12 months before the Change of Control, and (III) it is reasonably demonstrated that such termination of employment for Cause, or the actions underlying the Good Reason, as applicable, were at the request of a third-party who has taken steps reasonably calculated to effect the Change of Control or otherwise occurred in connection with or in anticipation of, a Change of Control, or, (iii) in the case of a Member who was a member of the Corporate Policy Committee (or any successor committee) on the date immediately preceding the Change of Control, the Member's employment with the Corporation is terminated for any reason other than Cause, Disability or death, within the 30-day period beginning one year after a Change of Control.

(b) **Amount of Change of Control Retirement Benefits.** A Member's Change of Control retirement benefits shall be in lieu of any amounts that may be payable under Section 4.01 and shall be a monthly amount payable to the Member, commencing on the first day of the first calendar month following the later of (i) the Member's 60th birthday or (ii) the date the Member terminates employment with the Corporation as described in Section 4.02(a), and continuing for the life of the Member, equal to (x) the Change of Control Percentage of such Member's Average Monthly Earnings specified in the applicable SERP Benefits Schedule based on the Member's Attained Age under Section 4.02(c) as of the effective date of termination of employment with the Corporation, reduced by (y) the sum of the amounts set forth in Section 4.03. Notwithstanding anything in this subsection to the contrary, to the extent applicable, in no event shall any payment hereunder be made to a "specified employee" within the meaning of Code Section 409A earlier than six months after the date of the Participant's termination of employment with the Corporation, except in connection with the Participant's death or Disability.

(c) **Special Rule for Determining Attained Age.** Solely for purposes of determining the Change of Control Percentage of the Member's Average Monthly Earnings under the applicable SERP Benefits Schedule for purposes of this Section 4.02, the Member's Attained Age as of the effective date of any termination of employment described in this Section 4.02 shall be increased by the greater of (i) 3 years in the case of any Member who is not a member of the Corporate Policy Committee (or any successor committee) on the date immediately preceding a Change of Control or 5 years in the case of any Member who is a member of the Corporate Policy Committee (or any successor committee) on such date, or (ii) the number of years (if any) by which 50 exceeds the Member's actual Attained Age as of such date of termination.

4.03 Reductions. The monthly retirement benefits determined under Section 4.01 or 4.02, as applicable, and payable for any calendar month shall be reduced by the sum of the following amounts with respect to such calendar month:

(a) 100% of the monthly old age insurance benefit payable under the Social Security Act to the Member, assuming commencement on the earliest date following termination of the Member's employment on which such Social Security benefit payments may commence, as determined under the Social Security law in effect on that date and without regard to any cost-of-living adjustments.

(b) 100% of the monthly benefits payable to the Member under the Qualified Plan assuming the Member elected to receive payment of such benefits in the form of a straight life annuity in the case of an unmarried Member or in the form of a joint and 50% survivor spouse annuity in the case of a married Member, and assuming commencement of such benefits on the earliest date on which retirement benefits are payable to the Member under the Qualified Plan.

(c) 100% of the Member's monthly benefits under any other defined benefit pension plan, whether tax-qualified, governmental or nonqualified, sponsored or maintained by any prior employer. If payment of benefits under any other plan begins

before the date payment of retirement benefits under this Plan begins, then the reduction for benefits under that other plan will begin immediately based on the amount of benefits actually received by the Member under that other plan for the first calendar month for which benefits are paid under this Plan. However, if payment of benefits under any other plan does not begin before the date payment of retirement benefits under this Plan begins, then the reduction for benefits under that other plan will be equal to the amount of benefits that would be payable to the Member under that other plan assuming the Member elected to receive payment of benefits under that plan in the form of a straight life annuity in the case of an unmarried Member or in the form of a joint and 50% survivor spouse annuity in the case of a married Member, and assuming that payment of benefits under that other plan will begin on or after commencement of payments under this Plan but on the earliest date on which retirement benefits are payable to the Member under that other plan.

ARTICLE V

Death Benefits

5.01 Death of a Member. In the event of the death of a Member who is not a Retired Member or a Disabled Member, the Member's Beneficiary shall be entitled to receive a Death Benefit equal to (a) a monthly payment equal to 100% of the Member's Average Monthly Earnings as of the date of death, commencing on the first day of the first calendar month following the Member's death and continuing for 120 consecutive months, and (b) if the Member died before attaining age 50, monthly payments equal to 50% of the Member's Average Monthly Earnings for a period commencing after the end of such 120 month period and ending on the first day of the calendar month in which the Member would have attained age 60, *provided*, *however*, that if Member's Beneficiary is the Member's surviving spouse or a trust or other estate planning entity with the Member's surviving spouse as the sole designated beneficiary, as determined by the Administrator, then, regardless of the Member's age upon death, after the completion of the 120 payments described in clause (a) of this Section 5.01, the Member's surviving spouse or the trust or other estate planning entity, as applicable, shall receive monthly payments equal to 50% of the Member's Average Monthly Earnings until the death of the surviving spouse.

5.02 Death of a Retired Member or a Disabled Member. In the event of the death of a Retired Member or a Disabled Member who is receiving benefits under Article IV or Article VI of this Plan, as applicable, benefit payments shall be made to the Retired Member's or Disabled Member's surviving spouse or a to a trust or other estate planning entity with the Retired Member's or Disabled Member's surviving spouse as the sole designated beneficiary, as determined by the Administrator, for such surviving spouse's lifetime, which payments shall be made on the same payment schedule and shall be in the same amount as the retirement benefits payable to such Retired Member or Disabled Member, as applicable, until the 10th anniversary of the Disabled Member's or Retired Member's termination of employment under Article IV or Article VI, as applicable, and thereafter equal to 50% of the benefit that would have been payable to the Retired Member or Disabled Member, as applicable, while he or she was living had there been no

reductions pursuant to Section 4.03 or 6.02, as applicable; *provided*, *however*, that the benefit payable to surviving spouse or trust or other estate planning entity, as applicable, for any calendar month shall be reduced by:

(a) 100% of the monthly survivor income benefit payable under the Social Security Act to the surviving spouse (not including benefits for minor children), assuming commencement on the earliest date on which such Social Security benefit payments may commence, as determined under the Social Security law in effect on the date payments commence and without regard to any cost-of-living adjustments.

(b) 100% of the monthly benefits payable to the Member under the Qualified Plan assuming the Member elected to receive payment of such benefits in the form of a joint and 50% survivor spouse annuity, and assuming commencement on the earliest date on which retirement benefits are payable to the Member under the Qualified Plan.

(c) 100% of the Member's monthly benefits under any other defined benefit pension plan, whether tax-qualified, governmental or nonqualified, sponsored or maintained by any prior employer. If payment of benefits under any other plan begins before the date payment of benefits under this Plan begins, then the reduction for benefits under that other plan will begin immediately based on the amount of benefits actually received by the Member under that other plan for the first calendar month for which benefits are paid under this Plan. However, if payment of benefits under any other plan does not begin before the date payment of benefits under this Plan begins, then the reduction for benefits under that other plan will be equal to the amount of benefits that would be payable to the Member under that other plan assuming the Member elected to receive payment of benefits under that plan in the form of a joint and 50% survivor spouse annuity, and assuming payment of benefits under that other plan will begin on or after commencement of payments under this Plan but on the earliest date on which retirement benefits are payable to the Member under that other plan.

ARTICLE VI

Disability Benefits

6.01 Disability Benefits. If a Member is determined to be Disabled, the Disabled Member shall be entitled to receive a monthly benefit for life commencing on the Member's Disability Retirement Date and equal to (a) 100% of the Member's Average Monthly Earnings for each month through the calendar month in which the Disabled Member attains age 65 and, thereafter, 80% of the Member's Average Monthly Earnings, reduced by (b) the sum of the amounts determined under Section 6.02.

6.02 Reductions. The monthly disability benefits determined under Section 6.01 shall be reduced by the following amounts with respect to each calendar month:

(a) 100% of the monthly benefit that would be payable under the Corporation's long-term disability plan assuming such Member elected the highest level of coverage offered under that plan.

(b) 100% of any disability benefits actually received by the Disabled Member pursuant to any other disability income policy or plan under which the Disabled Member is insured, regardless of whether such policy or plan is obtained or maintained by the Member or the Corporation and regardless of whether or not the Corporation pays or reimburses the Member for all or any portion of the premiums for such policy or plan.

(c) 100% of the monthly disability income benefit payable under the Social Security Act to the Disabled Member, assuming commencement on the date on which the Member becomes disabled, as determined under the Social Security law in effect on such date and without regard to any cost-of-living adjustments. When Social Security disability income payments cease (or would have ceased, as the case may be), 100% of the monthly old age insurance benefit payable under the Social Security Act to the Disabled Member, as determined under the Social Security law in effect on the date such old age insurance benefits commence (or would have commenced, as the case may be) and without regard to any cost-of-living adjustments.

(d) 100% of the monthly benefits actually received by the Disabled Member under the Qualified Plan and any other defined benefit pension plan, whether tax-qualified, governmental or nonqualified, sponsored or maintained by any prior employer.

ARTICLE VII

Lump Sum Payments on Change of Control

7.01 Lump Sum Payments. Following a Change of Control, all unpaid benefits payable under this Plan to any Member, Retired Member, Disabled Member or Beneficiary shall be paid in the form of an immediate lump sum payment which is the actuarial present value of such unpaid benefits. Such immediate lump sum payment shall be made within sixty (60) days after the Change of Control with respect to unpaid benefits payable as a result of a termination of employment that occurred before such Change of Control and within sixty (60) days after the effective date of the Member's termination of employment with respect to benefits which commence as a result of a termination of employment which occurs after the Change of Control. The amount of any immediate lump sum payment under this Section 7.01 shall be determined based on (a) the actuarial equivalent factors utilized in the Qualified Plan for lump sum distributions (with no adjustment for pre-retirement mortality) for the month in which such immediate lump sum payment is to be made, and (b) the Administrator's reasonable estimate of the reductions required by Sections 4.03, 5.02, and 6.02, as applicable, based on benefits payable under the Social Security law, the Qualified Plan and any other defined benefit pension plan as of the date of such payment.

7.02 Elections. Notwithstanding anything in Section 7.01 to the contrary, any Member, Retired Member, Disabled Member or Beneficiary may elect to receive (or continue to receive) benefits under the Plan after a Change of Control as provided in the Plan without regard to Section 7.01 by filing a written election with the Corporation's Executive Compensation Department on or before the earliest of: (i) the date of the Change of Control, (ii) December 31, 2005 (or such other date permitted for a change in payment election under the transitional rules under Code Section 409A) or (iii) such other date that is established by the Administrator. All elections made pursuant to this Section shall be irrevocable.

7.03 Compliance with Code Section 409A. This Article VII shall apply only to a Change of Control which constitutes a change in the ownership or effective control of the Corporation for purposes of Code Section 409A(a)(2)(A)(v) and the rules and regulations issued thereunder, including Part IV(B) of IRS Notice 2005-1. This Article VII is intended to comply with the requirements for payment elections under Code Section 409A and shall be interpreted in a manner which is consistent with such requirements.

ARTICLE VIII

Plan Administration, Named Fiduciary and Claims Procedure

8.01 Records. The Administrator shall administer the Plan and keep records of individual Member benefits.

8.02 Administration. Effective as of January 1, 2006, the Plan shall be administered by the Bank of America Corporate Benefits Committee. The Administrator shall be empowered to interpret the provisions of the Plan and to perform and exercise all of the duties and powers granted to it under the terms of the Plan by action of a majority of its members in office from time to time. The Administrator may adopt such rules and regulations for the administration of the Plan as are consistent with the terms hereof and shall keep adequate records of its proceedings and acts. All interpretations and decisions made (both as to law and fact) and other action taken by the Administrator with respect to the Plan shall be conclusive and binding upon all parties having or claiming to have an interest under the Plan. Not in limitation of the foregoing, the Administrator shall have the discretion to decide any factual or interpretive issues that may arise in connection with its administration of the Plan (including without limitation any determination as to claims for benefits hereunder), and the Administrator's exercise of such discretion shall be conclusive and binding on all affected parties as long as it is not arbitrary or capricious. The Administrator may delegate any of its duties and powers hereunder to the extent permitted by applicable law.

8.03 Counsel, Accountants, etc. The Administrator may employ such counsel, accountants, actuaries and other agents as it shall deem advisable. The Corporation shall pay the fees and costs of such counsel, accountants, actuaries and other agents and any other expenses incurred by the Administrator in the administration of the Plan.

8.04 Interested Persons. If any person with administrative authority becomes eligible or makes a claim for Plan benefits, that person will have no authority with respect to any matter specifically affecting his or her individual interest under the Plan.

8.05 Standard of Review after Change of Control. Notwithstanding anything in this Plan to the contrary, on and after a Change of Control, any court or tribunal that adjudicates any dispute, controversy or claim arising between a Member (or the Beneficiary or representative of such Member) and the Corporation or Administrator, relating to or concerning the provisions of the Plan, will apply a de novo standard of review to any determination made by the Corporation

or Administrator. Such de novo standard shall apply notwithstanding Section 8.02, Section 8.07 or any grant of discretion hereunder to any person or any characterization of any determination as final, binding or conclusive on any party.

8.06 Named Fiduciary. The Named Fiduciary of the Plan for purposes of the claims procedure is the Administrator.

8.07 Discretion Regarding Claims for Benefits. Benefits shall be paid in accordance with the provisions of this Plan. The Administrator will, consistent with the terms of the Plan, in its sole discretion, determine whether an individual is a Member entitled to benefits under the Plan, and, if so, the amount, method of payment, and continuing entitlement to, such benefits. The Administrator's determinations will be conclusive and binding on all parties affected by the determination. The Administrator may exercise discretionary power and authority on a case-by-case basis. No decision of the Administrator in any way limits or impairs its discretion relative to future decisions, including those involving similarly situated persons.

8.08 Claims for Benefits. The Member or the Member's Beneficiary (hereinafter collectively referred to as the "Claimant") may file a written claim for the benefits provided under this Plan with the Administrator.

8.09 Claims for Disability Benefits. If such claim involves a determination that the Member is Disabled, a Claimant shall make all claims for benefits under the Plan in writing addressed to the Administrator. Each claim shall be reviewed within a reasonable time after it is submitted, but in no event longer than 45 days after it is received by the Administrator. If a claim is wholly or partially denied, the Claimant shall be notified in writing of the denial. Such denial notice shall be written in a manner calculated to be understood by the Claimant and shall contain the following:

(a) the specific reason or reasons for the denial,

(b) specific reference to pertinent Plan provisions on which the denial is based,

(c) a description of any additional material or information necessary for the Claimant to perfect his claim and an explanation of why such material or information is necessary,

(d) a description of the Plan's claim review procedures and the time limits applicable to such procedures, including a statement of the Claimant's right to bring a civil action following an adverse determination on review; and

(e) in the case of a denial of a benefit which involves a determination that the Member is not Disabled

(i) if an internal rule, guideline, protocol, or other similar criterion was relied upon in making the denial, either the specific rule, guideline, protocol, or other similar criterion; or

(ii) a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in denying the claim and will be provided free of charge to the Claimant upon request, or

(iii) if the denial is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the Claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request.

The initial response period may be extended by the Administrator for up to two 30-day periods, *provided that* the Administrator determines that any such extension is necessary due to matters beyond the control of the Administrator, and notifies the Claimant, prior to the expiration of the initial 45-day period (or first 30-day extension period as applicable), of the circumstances requiring the extension of time and the date by which the Administrator expects to render a decision. Any such notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues. The Claimant shall have 45 days within which to provide the specified information. The foregoing periods for making the benefit determination shall be tolled following the issuance of the notice of extension until the date on which the Claimant responds to the request for additional information.

Within 180 days after receipt by the Claimant of written notice of the denial, the Claimant or his duly authorized representative may appeal such denial by filing a written application for review with the Administrator. Such application shall be addressed to the Administrator and may include a statement of the issues, other comments, documents, records and other information relating to the claim. Each such application shall state the grounds upon which the Claimant seeks to have the claim reviewed. The Claimant or his representative shall have access to all documents, records and other information relevant to the Claimant's claim for the purpose of preparing the application. Relevance of a requested document, record or other information shall be determined under applicable law. The review will take into account all comments, documents, records and other information submitted by the Claimant in the appeal and the initial claim. The designated reviewer shall then review the decision and notify the Claimant in writing of the results of the redetermination within 45 days of receipt of the application for review, which decision shall be in writing, written in a manner calculated to be understood by the Claimant and include specific reasons for the decision, specific reference to the pertinent Plan provisions on which the decision is based, a statement of the Claimant's right to bring a civil action and, if applicable, identify medical or vocational experts whose advice was obtained. The 45-day period for the decision of the delegated reviewer may be extended if special circumstances require an extension of time for processing the claim, in which case the decision shall be rendered as soon as possible, but no later than 45 days from the end of the initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the determination review. The designated reviewer will not afford deference to the denial of the initial claim, and will not be either the person or persons who denied the initial claim nor a subordinate of such person or persons. If the appeal is based in whole or in part on a medical judgment, the designated

reviewer shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment and who was not consulted in connection with the initial claim or a subordinate of such an individual.

8.10 Claims for Benefits Other Than Disability Benefits. If such a claim does not involve a determination that the Member is Disabled, the Claimant shall make all claims for benefits under the Plan in writing addressed to the Administrator. Each claim shall be reviewed by the Plan within a reasonable time after it is submitted, but in no event longer than 90 days after it is received by the Administrator. If a claim is wholly or partially denied, the Claimant shall be notified in writing of the denial. Such denial notice shall be written in a manner calculated to be understood by the Claimant and shall contain the following:

(a) the specific reason or reasons for the denial,

(b) specific reference to pertinent Plan provisions on which the denial is based,

(c) a description of any additional material or information necessary for the Claimant to perfect his claim and an explanation of why such material or information is necessary,

(d) a description of the Plan's claim review procedures and the time limits applicable to such procedures, including a statement of the Claimant's right to bring a civil action following an adverse determination on review.

If a decision on a claim cannot be rendered within the 90-day period, the Administrator may extend the period in which to render the decision up to 180 days after receipt of the written claim; provided the Administrator notifies the Claimant in writing, prior to the expiration of the initial 90-day period, of the circumstances requiring an extension of time and the date by which the Plan expects to render a decision.

Within 60 days after receipt by the Claimant of written notice of the denial, the Claimant or his duly authorized representative may appeal such denial by filing a written application for review with the person or persons to whom the power to review claims has been delegated. Such application shall be addressed to the Administrator and may include a statement of the issues and other comments. Each such application shall state the grounds upon which the Claimant seeks to have the claim reviewed. The Claimant or his representative shall have access to all pertinent documents relative to the claim for the purpose of preparing the application. The Administrator shall then review the decision and notify the Claimant in writing of the results of the redetermination within 60 days of receipt of the application for review, which decision shall be in writing, written in a manner calculated to be understood by the Claimant and include specific reasons for the decision, specific reference to the pertinent Plan provisions on which the decision is based and a statement of the Claimant's right to bring a civil action. The 60-day period for the decision of the Administrator may be extended if specific circumstances require an extension of time for processing, in which case the decision shall be rendered as soon as possible, but no later than 120 days after receipt of the application for review; provided the Administrator notifies the Claimant in writing, prior to the expiration of the initial 60-day period, of the circumstances requiring an extension of time and the date by which the Plan expects to render a decision.

ARTICLE IX

Miscellaneous

9.01 No Right to Employment. Nothing contained in this Plan shall be deemed to give any Member or associate the right to be retained in the service of the Corporation or to interfere with the right of the Corporation to discharge any Member or associate at any time regardless of the effect which such discharge shall have upon him as a Member of the Plan.

9.02 Rights of Unsecured General Creditor. The rights of the Member, the Beneficiary of the Member, or any other person claiming through the Member under this Plan, shall be solely those of an unsecured general creditor of the Corporation.

9.03 Non-alienation of Benefits. Except insofar as this provision may be contrary to applicable law, no sale, transfer, alienation, assignment, pledge, collateralization or attachment of any benefits under this Plan shall be valid or recognized by the Corporation.

9.04 Amendments and Termination. The Corporation reserves the right at any time and from time to time to terminate, modify or amend, in whole or in part, any or all of the provisions of the Plan, including specifically the right to make any such amendments effective retroactively, *provided that* no such action shall (a) reduce the benefits of any Disabled or Retired Member or a Beneficiary of a Deceased Member or (b) with respect to a person who has been a Member for a period of 5 or more years or with respect to any Member following a Change of Control, materially, adversely affect participation or any benefit or right under the Plan to any material extent without the written consent of the affected Member(s). In addition, the Corporation may amend or modify any provision of this Plan as to any particular Member by Agreement with such Member, *provided that* such Agreement is in writing, is executed by both the Corporation and the Member, and is filed with the Plan records. The provisions of any amendment or modification made by Agreement between a Member and the Corporation shall apply only to the Member so agreeing and no other. To the extent permitted by Code Section 409A, in the case of termination of the Plan, any amounts payable to a Participant may, in the sole discretion of the Corporation, be distributed in full to such Participant as soon as reasonably practicable following such termination.

9.05 Successors. This Plan shall be binding on the Corporation and its successors and assigns. This Plan shall not be terminated by any Business Combination or other Change of Control. In the event of a Business Combination, the provisions of this Plan shall be binding upon the Resulting Corporation, and such Resulting Corporation shall be treated as the Corporation hereunder. The Corporation agrees that, in connection with any Business Combination, it will seek to obtain the express, written agreement of any Resulting Corporation (other than the Corporation itself) to unconditionally assume all of the obligations of the Corporation hereunder. If such Resulting Corporation does not so assume all obligations of the Corporation hereunder prior to the effectiveness of any such Business Combination, all benefits under the Plan shall be paid immediately before the effectiveness of such Business Combination

in accordance with Section 4.02 and Section 7.01 (but without regard to any election under Section 7.02) as if each Member's employment were terminated without Cause immediately after a Change of Control.

9.06 Designation and Change of Beneficiaries. A Member shall have the right to designate or change his Beneficiary by notifying the Administrator of such in writing. Such change shall become effective upon receipt and acceptance of same by the Administrator. Any payments made by the Corporation to a Beneficiary in good faith and under the terms of the Plan shall fully discharge the Corporation from all further obligations with respect to such payments. If no Beneficiary has been designated or survives a Member, any amounts to be paid to the Member's Beneficiary shall be paid to the Member's surviving spouse, or if there is no surviving spouse, then in equal proportions to the Member's surviving children. If the Member is not survived by a spouse or children, then such amounts shall be paid to the estate of the Member.

9.07 Requirements Regarding Reductions. Any person entitled to receive benefit payments under the Plan which are or may be subject to the reductions provided by Sections 4.03, 5.02 or 6.02, as applicable, shall, as a condition to the receipt of such payments, upon the request of the Administrator, which request shall be made no more frequently than once in any 12-month period, provide the Administrator with a certification respecting actual receipt of or entitlement to any benefits or other amounts payable which may result in the reductions specified under Sections 4.03, 5.02 or 6.02, as applicable, and provide the Administrator with copies of all applicable documents reasonably requested by the Administrator relating to such reductions, including but not limited to, benefits statements and plan documents with respect to benefits payable under any defined benefit pension plan of any prior employer. In the event that any portion of the accrued benefit under any defined benefit pension plan of any prior employer of any Member is not payable in the form or at the time specified in Sections 4.03, 5.02 or 6.02, as applicable, or such benefits were paid in a single sum or other distribution prior to the date payment of benefits commences or is made under this Plan, then the benefits under such plan shall be converted to the form and commencement date specified by the applicable provision of Sections 4.03, 5.02 or 6.02 using the actuarial assumptions provided by such defined benefit pension plan or, if such assumptions are not available or cannot be used, then such conversion shall be based on the actuarial assumptions used by the Qualified Plan. Any reduction based on the amount of any benefits that are payable on or as of any date shall be determined without regard to the amount of such benefits that are actually paid.

9.08 Governing Law. This Plan shall be governed by the laws of North Carolina without regard to the principles of conflict of laws to the extent not superseded by federal law.

9.09 Withholding Taxes. Any benefits that are paid under this Plan shall be subject to any applicable payroll or other taxes required to be withheld by law.

9.10 Compliance With Code Section 409A. The Plan is intended to comply with Code Section 409A. Notwithstanding any provision of the Plan to the contrary, the Plan shall be interpreted, operated and administered consistent with this intent.

IN WITNESS WHEREOF, this instrument has been executed by the Corporation on the 15th day of December, 2006 and effective as of January 1, 2005.

BANK OF AMERICA CORPORATION

By: /s/ J. Steele Alphin
J. Steele Alphin, Global Human Resources Executive

CORPORATE POLICY COMMITTEE
SERP BENEFITS SCHEDULE

	Percentage of Average Monthly Earnings		
	Attained Age Upon Termination	Regular Percentage	Change Of Control Percentage
Less than	50	0%	60%
	50	30%	60%
	51	35%	64%
	52	40%	68%
	53	45%	72%
	54	50%	76%
	55	55%	80%
	56	60%	80%
	57	65%	80%
	58	70%	80%
	59	75%	80%
	60	80%	80%
	61	80%	80%
	62	80%	80%
	63	80%	80%
	64	80%	80%
	65	80%	80%
More than	65	80%	80%

Annual Base Salary Limitation

The annual base salary of a Member for purposes of determining the Member's Average Monthly Earnings under the Corporate Policy Committee Benefits Schedule for purposes of Article IV (but not for purposes of Article V or Article VI) shall not exceed $2,500,000 ($3,000,000 for Mr. Cawley).

SERP I
BENEFITS SCHEDULE

	Percentage of Average Monthly Earnings		
	Attained Age Upon Termination	Regular Percentage	Change Of Control Percentage
Less than	50	0%	40%
	50	30%	40%
	51	35%	44%
	52	40%	48%
	53	45%	52%
	54	50%	56%
	55	55%	60%
	56	60%	64%
	57	65%	68%
	58	70%	72%
	59	75%	76%
	60	80%	80%
	61	80%	80%
	62	80%	80%
	63	80%	80%
	64	80%	80%
	65	80%	80%
More than	65	80%	80%

Annual Base Salary Limitation

The annual base salary of a Member for purposes of determining the Member's Average Monthly Earnings under the SERP I Benefits Schedule for purposes of Article IV (but not for purposes of Article V or Article VI) shall not exceed $2,500,000.

SERP II
BENEFITS SCHEDULE

	Percentage of Average Monthly Earnings		
	Attained Age Upon Termination	Regular Percentage	Change Of Control Percentage
Less than	50	0%	30%
	50	0%	30%
	51	0%	33%
	52	0%	36%
	53	0%	39%
	54	0%	42%
	55	30%	45%
	56	36%	48%
	57	42%	51%
	58	48%	54%
	59	54%	57%
	60	60%	60%
	61	64%	64%
	62	68%	68%
	63	72%	72%
	64	76%	76%
	65	80%	80%
More than	65	80%	80%

Annual Base Salary Limitation

The annual base salary of a Member for purposes of determining the Member's Average Monthly Earnings under the SERP II Benefits Schedule for purposes of Article IV, Article V and Article VI shall not exceed $600,000.

SERP III
BENEFITS SCHEDULE

	Percentage of Average Monthly Earnings		
	Attained Age Upon Termination	Regular Percentage	Change Of Control Percentage
Less than	50	0%	20%
	50	0%	20%
	51	0%	22%
	52	0%	24%
	53	0%	26%
	54	0%	28%
	55	20%	30%
	56	24%	32%
	57	28%	34%
	58	32%	36%
	59	36%	38%
	60	40%	40%
	61	44%	44%
	62	48%	48%
	63	52%	52%
	64	56%	56%
	65	60%	60%
More than	65	60%	60%

Annual Base Salary Limitation

The annual base salary of a Member for purposes of determining the Member's Average Monthly Earnings under the SERP III Benefits Schedule for purposes of Article IV, Article V and Article VI shall not exceed $300,000.

Supplemental Executive Insurance Plan
(As Amended and Restated Effective January 1, 2005)

Purpose

The purpose of the Supplemental Executive Insurance Plan (the "Plan") is to provide supplemental permanent life insurance for senior executives and other participants (each, a "Participant") that provides protection for Participants and their families. The Plan is sponsored by Bank of America Corporation, a Delaware corporation (the "Corporation"). For purposes of the Plan, for calendar years beginning prior to January 1, 2006, MBNA Corporation, collectively with MBNA America Bank, N.A. and their subsidiaries, was the Corporation.

Effective Date

The initial effective date of the Plan was September 8, 2003. The Corporation is amending and restating the Plan as set forth herein effective as of January 1, 2005 (unless otherwise provided herein) to (1) provide for the Plan's compliance with the requirements of Internal Revenue Code ("Code") Section 409A, to the extent applicable, (2) reflect operational changes and (3) otherwise meet current needs.

Administration; Named Fiduciary

Effective as of January 1, 2006, the Plan shall be administered by the Bank of America Corporate Benefits Committee (the "Committee"). The Committee shall be empowered to interpret the provisions of the Plan and to perform and exercise all of the duties and powers granted to it under the terms of the Plan by action of a majority of its members in office from time to time. The Committee may adopt such rules and regulations for the administration of the Plan as are consistent with the terms hereof and shall keep adequate records of its proceedings and acts. All interpretations and decisions made (both as to law and fact) and other action taken by the Committee with respect to the Plan shall be conclusive and binding on all parties having or claiming to have an interest under the Plan. Not in limitation of the foregoing, the Committee shall have the discretion to decide any factual or interpretive issues that may arise in connection with its administration of the Plan (including, without limitation, any determination as to claims for benefits hereunder), and the Committee's exercise of such discretion shall be conclusive and binding on all affected parties as long as it is not arbitrary or capricious. The Committee may delegate any of its duties and powers hereunder to the extent permitted by applicable law. For purposes of the Plan, for calendar years beginning prior to January 1, 2006, the Committee was the Compensation Committee of the Board of Directors of the Corporation.

Insurance Policies

The Corporation will use reasonable efforts to arrange for the issuance of one or more whole life insurance policies on the life of each Participant in the Plan on a guaranteed issue basis. Each policy under this Plan will be issued by Northwestern Mutual Life or another nationally recognized insurer (the "Insurer") selected by the Committee from time to time in its sole discretion. The Committee will determine the type and terms of each policy to be issued to a Participant pursuant to the Plan, including, but not limited to, the amount of death benefits and scheduled premiums under each policy.

Requirements of Participant

Each Participant will, as a condition to participation, take all actions reasonably necessary to apply for and acquire a policy on the Participant, including, without limitation, providing such information that the Insurer may require.

The Corporation may need information concerning policies in connection with its administration of the Plan including information concerning ownership, dividend elections and performance. Each Participant, by participating in the Plan, authorizes the Corporation or its agent to obtain from the Insurer any information the Corporation deems appropriate concerning the policies at any time.

The Corporation intends to purchase and hold insurance on the lives of Participants to fund the costs of the Plan. The Corporation will pay all premiums and will own and be the sole beneficiary of any such policy. Each Participant, as a condition to participating in the Plan, authorizes the Corporation to arrange to purchase insurance on the life of the Participant and agrees to cooperate with the Corporation in the issuance of the policy, including completion of an application and providing such other information as the Insurer may require, but will not be required to take a physical examination.

Ownership

Each Participant will be the owner of such Participant's policy and may exercise all rights of ownership with respect to the policy. The Corporation will have no right to or interest in any policy issued pursuant to this Plan at any time.

Election of Dividends Option

Each Participant will elect that all dividends declared by an Insurer on a policy shall be applied to purchase additional paid-up insurance on the life of the Participant. The Participant will not change the dividend election prior to payment of all scheduled premiums on the policy.

Premiums and Taxes

Subject to the terms of the Plan, the Corporation shall pay the full amount of the scheduled premiums for each Participant's policy on the dates such premiums are due according to the terms of the policy but in no event later than the 60th day of each calendar year. The Corporation's payment of insurance premiums for a Participant under this Plan shall be treated as additional compensation for such Participant in the calendar year in which they are paid. The Corporation shall pay the premiums directly to the Insurer. The Participant will be responsible for any premium payments not scheduled at the time of issuance of the policy.

The Corporation may, in its sole and absolute discretion, also pay an amount to a Participant to cover all or a portion of the Participant's income tax liability resulting from the Corporation's payment of insurance premiums pursuant to the Plan. The Corporation shall include the amount of premiums and any taxes it pays for a Participant in the Participant's Form W-2 for the year in which such premium payments are made and taxes are paid. The Corporation shall withhold taxes from Participants and remit them to taxing authorities in accordance with applicable law.

Termination of Rights and Obligations

The right of a Participant to participate in the Plan and the Corporation's obligation to pay premiums for such Participant's policy as required under the Plan shall automatically terminate upon termination of the Participant's employment with the Corporation for any reason, voluntary or involuntary, other than (a) the Participant's Disability, as defined in the Corporation's long term disability or similar plan, (b) the Participant's retirement at or after age 65, or sooner with the approval of the Committee, (c) termination of the Participant's employment with the Corporation at any time after a Change of Control (as defined below) either (i) by the Corporation without Cause (as defined below) or (ii) by the Participant for Good Reason (as defined below), (d) termination of the Participant's employment by the Corporation without Cause or by the Participant for Good Reason before a Change of Control, in either case if (i) the Change of Control actually occurs, (ii) the termination of employment occurred within 12 months before the Change of Control, and (iii) it is reasonably demonstrated that such termination of employment for Cause, or the actions underlying the Good Reason, as applicable, were at the request of a third-party who has taken steps reasonably calculated to effect the Change of Control or otherwise occurred in connection with or in anticipation of, a Change of Control, or (e) in the case of a Participant who was a member of the Corporate Policy Committee (or any successor committee) on the date immediately preceding the Change of Control, termination of such Participant's employment with the Corporation for any reason other than Cause, Disability or death, within the 30-day period beginning one year after a Change of Control.

The Corporation will continue to make premium payments following the termination of Participant's employment in the circumstances described in clauses (a), (b), (c), (d) and (e) above, subject to the Corporation's right to amend or terminate the Plan as provided in this Plan.

In addition, the Corporation may cease paying for premiums on a policy immediately if the Participant (a) changes the dividend option elected under a policy prior to the payment of all scheduled premiums on the policy without the Corporation's prior written consent, (b) files a petition for relief under the bankruptcy laws, or (c) cancels the Participant's policy or assigns any rights in the policy to the Insurer or any other third party without the Corporation's consent, unless the assignment is to one or more of the Participant's immediate family members or to a trust for the exclusive benefit of one or more members of the Participant's immediate family. This paragraph shall apply to any assignee as it applies to the Participant. For purposes of this Plan "assignment" includes any pledge or grant of a security interest in a policy and "immediate family" shall include the Participant's spouse, parents, descendants, siblings, mothers and fathers-in-law, sons and daughters-in-law, and brothers and sisters-in-law.

The following definitions shall apply for purposes of this Plan:

"Cause" means:

(a) For each Participant who was a member of the Corporate Policy Committee (or any successor committee) on the date immediately preceding a Change of Control—a conviction of the Participant for a crime that constitutes a felony for embezzling Corporation funds or for theft of Corporation property; or

(b) For all other Participants—(i) willful and continued failure by a Participant to substantially perform the Participant's duties with the Corporation as such duties may be reasonably defined from time to time; (ii) a significant violation of the Corporation's code of ethics; or (iii) a felony conviction or guilty plea that results in a sentence that is not suspended of incarceration of 6 months or more.

"Change of Control" means:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) (a "Person") of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 40% or more of either (i) the then outstanding shares of the common stock of the Corporation (the "Outstanding Corporation Common Stock") or (ii) the combined voting power of the then outstanding voting securities of the Corporation entitled to vote generally in the election of directors (the "Outstanding Corporation Voting Securities"); provided, however, that for purposes of this subsection (a), the following acquisitions shall not constitute a Change of Control: (A) any acquisition directly from the Corporation, (B) any acquisition by the Corporation or any corporation or other entity controlled by the Corporation, (C) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Corporation or any corporation or other entity controlled by the Corporation, (D) any acquisition pursuant to a transaction which complies with clauses (i), (ii) and (iii) of subsection (c) of this definition, or (E) any acquisition by an underwriter temporarily holding securities pursuant to an offering; or

(b) Individuals who, as of the effective date hereof, constitute the Board of Directors of the Corporation (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board of Directors of the Corporation; provided, however, that any individual becoming a director subsequent to the effective date hereof whose election, or nomination for election by the Corporation's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board (either by specific vote or by approval, without prior written notice to the Board of Directors objecting to the nomination, of a proxy statement in which the individual was named as nominee), shall be considered as though such individual were a member of the Incumbent Board but excluding for this purpose any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies by or on behalf of a Person other than the Board of Directors of the Corporation; or

(c) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Corporation (a "Business Combination"), in each case unless, following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Corporation Common Stock and Outstanding Corporation Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of, respectively, the then outstanding shares of common stock and the combined voting power of the then

outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation or other entity resulting from such Business Combination (or a corporation or other entity which as a result of such transaction owns the Corporation or all or substantially all of the Corporation's assets either directly or through one or more subsidiaries (either corporation or entity, a "Resulting Corporation")) in substantially the same proportions as their ownership, immediately prior to such Business Combination, of the Outstanding Corporation Common Stock and Outstanding Corporation Voting Securities, as the case may be, (ii) no Person (excluding any Resulting Corporation or any employee benefit plan (or related trust) of the Corporation, such Resulting Corporation or any corporation controlled by either) beneficially owns, directly or indirectly, 40% or more of, respectively, the then outstanding shares of common stock of the Resulting Corporation or the combined voting power of the then outstanding voting securities of such corporation or other entity except to the extent that such ownership existed prior to the Business Combination and (iii) at least a majority of the members of the board of directors of the corporation or other entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the board, providing for such Business Combination; or

(d) Approval by the shareholders of the Corporation of a complete liquidation or dissolution of the Corporation.

Without in any way broadening the definition of "beneficial owner," for purposes of this definition, no Person will be the "beneficial owner" of any security solely (1) because the security has been tendered into a tender or exchange offer until the tendered security is accepted for payment or exchange or (2) because of the power to vote or direct the voting of the security pursuant to a revocable proxy given in response to a public proxy or consent solicitation that was made to more than 10 holders of a class of security that is then registered under Section 12 of the Exchange Act. In addition, a Change of Control shall not be deemed to occur solely because any Person acquires beneficial ownership of more than 40% of the Outstanding Corporation Common Stock or Outstanding Corporation Voting Securities as a result of the acquisition of securities by the Corporation or any corporation or other entity controlled by the Corporation; provided that, if after such acquisition by the Corporation or corporation or other entity such Person becomes the beneficial owner of additional Outstanding Corporation Common Stock or Outstanding Corporation Voting Securities that increases the percentage beneficially owned by such Person and the percentage continues to be above 40%, a Change of Control of the Corporation shall then occur.

"Good Reason" means:

(a) Any reduction in the salary or annual bonus potential or any significant reduction in aggregate compensation and benefits (other than salary and bonus potential), other than (i) an isolated, insubstantial and inadvertent reduction not occurring in bad faith and which is remedied by the Corporation promptly after receipt of notice thereof given by the affected Participant, or (ii) a reduction in aggregate compensation and benefits (other than salary and bonus potential) to a level which is applicable to all similarly-situated employees of the Corporation; or

(b) The Corporation's requiring the Participant to be based at any office or location more than 60 miles from that at which he was based immediately before a Change of Control.

Corporation's Discretionary Right to Amend or Terminate Plan

The Corporation may, in any manner, amend the Plan or terminate the Plan or any Participant's rights to participate under the Plan at any time. The Corporation may, pursuant to an amendment or the termination of the Plan, cease to (a) arrange for the issuance of policies under the Plan, (b) pay the premiums on any or all policies issued under the Plan and (c) pay tax gross ups for any or all Participants, all without prior notice. No consent of any Participant shall be required for the Corporation to amend or terminate the Plan.

Notwithstanding the foregoing, after a Change of Control, the Corporation (or any successor corporation) may not amend or terminate this Plan in a manner adverse to any Participant or cease to pay premiums or tax gross ups without the consent of such Participant.

Claims Procedure

Each person who believes that he or she is being denied a benefit to which he or she is entitled under this Plan (hereinafter referred to as a "Claimant") may file a written request for such benefit with the Committee on a form or forms prescribed by the Committee. If no form or forms have been prescribed, a claim for benefits shall be made in writing to the Committee setting forth the basis for the claim. Each Claimant shall furnish the Committee with such documents, evidence, data or information in support of such claim as the Committee considers necessary or desirable.

If a claim for benefits under the Plan is denied, either in whole or in part, the Committee will render a written opinion, written in a manner calculated to be understood by the Claimant, setting forth: (i) the specific reason or reasons for such denial; (ii) the specific reference to pertinent provisions of this Plan on which such denial is based; (iii) a description of any additional material or information necessary for the Claimant to perfect his or her claim and an explanation why such material or such information is necessary; and (iv) an explanation of the Plan's claim review procedures and the time limits applicable to such procedures, including a statement of the Claimant's right to bring a civil action under ERISA §502(a) following an adverse benefit determination on review. The written notice of claim denial shall be provided to the Claimant within a reasonable period of time, but not more than ninety days after receipt of the claim by the Committee, unless special circumstances require an extension of time for processing the claim, in which case the Committee shall provide a written notice of such extension to the Claimant before the expiration of the initial ninety day period. In no event shall such extension exceed ninety days from the end of such initial period.

Within sixty days after the receipt by the Claimant of the written opinion described above, the Claimant may request in writing that the Committee review the determination. The Claimant or his or her duly authorized representative may, but need not, review the pertinent documents and submit issues and comments in writing for consideration by the Committee. If the Claimant does not request a review of the Committee's determination within such sixty-day period, he or she shall be barred and estopped from challenging the Committee's initial determination.

A final and binding decision shall be made by the Committee within sixty days of the filing by the Claimant of his or her request for reconsideration; provided, however, that if the Committee, in its discretion, determines that special circumstances require an extension of time for processing the claim, the Committee shall provide a written notice of such extension to the Claimant before the expiration of the initial sixty day period. The Committee's decision shall be conveyed to the Claimant in writing and shall include: (i) specific reasons for the decision, written in a manner calculated to be understood by the Claimant, (ii) specific references to the pertinent Plan provisions on which the decision is based, (iii) a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the Claimant's claim for benefits, and (iv) a statement of the Claimant's right to bring a civil action under ERISA §502(a).

Miscellaneous

Participation in the Plan does not constitute an employment contract between the Corporation and any Participant.

No Insurer shall be a party to or a beneficiary of this Plan and no provision of this Plan nor any modification or amendment hereof, shall in any way be construed as enlarging, changing, varying, or in any other way affecting the obligations of an Insurer as expressly provided in a policy.

This Plan and the rights and obligations established under this Plan shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina, without regard to the principles of conflicts of laws.

The Plan is intended to comply with Section 409A of the Code, to the extent applicable, and shall be interpreted and administered consistently with this intent.

IN WITNESS WHEREOF, this instrument has been executed by the Corporation on the 15th day of December, 2006 and effective as of January 1, 2005.

BANK OF AMERICA CORPORATION

By: /s/ J. Steele Alphin
J. Steele Alphin, Global Human Resources Executive

MBNA CORPORATION

EXECUTIVE DEFERRED COMPENSATION PLAN

As Amended and Restated

Effective January 1, 2005

MBNA CORPORATION EXECUTIVE DEFERRED COMPENSATION PLAN

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ARTICLE I

PURPOSE AND EFFECTIVE DATE

1.1 **Purpose**. The Plan is intended to provide deferred compensation for a select group of management or highly compensated employees or independent contractors of the Employer. The Plan is an unfunded plan that is not intended to be (i) subject to Parts 2, 3 or 4 of Title I, Subtitle B of the Employee Retirement Income Security Act of 1974 (ERISA), or (ii) qualified under Section 401(a) of the Internal Revenue Code.

1.2 **Effective Date**. The initial effective date of this Plan was October 20, 1993. The Plan was subsequently amended to provide for Directors' Fee Deferrals and further amended and restated to provide for Salary Deferrals and deferrals of other special compensation. The Corporation is amending and restating the Plan as set forth herein effective as of January 1, 2005 (unless otherwise provided herein) to (i) provide for the Plan's compliance with the requirements of Code §409A and (ii) otherwise meet current needs.

ARTICLE II

DEFINITIONS

2.1 **Definitions**. As used herein, the following terms shall have the following meanings:

(a) **Account**. The bookkeeping reserve account established and maintained for each Participant pursuant to Section 5.1 for purposes of determining the amount payable to the Participant pursuant to Article VI.

(b) **Automatic Contributions.** Amounts credited to the Participant's Account pursuant to Section 4.3 for certain calendar years beginning prior to January 1, 2005.

(c) **Beneficiary.** The person(s) or entity(ies) designated by a Participant to receive Plan benefits in the event of the Participant's death, such designation to be made in writing on a form satisfactory to the Global HR Group and effective when received by the Global HR Group thereby revoking any and all prior designations. If the Participant has not designated a Beneficiary, or if no Beneficiary survives the Participant, the aggregate amount then credited to the Participant's Account shall be paid in a single sum pursuant to Section 6.2 to the Participant's surviving spouse, or if there is no surviving spouse, then in equal portions to the Participant's surviving children. If the Participant is not survived by a spouse or children, then such amount shall be paid to the Participant's estate.

(d) **Board.** The Board of Directors of the Corporation or the Compensation Committee of such Board of Directors acting on behalf of the Board in the exercise of any and all powers and duties of the Board pursuant to this Plan.

(e) **Bonus Deferrals.** Part or all of a Participant's annual bonus, the receipt of which is deferred by the Participant pursuant to Section 4.1.

(f) **Code.** The Internal Revenue Code of 1986, as amended. References to the Code shall include the valid and binding governmental regulations, court decisions and other regulatory and judicial authority issued or rendered thereunder.

(g) **Committee.** The committee designated pursuant to Article VIII of the Plan. For purposes of the Plan, for calendar years beginning prior to January 1, 2006 the Pension and 401(k) Plan Committee appointed by the Board was the Committee.

(h) **Corporation.** Bank of America Corporation, a Delaware corporation, and any successor thereto. For purposes of the Plan, for calendar years beginning prior to January 1, 2006, MBNA Corporation was the Corporation.

(i) **Deferral Agreement.** The written agreement entered into between the Participant, the Employer and the Corporation pursuant to Article III.

(j) **Employer.** The Corporation, any subsidiary or affiliate of the Corporation which has adopted the Plan and any organization into which an Employer may be merged or consolidated or to which all or substantially all of its assets may be transferred. For purposes of the Plan, for calendar years beginning prior to January 1, 2006, the Employer was the Corporation, its successors and assigns, MBNA America Bank, N.A., and any direct or indirect subsidiary of the Corporation, unless such subsidiary was otherwise designated by the Board as being a subsidiary that was not authorized to participate in this Plan with respect to its employees.

(k) **Global HR Group**. The Global HR Group of the Corporation. For purposes of the Plan, references to the "Global HR Group" for calendar years beginning prior to January 1, 2006 shall be deemed references to the "Committee".

(l) **Other Deferrals.** Amounts deferred by a Participant pursuant to Section 4.5.

(m) **Participant.** An individual who has elected to participate in the Plan for a calendar year pursuant to Article III, or any other current or former employee who has an Account balance under the Plan.

(n) **Plan.** The MBNA Corporation Executive Deferred Compensation Plan as set forth herein and as amended from time to time.

(o) **Retirement.** The earliest of the following:

(i) The date on which the Participant completes at least 15 Years of Vesting Service (as defined under the MBNA Corporation Pension Plan) and has a combined age and Years of Vesting Service equal to at least sixty-five (65); or

(ii) The date on which the Participant attains sixty-five (65) years of age.

(p) **Salary Deferrals.** Part or all of a Participant's base salary, the receipt of which is deferred by the Participant pursuant to Section 4.2.

(q) **Valuation Date.** The last business day of each calendar month, or such other or additional days as the Global HR Group may deem necessary or appropriate.

(r) **Value Adjustments.** Amounts debited and credited to the Participant's Account pursuant to Section 5.2.

ARTICLE III

ELIGIBILITY

3.1 Eligibility.

(a) **Eligibility for 2005 Calendar Year**

(i) All employees of the Employer having the title of Executive Vice President or a more senior position (and such other managerial or highly compensated employees of the Employer designated by the Committee) shall be eligible to participate in the Plan with respect to Bonus Deferrals, as described in Section 4.1.

(ii) All employees of the Employer having the title of Executive Vice President or a more senior position (and such other managerial or highly compensated employees of the Employer designated by the Committee) whose annualized base salary scheduled to be paid during a calendar year exceeds $200,000 (as indexed by the Secretary of the Treasury pursuant to Code §401(a)(17)) shall be eligible to participate in the Plan with respect to Salary Deferrals, as described in Section 4.2.

(iii) Other individuals, including independent contractors who perform services for the Employer, designated by the Committee to participate in the Plan may defer any amounts received from the Employer pursuant to such rules and procedures as the Committee may establish from time to time.

(b) **Eligibility for 2006 Calendar Year**

(i) All employees of the Employer who (A) are employees of MBNA Corporation (or an affiliate or subsidiary of MBNA Corporation participating in the Plan) on December 31, 2005 and (B) have the title of Executive Vice President or a more senior position with MBNA Corporation (or an affiliate or subsidiary of MBNA Corporation participating in the Plan) on December 31, 2005 (and such other managerial or highly compensated employees designated by the Global HR Group) shall be eligible to participate in the Plan with respect to Bonus Deferrals, as described in Section 4.1.

(ii) All employees of the Employer (A) who are employees of MBNA Corporation (or an affiliate or subsidiary of MBNA Corporation participating in the Plan) on December 31, 2005, (B) who have the title of Executive Vice President or a more senior position with MBNA Corporation (or an affiliate or subsidiary of MBNA Corporation participating in the Plan) on December 31, 2005 (and such other managerial or highly compensated employees designated by the Global HR Group) and (C) whose annualized base salary scheduled to be paid during the calendar year exceeds $200,000 (as indexed by the Secretary of the Treasury pursuant to Code §401(a)(17)) shall be eligible to participate in the Plan with respect to Salary Deferrals, as described in Section 4.2.

(iii) Other individuals, including independent contractors, who (A) perform services for the Employer on or before December 31, 2005, and (B) are designated by the Global HR Group to participate in the Plan may defer any amounts received from the Employer pursuant to such rules and procedures as the Global HR Group may establish from time to time.

(c) **Eligibility for 2007 and Later Calendar Years.** Each individual who is a Participant in the Plan on December 31, 2006 shall continue participation hereunder according to the terms of the amended and restated Plan with respect to Salary Deferrals, Bonus Deferrals, Other Deferrals and Automatic Contributions (if any) made prior to January 1, 2007. Notwithstanding anything in this Section to the contrary, no individual shall become eligible to participate in the Plan after December 31, 2006 and no Salary Deferrals, Bonus Deferrals, Other Deferrals or Automatic Contributions shall be made to the Plan with respect to pay periods or performance periods beginning after December 31, 2006.

3.2 **Participation**. In order to become a Participant in the Plan for purposes of having Salary Deferrals, Bonus Deferrals and/or Other Deferrals credited to such Participant's Account, each individual who is eligible pursuant to Section 3.1 must deliver an executed Deferral Agreement to the Global HR Group, in accordance with the following provisions:

(a) Such Salary Deferral, Bonus Deferral and/or Other Deferral elections shall be made prior to January 1 of the calendar year, provided that a newly hired individual who first becomes eligible to make Salary Deferral, Bonus Deferral and/or Other Deferral elections after the start of the calendar year must deliver an

executed Deferral Agreement to the Global HR Group within thirty (30) days after first becoming eligible to make such Salary Deferral, Bonus Deferral and/or Other Deferral election, as applicable. An election to defer by a newly hired individual made after the start of the calendar year shall only apply prospectively to amounts otherwise payable for the calendar year after the date of the applicable deferral election. A Participant's election with respect to Salary Deferrals, Bonus Deferrals and/or Other Deferrals shall be effective only with respect to amounts earned during the calendar year specified in the Participant's Deferral Agreement. A Participant must make a new election prior to January 1 for each calendar year during which such Participant desires to make Salary Deferrals, Bonus Deferrals and/or Other Deferrals.

(b) If an eligible individual elects to participate in the Plan for a calendar year, separates from service during the calendar year and is subsequently re-hired during the same calendar year as an eligible individual, the election to defer under the Plan with respect to such calendar year that was in effect prior to separation from service shall remain in effect for the calendar year for salary and bonus earned after the re-hire date.

(c) Each Salary Deferral, Bonus Deferral and Other Deferral election, including the deferral period and the method of distribution elected with respect to such Salary Deferral, Bonus Deferral and/or Other Deferral, shall be irrevocable with respect to a calendar year once the election is made and delivered to the Global HR Group.

ARTICLE IV

DEFERRED COMPENSATION

4.1 Bonus Deferrals.

(a) An eligible Participant may elect to defer the right to receive all or any portion of any annual bonus awarded to the Participant with respect to the Participant's services performed during a calendar year. The amount of such Bonus Deferral must be specified in an executed Deferral Agreement delivered to the Global HR Group in accordance with the provisions of Section 3.2. The applicable Deferral Agreement shall specify the period for which such Bonus Deferral shall be deferred. In no event shall such deferral period be less than two taxable years or, if sooner, until separation from service with the Employer. In the event that the Participant fails to specify a deferral period on the Deferral Agreement attributable to a given year, such Participant's Bonus Deferral attributable to that calendar year shall be deferred until separation from service with the Employer.

(b) Notwithstanding anything in the Plan to the contrary, in the event that the Participant elects Salary Deferrals pursuant to Section 4.2 or Other Deferrals

pursuant to Section 4.5, and Bonus Deferrals pursuant to this Section 4.1 with respect to the same calendar year, the deferral period for the Bonus Deferrals, Salary Deferrals and Other Deferrals with respect to that calendar year shall be the same deferral period. The deferral period specified on the first executed Deferral Agreement delivered to the Global HR Group with respect to a calendar year shall be controlling.

(c) The amount of Bonus Deferrals elected on a Deferral Agreement with respect to a calendar year may not be changed during such calendar year.

(d) The amount of any annual bonus deferred with respect to any calendar year shall reduce the amount of such bonus otherwise payable to the Participant as of the date such payment otherwise would have been made, and the amount of such reduction shall be credited to the Participant's Account as of such date.

4.2 Salary Deferrals.

(a) An eligible Participant may elect to defer the right to receive all or any part (in whole percentages) of that portion of the Participant's base salary scheduled to be paid during a calendar year at a rate of pay that, when annualized, exceeds $200,000 (as indexed by the Secretary of the Treasury pursuant to Code §401(a)(17)), subject to administrative rules regarding minimum deferral amounts as may be determined in the discretion of the Global HR Group from time to time. The amount of Salary Deferrals must be specified in an executed Deferral Agreement delivered to the Global HR Group in accordance with the provisions of Section 3.2. Any such Salary Deferral election shall apply prospectively for the entire calendar year (or for the balance of the calendar year for newly eligible individuals first making a Salary Deferral election during the calendar year) and shall apply to any and all increases and reductions in base salary that the Participant may receive while the Deferral Agreement on which such Salary Deferral election is specified is in effect. The applicable Deferral Agreement shall specify the period for which such Salary Deferrals shall be deferred. In no event shall such deferral period be less than two taxable years or, if sooner, until separation from service with the Employer. In the event that a Participant fails to specify a deferral period on the Deferral Agreement attributable to a given calendar year, such Participant's Salary Deferrals attributable to that calendar year shall be deferred until separation from service with the Employer.

(b) Notwithstanding anything in the Plan to the contrary, in the event that the Participant elects Bonus Deferrals pursuant to Section 4.1 or Other Deferrals pursuant to Section 4.5, and Salary Deferrals pursuant to this Section 4.2 with respect to the same calendar year, the deferral period for the Bonus Deferrals, Salary Deferrals and Other Deferrals with respect to that calendar year shall be the same deferral period. The deferral period specified on the first executed Deferral Agreement delivered to the Global HR Group with respect to a calendar year shall be controlling.

(c) The amount of Salary Deferrals elected on a Deferral Agreement with respect to a calendar year may not be changed during such calendar year.

(d) Salary Deferrals pursuant to this Section 4.2 with respect to a calendar year shall reduce the Participant's regular salary payments on a ratable basis over such calendar year and shall be credited to the Participant's Account as of the dates of such reductions.

4.3 **Automatic Contributions**. For certain calendar years beginning prior to January 1, 2005, Automatic Contributions were credited to eligible Participants' Accounts in accordance with the provisions of the Plan as in effect prior to 2005. Notwithstanding anything in the Plan to the contrary, no Automatic Contributions shall be made for calendar years on or after January 1, 2005. Any Automatic Contributions made to an eligible Participant's Account prior to January 1, 2005 shall be deferred until the Participant's separation from service with the Employer.

4.4 **Vesting**. Each Participant shall be at all times fully vested in and have a nonforfeitable right to the aggregate amount credited to the Participant's Account.

4.5 **Other Deferrals**.

(a) The Global HR Group, in its sole discretion, may designate rules and procedures from time to time as it may find desirable to enable such eligible Participants as it may designate in its sole discretion to elect to defer all or any part of any supplemental compensation, bonus, award or other special or extraordinary compensation, including independent contractor fees, that the Global HR Group may designate as deferrable compensation under this Plan. The amount of such Other Deferral must be specified in an executed Deferral Agreement delivered to the Global HR Group in accordance with the provisions of Section 3.2. The applicable Deferral Agreement shall specify the period for which such Other Deferral shall be deferred. In no event shall such deferral period by less than two taxable years or, if sooner, until separation from service with the Employer. In the event that the Participant fails to specify a deferral period in the Deferral Agreement attributable to a given year, such Participant's Other Deferrals attributable to that calendar year shall be deferred until separation from service with the Employer.

(b) Notwithstanding anything in the Plan to the contrary, in the event that the Participant elects Bonus Deferrals pursuant to Section 4.1 or Salary Deferrals pursuant to Section 4.2, and Other Deferrals pursuant to this Section 4.5 with respect to the same calendar year, the deferral period for the Bonus Deferrals, Salary Deferrals and Other Deferrals with respect to that calendar year shall be the same deferral period. The deferral period specified on the first executed Deferral Agreement delivered to the Global HR Group with respect to a calendar year shall be controlling.

(c) The amount of Other Deferrals elected on a Deferral Agreement with respect to a calendar year may not be changed during such calendar year.

(d) The amount of any compensation deferred as Other Deferrals pursuant to this Section 4.5 with respect to any calendar year shall reduce the amount of such compensation otherwise payable to the Participant as of the date such payment otherwise would have been made, and the amount of such reduction shall be credited to the Participant's Account as of such date.

ARTICLE V

ACCOUNTING FOR DEFERRED COMPENSATION

5.1 **Accounts**. The Employer shall establish an Account on behalf of each Participant which shall be credited (or debited) with Bonus Deferrals, Salary Deferrals, Other Deferrals and, prior to January 1, 2005, Automatic Contributions pursuant to Article IV, Value Adjustments as provided in Section 5.2, and payments pursuant to Article VI. Each such Account shall consist of such subaccounts as are necessary or desirable for the convenient administration of the Plan. The Accounts and subaccounts shall be bookkeeping reserve accounts only and shall not require segregation of any funds of the Corporation or the Employer or provide any Participant with any rights to any assets of the Corporation or the Employer, except, to the extent applicable, as a general creditor thereof. A Participant shall have no right to receive payment of any amount credited to the Participant's Account except as expressly provided in Article VI of this Plan.

5.2 **Value Adjustments**.

(a) As of each Valuation Date (and such other dates as the Global HR Group, in its sole and absolute discretion, may determine), the Account of each Participant shall be credited or debited to reflect the amount of net earnings or losses that would have been realized since the immediately preceding Valuation Date if an amount equal to the balance of the Participant's Account had been invested in certain investment funds, designated by the Global HR Group from time to time, in the manner specified by the Participant in writing to the Global HR Group. All Bonus Deferrals, Salary Deferrals and Other Deferrals credited to a Participant's Account pursuant to Article IV during a calendar month shall be deemed to have been credited on the fifteenth day of such calendar month for purposes of calculating Value Adjustments only. Value Adjustments pursuant to this Section 5.2 with respect to any Valuation Date shall be determined based upon the balance of the Participant's Account as of the immediately preceding Valuation Date, with appropriate adjustments for credits of Bonus Deferrals, Salary Deferrals, Other Deferrals and Automatic Contributions made prior to January 1, 2005 as specified in this Section 5.2 and payments pursuant to Article VI since the immediately preceding Valuation Date.

(b) A Participant may change the Participant's investment allocations once per month among the investment funds designated by the Global HR Group by submitting such investment directions in writing to the Global HR Group no later than the twenty-fifth day of the month immediately preceding the month that such investment directions are to become effective (or within such other time designated by the Global HR Group). All investment directions shall become effective on the first day of a calendar month. In the event that investment directions are received by the Global HR Group after the twenty-fifth day of a month, such investment directions shall become effective as of the first day of the second month after the month in which the investment directors are received. A Participant's investment directions shall remain in effect until subsequently modified by the delivery of new investment directions in writing to the Global HR Group. In the event that a Participant fails to provide the Global HR Group with written investment directions, Value Adjustments shall be credited or debited to such Participant's Account to reflect the amount of net earnings or losses that would have been realized since the immediately preceding Valuation Date if an amount equal to the balance of the Participant's Account had been invested in such investment fund or funds as the Global HR Group may determine in its sole and absolute discretion.

(c) Anything in this Plan to the contrary notwithstanding, the Global HR Group may, but is not required to, implement investment allocation directions submitted by the Participants. Anything in the Plan to the contrary notwithstanding, the Global HR Group, in its sole and absolute discretion, may determine at any time to modify the rules and procedures set forth in this Article V.

ARTICLE VI

PAYMENTS OF DEFERRED COMPENSATION

6.1 Time and Manner of Distributions.

(a) A Participant shall specify on each Deferral Agreement executed with respect to a calendar year the manner in which Bonus Deferrals, Salary Deferrals and Other Deferrals, and the Value Adjustments attributable thereto, will be distributed upon the termination of such deferral period. The forms of distribution from which a Participant may elect shall be either a single sum or substantially equal annual installments (adjusted each year to reflect Value Adjustments credited or debited to the Account pursuant to Section 5.2) over a period of whole years not to exceed ten years. A Participant may not change the form of distribution elected with respect to deferrals, and the Value Adjustments attributable thereto, credited for a calendar year after such calendar year commences. The deferral period and the manner in which such deferrals will be distributed upon the termination of such deferral period shall be the same for all Bonus Deferrals, Salary Deferrals and Other Deferrals made on behalf of a Participant attributable to the same calendar

year. The deferral period and the manner of distribution specified on the first executed Deferral Agreement delivered to the Global HR Group with respect to a calendar year shall be controlling. In the event that a Participant fails to specify on a Deferral Agreement with respect to a given calendar year the manner in which the Participant's Bonus Deferrals, Salary Deferrals and Other Deferrals attributable to such year will be distributed upon the termination of the applicable deferral period, the form of distribution with respect to such deferrals, and the Value Adjustments attributable thereto, shall be a single sum payment following the Participant's separation from service with the Employer.

(b) Automatic Contributions made prior to January 1, 2005, and the Value Adjustments attributable thereto, shall be distributed in substantially equal annual installments (adjusted each year to reflect Value Adjustments credited or debited to the Account pursuant to Section 5.2) over a period of ten years commencing after the Participant's separation from service with the Employer. Notwithstanding any provision in this section to the contrary, effective as of May 1, 2005, Automatic Contributions made prior to January 1, 2005 and the value adjustments attributable thereto shall be payable in a single cash payment following the Participant's separation from service with the Employer if, as of the Participant's date of separation from service with the Employer, the amount of the Automatic Contributions and the value adjustments attributable thereto equals Fifty Thousand Dollars ($50,000) or less.

(c) Notwithstanding anything herein to the contrary, nor any election on a Deferral Agreement to the contrary, in the event that a Participant separates from service with the Employer, voluntarily or involuntarily, for any reason other than death, permanent and total disability, or Retirement, the value of the Participant's Account shall be paid in a single sum to the Participant as soon as practicable after the Participant's separation from service, but in no event later than the 75th day after the Participant's separation from service.

(d) A Participant who is eligible for and begins receiving severance under the Corporation's severance plans prior to January 1, 2007 shall receive the Participant's Account in a single sum as soon as practicable after the Participant's separation from service, even if the Participant otherwise satisfies the definition of Retirement. Effective as of January 1, 2007, a Participant who is eligible for and begins receiving severance under the Corporation's severance plans and who satisfies the definition of Retirement shall receive the Participant's Account in accordance with the elections made in the Participant's Deferral Agreements, if any.

(e) All distributions will be paid or commence being paid as soon as practicable after the termination of the applicable deferral period, but in no event later than the 75th day after the end of the applicable deferral period. All distributions will be based on the value of a Participant's Account measured as of the Valuation Date immediately preceding the date of distribution.

(f) Notwithstanding any provision herein to the contrary, to the extent applicable, in no event shall any payment hereunder be made to a "specified employee" within the meaning of Code §409A earlier than six months after the date of the Participant's separation from service with the Employer, except in connection with the Participant's death.

(g) Payments to any Participant who separated from service with the Employer prior to 2005 shall be made in accordance with the provisions of the Plan as in effect prior to 2005.

6.2 **Payment Upon Death**. Upon a Participant's death prior to the Participant having received one hundred percent of the value of the Participant's Account (including a Participant receiving installment payments), the balance of the Participant's Account shall be paid in a single sum to the Participant's Beneficiary as soon as practicable following the Participant's death, but in no event later than the 75th day after the Participant's death.

6.3 **Hardship Withdrawals**. The Global HR Group shall establish criteria under which a Participant may request a withdrawal of some or all of the Participant's Account in the event of an unforeseeable severe financial emergency. In general, an unforeseeable severe financial emergency would include circumstances resulting from a sudden and unexpected illness or accident of the Participant or of the Participant's dependent, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant and for which the resulting financial hardship cannot be reasonably relieved through other sources of funds or by cessation of deferrals under this Plan. The Global HR Group, in its sole and absolute discretion, shall determine whether any such financial emergency warrants a withdrawal from the Participant's Account and shall determine the amount of such withdrawal so as to limit the withdrawal to that amount which is needed to satisfy the emergency need in accordance with Code §409A.

6.4 **Incapacity of Recipient**. If any person entitled to a distribution under this Plan is deemed by the Global HR Group to be incapable of personally receiving and giving a valid receipt for such payment, then, unless and until claim therefor shall have been made by a duly appointed guardian or other legal representative of such person, the Global HR Group may provide for such payment or any part thereof to be made to any other person or institution then contributing toward or providing for the care and maintenance of such person. Any such payment shall be a payment for the account of such person and a complete discharge of any liability of the Corporation, the Employer and the Plan therefor.

ARTICLE VII

FUNDING

7.1 The Corporation shall assume any and all liability which the Employer may have to pay benefits under this Plan and the Employer shall be totally absolved from liability therefor. The obligations of the Corporation to pay benefits under this Plan shall be interpreted solely as an unfunded, contractual obligation of the Corporation to pay only those amounts credited to the Participant's Account pursuant to Article V in the manner and under the conditions prescribed in Article VI. Any assets set aside, including any assets transferred to a rabbi trust or purchased by the Corporation with respect to amounts payable under the Plan, shall be subject to the claims of the Corporation's general creditors, and no person other than the Corporation shall, by virtue of the provisions of the Plan, have any interest in such assets.

ARTICLE VIII

ADMINISTRATION

8.1 **Administration**. Effective as of January 1, 2006, the Plan shall be administered by the Bank of America Corporate Benefits Committee (although certain provisions of the Plan shall be administered by the Global HR Group as specified herein). The Committee shall be empowered to interpret the provisions of the Plan and to perform and exercise all of the duties and powers granted to it under the terms of the Plan by action of a majority of its members in office from time to time. The Committee may adopt such rules and regulations for the administration of the Plan as are consistent with the terms hereof and shall keep adequate records of its proceedings and acts. All interpretations and decisions made (both as to law and fact) and other action taken by the Committee with respect to the Plan shall be conclusive and binding upon all parties having or claiming to have an interest under the Plan. Not in limitation of the foregoing, the Committee shall have the discretion to decide any factual or interpretive issues that may arise in connection with its administration of the Plan (including without limitation any determination as to claims for benefits hereunder), and the Committee's exercise of such discretion shall be conclusive and binding on all affected parties as long as it is not arbitrary or capricious. The Committee may delegate any of its duties and powers hereunder to the extent permitted by applicable law.

ARTICLE IX

CLAIMS PROCEDURE

9.1 **Claim for Benefits**. Each person eligible for a benefit under the Plan shall apply for such benefit by filing a claim with the Committee on a form or forms prescribed by the

Committee. If no form or forms have been prescribed, a claim for benefits shall be made in writing to the Committee setting forth the basis for the claim. Each person making a claim for benefits shall furnish the Committee with such documents, evidence, data, or information in support of such claim as the Committee considers necessary or desirable.

9.2 **Notice of Denial**. If a claim for benefits under this Plan is denied, either in whole or in part, the Committee shall advise the claimant in writing of the amount of his benefit, if any, and the specific reasons for the denial. The Committee shall also furnish the claimant at that time with a written notice containing:

(a) The specific reason or reasons for the adverse determination;

(b) Reference to the specific plan provisions on which the determination is based;

(c) A description of any additional material or information necessary for the claimant to perfect his claim and an explanation of why such material or information is needed; and

(d) An explanation of the Plan's claim review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under ERISA §502(a) following an adverse benefit determination on review.

The written notice of claim denial shall be provided to the claimant within a reasonable period of time, but not more than ninety days after receipt of the claim by the Committee, unless special circumstances require an extension of time for processing the claim, in which case the Committee shall provide a written notice of such extension to the claimant before the expiration of the initial ninety day period. In no event shall such extension exceed ninety days from the end of such initial period.

9.3 **Right to Reconsideration**. Within sixty days of receipt of the information described in Section 9.2 above, the claimant shall, if he desires further review, file a written request for reconsideration with the Committee.

9.4 **Review of Documents**. So long as the claimant's request for review is pending (including the sixty day period described in Section 9.3 above), the claimant or his duly authorized representative may review pertinent Plan documents (and any pertinent related documents) and may submit issues and comments in writing to the Committee.

9.5 **Decision by the Committee**. A final and binding decision shall be made by the Committee within sixty days of the filing by the claimant of his request for reconsideration; provided, however, that if the Committee, in its discretion, determines that special circumstances require an extension of time for processing the claim, the Committee shall provide a written notice of such extension to the claimant before the expiration of the initial sixty day period. In no event shall the extension exceed sixty days from the end of such initial period.

9.6 **Notice by the Committee**. The Committee's decision shall be conveyed to the claimant in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, specific references to the pertinent Plan provisions on which the decision is based, a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits and a statement of the claimant's right to bring a civil action under ERISA §502(a).

ARTICLE X

AMENDMENT DISCONTINUANCE, AND TERMINATION

The Plan may be amended or terminated in writing by the Committee or the Company in any manner at any time; provided, however, that no modification, amendment, discontinuance or termination shall adversely affect the rights of Participants to receive in accordance with the Plan amounts credited to the Accounts maintained on their behalf before such modification, amendment, discontinuance or termination. Notice of every such modification, amendment, discontinuance or termination shall be given in writing to each Participant. To the extent permitted by Code §409A, in the case of termination of the Plan, any amounts credited to the Account of a Participant may, in the sole discretion of the Corporation, be distributed in full to such Participant as soon as reasonably practicable following such termination.

ARTICLE XI

DIRECTORS' FEE DEFERRALS

11.1 **Applicability, in General**. All provisions of the Plan shall apply to outside members of the Board notwithstanding anything in the Plan to the contrary, except as provided otherwise in this Article XI. With respect to all such individuals who are Participants in the Plan pursuant to this Article XI, the term "Deferred Compensation" shall mean for all purposes under the Plan the amount of a Participant's Directors' Fee Deferrals as defined in Section 11.3, Section 4.1 with respect to Bonus Deferrals, Section 4.2 with respect to Salary Deferrals, and Section 4.3 with respect to Automatic Contributions shall not apply to outside members of the Board who are Participants in the Plan pursuant to this Article XI. Notwithstanding anything in this Article to the contrary, this Article shall not apply to outside members of the Board on or after January 1, 2006.

11.2 **Eligibility**. All members of the Board who are not employees of the Corporation (referred to herein as "outside directors" or as "outside members of the Board") shall be eligible to participate in the Plan with respect to Directors' Fee Deferrals as defined in Section 11.3. Each such individual who delivers an executed Deferral Agreement to the Committee in accordance with the provisions of Section 11.4 shall be considered a "Participant" for all purposes under the Plan as such term is defined in Section 2.1.

11.3 **Directors' Fee Deferrals**. An eligible outside director may elect to defer the right to receive all or any portion of the fees for services rendered as an outside director that such individual earns during a calendar year, or portion of such calendar year during which the individual serves as an outside director. All such deferrals shall be referred to herein as "Directors' Fee Deferrals." Such election must be made by delivering an executed Deferral Agreement to the Committee in accordance with the provisions of Section 11.4. The amount of any directors' fees deferred with respect to any calendar year shall reduce the amount of such directors' fees otherwise payable to the Participant as of the date such payment otherwise would have been made, and the amount of such reduction shall be credited to the Participant's Account as of such date.

11.4 **Deferral Agreements**.

(a) Each individual must deliver an executed Deferral Agreement to the Committee within thirty days of first becoming an eligible outside director in order to elect Directors' Fee Deferrals pursuant to Section 11.3 with respect to fees for services to be rendered during the remainder of the calendar year in which such individual first becomes an eligible outside director. If an individual fails to deliver an executed Deferral Agreement to the Committee within thirty days of such individual first becoming an eligible outside director, such individual may elect Directors' Fee Deferrals pursuant to Section 11.3 only with respect to such fees that may become payable for services to be rendered during the calendar year next following the calendar year in which such individual first becomes an eligible outside director and for subsequent calendar years (*i.e.*, no Directors' Fee Deferrals may be elected for the calendar year in which such individual first becomes an eligible outside director), and in all such instances, the executed Deferral Agreement must be delivered to the Committee prior to commencement of the calendar year to which such Directors' Fee Deferrals will apply.

(b) An outside director's executed Deferral Agreement and the applicable elections made thereon shall remain in effect with respect to Directors' Fees earned in all subsequent calendar years until such time as the outside director delivers an executed Deferral Agreement to the Committee that prospectively modifies or suspends such elections. Any such Deferral Agreement delivered to the Committee to modify or suspend the elections made on a previously delivered Deferral Agreement must be delivered to the Committee no later than the last day of the calendar year immediately preceding the commencement of the calendar year to which such new elections are to first apply.

(c) Each Deferral Agreement executed must specify the period for which Directors' Fee Deferrals attributable to such Deferral Agreement shall be deferred. In no event shall such deferral period be less than two taxable years. In the event that an individual fails to specify a deferral period on the Deferral Agreement, such individual's Directors' Fee Deferrals attributable to that Deferral Agreement shall be deferred until the individual ceases to be an eligible outside director.

(d) Each Deferral Agreement executed must specify the manner in which Directors' Fee Deferrals attributable to such Deferral Agreement, and the Value Adjustments attributable thereto, will be distributed upon the termination of the deferral period. The forms of distribution from which an eligible outside director may elect shall be either a single sum or substantially equal annual installments (adjusted each year to reflect Value Adjustments credited or debited to the Account pursuant to Section 5.2) over a period of whole years not to exceed ten years. An outside director may not change the form of distribution elected with respect to deferrals, and the Value Adjustments attributable thereto, credited for a calendar year after such calendar year commences. In the event that an eligible outside director fails to specify on a Deferral Agreement the manner in which the Directors' Fee Deferrals attributable to such Deferral Agreement will be distributed upon the termination of the applicable deferral period, the form of distribution with respect to such deferrals, and the Value Adjustments attributable thereto, shall be a single sum payment. The provisions of Section 6.1(d) shall not apply with respect to Directors' Fee Deferrals.

ARTICLE XII

MISCELLANEOUS

12.1 **Non-Guarantee of Employment**. Participation in the Plan does not give any person any right to be retained in the service of the Employer. The right and power of the Employer to terminate any employee is expressly reserved.

12.2 **Rights of Participants to Benefits**. All rights of a Participant under the Plan to amounts credited to the Participant's Account are mere unsecured contractual rights of the Participant against the Corporation.

12.3 **No Assignment**. No amounts credited to Accounts, rights or benefits under the Plan shall be subject in any way to voluntary or involuntary alienation, sale, transfer, assignment, pledge, attachment, garnishment, execution, or encumbrance, and any attempt to accomplish the same shall be void.

12.4 **Withholding**. The Corporation or the Employer shall have the right to deduct from any payment made-hereunder any taxes required by law to be withheld from a Participant with respect to such payment and to withhold from any payment of any kind (including salary or bonus) otherwise due the Participant any federal, state or local taxes of any kind required by law to be withheld with respect to any deferrals made pursuant to this Plan.

12.5 **Account Statements**. Periodically (as determined by the Committee), each Participant shall receive a statement indicating the amounts credited to and payable from the Participant's Account.

12.6 **Masculine, Feminine, Singular and Plural**. The masculine shall be read in the feminine, the singular in the plural, and vice versa, whenever the context shall so require.

12.7 **Governing Law**. Except to the extent preempted by applicable Federal laws, the Plan shall be construed according to the laws of the State of North Carolina, other than its conflict of laws principles.

12.8 **Titles**. The titles to Articles and Sections in this Plan are placed herein for convenience of reference only, and the Plan is not to be construed by reference thereto.

12.9 **Other Plans**. Nothing in this Plan shall be construed to affect the rights of a Participant, Participant's beneficiaries, or Participant's estate to receive any retirement or death benefit under any tax-qualified or nonqualified pension plan, deferred compensation agreement, insurance agreement, tax-deferred annuity or other retirement plan of the Corporation or the Employer.

12.10 **Compliance with Code §409A**. The Plan is intended to comply with Code §409A, and official guidance issued thereunder, with respect to amounts deferred under the Plan after 2004. Further, the Plan restatement is not intended to constitute a "material modification" of the Plan and, as a result, the Plan is intended to be operated and administered in a manner (a) that will not constitute a "material modification" of the Plan for purposes of the effective date provisions of Code §409A or (b) that would otherwise cause amounts deferred prior to 2005 to become subject to the requirements of Code §409A. Notwithstanding any provision of the Plan to the contrary, the Plan shall be interpreted, operated and administered consistent with this intent.

IN WITNESS WHEREOF, this instrument has been executed by the Corporation on the 15th day of December, 2006 and effective as of January 1, 2005.

BANK OF AMERICA CORPORATION

By: /s/ J. Steele Alphin
J. Steele Alphin, Global Human Resources Executive

MBNA CORPORATION
1997 LONG TERM INCENTIVE PLAN

(as amended effective April 24, 2000 and restated, as adjusted for July 2002 stock split
and as further amended effective April 15, 2005 and restated)

1. Establishment

MBNA Corporation (the "Corporation") hereby establishes the 1997 LONG TERM INCENTIVE PLAN (the "Plan"). The Plan permits the grant of stock options and restricted share awards for shares of the Corporation's Common Stock ("Common Stock").

2. Administration

The Plan shall be administered by the Board of Directors of the Corporation or a committee ("Committee") of the Board of Directors. All references herein to "Committee" shall mean the Board of Directors if no committee of the Board of Directors is appointed or otherwise authorized to act on a particular matter. The Committee shall have all power and authority necessary to administer the Plan, including but not limited to the power to select persons to participate in the Plan, determine the terms of grants made under the Plan, interpret the Plan and adopt such policies for carrying out the Plan as it may deem appropriate. The decisions of the Committee on all matters relating to the Plan shall be conclusive.

3. Shares Available for the Plan; Limitations

(a) Shares of Common Stock may be issued by the Corporation pursuant to incentive or nonqualified stock options or restricted share awards granted under the Plan.

(b) On any given date, the maximum number of shares of Common Stock with respect to which option and restricted share awards may be made pursuant to the Plan shall be equal to the number of shares of Common Stock which, when added to the number of shares of Common Stock subject to outstanding option and restricted share awards immediately prior to the grant, equals 10% of "fully diluted shares outstanding" immediately after the grant. "Fully diluted shares outstanding" for purposes of the Plan shall mean all issued and outstanding shares of Common Stock, including restricted shares, and shares of Common Stock subject to all outstanding options. If the Corporation has outstanding securities convertible into or exercisable for shares of Common Stock, the shares of Common Stock into which the securities may be converted or for which the securities may be exercised shall also be included in "fully diluted shares outstanding."

(c) In addition to the limitation in Section 3(b), the maximum number of restricted shares which may be granted in any calendar year beginning in 1999 is 3,000,000.

(d) For purposes of the formula and limitation in Sections 3(b) and 3(c), restricted shares shall not include restricted shares issued in lieu of payment of cash bonuses under the Corporation's Senior Executive Performance Plan or other annual bonus plans.

(e) In addition to the limitation in Section 3(b), the maximum number of shares of Common Stock with respect to which incentive stock options may be granted from April 26, 1999 through the remaining term of the Plan is 15,000,000.

(f) The maximum number of shares of Common Stock with respect to which options may be granted pursuant to the Plan in any calendar year to any one participant is 3,375,000.

(g) In the event of a reorganization, recapitalization, stock split, stock dividend, combination of shares, merger, share exchange, consolidation, substantial distribution of assets, or any other change in the corporate structure or shares of the Corporation, the maximum numbers of shares provided in Sections 3(b), 3(c), 3(e) and 3(f), but not Section 5(e), and the kinds of shares under the Plan shall be appropriately adjusted.

4. Participation

Participation in the Plan is limited to officers, directors, key employees, consultants and advisors of the Corporation and its subsidiaries selected by the Committee. Only officers and key employees of the Corporation and its subsidiaries are eligible to receive incentive stock options.

5. Stock Options

(a) The Committee may from time to time grant to participants non-qualified stock options or incentive stock options.

(b) The price per share payable upon the exercise of each option shall not be less than 100% of the fair market value of a share of Common Stock on the date the option is granted.

(c) The Committee shall determine all terms and conditions of options, including but not limited to the period for exercise, the expiration date and any conditions to exercise. The Committee may amend or modify the terms of any outstanding option grant except that the Committee may not reprice any outstanding option grant.

(d) Options may be exercised in any manner approved by the Committee. If authorized by the Committee, a participant may deliver Common Stock, including shares acquired upon exercise of the option, to pay the exercise price or withholding taxes in connection with exercise of an option.

(e) Each person who becomes a nonemployee director of the Corporation shall be granted an option to purchase 5,000 shares of Common Stock on the date the person

becomes a director and each person who is a nonemployee director on January 2 of each year beginning in 1998 shall be granted an option to purchase 5,000 shares of Common Stock on that date or the next day the New York Stock Exchange is open for trading. The exercise price shall be the closing price of the Common Stock on the New York Stock Exchange on the grant date. All nonemployee director's options are exerciseable immediately following the effective date of the grant, shall have a term of ten years, and shall expire 90 days after the grantee is no longer a director.

6. Restricted Share Awards

The Committee may from time to time make restricted share awards of shares of Common Stock to participants in such amounts and on such terms as it determines. Each award of shares shall specify the restrictions on the shares. The Committee may waive or modify any restriction. A restricted share award may provide for the issuance of Common Stock at the time such award is made, when such award vests, or at any other date thereafter, as determined by the Committee.

7. Deferral of Shares

A director, employee or other holder of a stock option or restricted share award may defer delivery of shares of Common Stock issuable upon exercise of a stock option or upon the vesting of a restricted share award pursuant to policies approved by the Committee. Deferral arrangements may include the issuance of deferred share units, the issuance of shares to a trust, or other arrangements approved by the Committee. The arrangements may include the payment of dividend equivalents on deferred share units if approved by the Committee.

8. Amendment and Termination of the Plan

The Plan may be amended or terminated at any time by the Board of Directors. The Board of Directors may condition any amendment of the Plan on approval by the stockholders of the Corporation. No further grants may be made under the Plan after December 31, 2006.

AMENDMENT TO
MBNA CORPORATION 1997 LONG TERM INCENTIVE PLAN

Instrument of Amendment

THIS INSTRUMENT is executed by BANK OF AMERICA CORPORATION, a Delaware corporation with its principal office and place of business in Charlotte, North Carolina (the "Corporation").

Statement of Purpose

MBNA Corporation ("MBNA") previously adopted the MBNA Corporation 1997 Long Term Incentive Plan (the "Plan") for the benefit of eligible employees and reserved the right to amend the same from time to time. Effective as of the consummation of the transactions contemplated by the Agreement and Plan of Merger dated June 30, 2005 between MBNA and the Corporation, MBNA merged with the Corporation, and the Corporation assumed sponsorship of the Plan. By this Instrument the Corporation is amending the Plan to provide for the Plan's compliance with the requirements of Internal Revenue Code ("Code") Section 409A, to the extent applicable.

NOW, THEREFORE, the Corporation hereby amends the Plan as follows effective as of January 1, 2005:

1. Section 7 of the Plan shall be deleted in its entirety and shall be replaced with the following:

"Reserved."

2. A new Section 9 shall be added to the Plan to read as follows:

"9. Compliance with Section 409A of the Code

The Plan and any grant thereunder is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), to the extent applicable, and shall be administered and interpreted consistently with this intent."

IN WITNESS WHEREOF, Bank of America Corporation has caused this Instrument to be duly executed on the 15th day of December, 2006.

BANK OF AMERICA CORPORATION

By: /s/ J. Steele Alphin
J. Steele Alphin, Global Human Resources Executive

CANCELLATION AGREEMENT

This Cancellation Agreement (the "Agreement") by and between Bruce L. Hammonds (the "Executive") and Bank of America Corporation, a Delaware corporation (the "Company"), is hereby entered into as of the 19th day of June, 2008.

Statement of Purpose

The Executive and the Company previously entered into a Retention Agreement dated September 6, 2005 and effective January 1, 2006, to provide the Executive with appropriate incentives to remain with the Company following the merger between MBNA Corporation, a Maryland corporation ("MBNA"), and the Company (the "Retention Agreement"). The Retention Agreement provides, among other things, that the Executive shall have access to aircraft for personal travel under specified guidelines for a limited period of time in order to transition from MBNA practices. The parties desire to cancel the Retention Agreement effective as of the date hereof in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing statement of purpose and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Retention Agreement is cancelled effective as of the date hereof, provided that the provisions of Section 8 (regarding certain excise tax gross-up payments), attached hereto as Attachment A, of the Retention Agreement shall remain in effect. In that regard, from and after the date hereof, as is the case with associates within the Company and its subsidiaries generally, the Executive shall have the right to terminate his employment at anytime with or without cause or notice, and the Company reserves for itself an equal right.

2. In consideration for the cancellation of the Retention Agreement, the Company shall pay to the Executive a single cash payment in the amount of $6,800000.00, less applicable payroll and withholding taxes. Such amount shall be payable to the Executive on a business day during January 2009 as determined by the Company.

3. This Agreement contains the entire agreement between the Company and the Executive with respect to the subject matter hereof, and no amendment, modification or cancellation hereof shall be effective unless the same is in writing and executed by the parties hereto (or by their respective duly authorized representatives).

4. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, legal representatives, successors and assigns, if any.

[signature page follows]

IN WITNESS WHEREOF, the Executive has executed this Agreement and the Company has caused this Agreement to be executed by its duly authorized officer, all as of the day and year first above-written. This Agreement may be executed in any number of counterparts, all of which constitute one and the same amendment.

/s/Bruce L. Hammonds
Bruce L. Hammonds

BANK OF AMERICA CORPORATION

By: /s/E. Randall Morrow
Name: E. Randall Morrow
Title: Senior Vice President

ATTACHMENT A

8. Certain Additional Payments by the Company.

(a) Anything in this Agreement to the contrary notwithstanding, in the event it shall be determined that any payment or distribution by the Company to or for the benefit of the Executive (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement, the Company's stock incentive plans, supplemental executive retirement plan or otherwise, but determined without regard to any additional payments required under this Section 8) (a "Payment") would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Executive shall be entitled to receive an additional payment (a "Gross-Up Payment") in an amount such that after payment by the Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, the Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. Notwithstanding the foregoing provisions of this Section 8(a), if it shall be determined that the difference between (i) the sum of the Payments and (ii) the amount of the Payments reduced to the extent necessary so that no portion thereof shall be subject to the Excise Tax, is less than $50,000, then (x) no Gross-Up Payment shall be made pursuant to this Section 8 and (y) the Payments shall be reduced to the minimum extent necessary so that no portion thereof shall be subject to the Excise Tax.

(b) Subject to the provisions of Section 8(c), all determinations required to be made under this Section 8, including whether and when a Gross-Up Payment is required and the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made by an accounting firm of national standing reasonably selected by the Company (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the date requested by the Company or the Executive. All fees and expenses to the Accounting Firm shall be borne solely by the Company. Any Gross-Up Payment, as determined pursuant to this Section 8, shall be paid by the Company to the Executive within five days of the receipt of the Accounting Firm's determination. If the Accounting Firm determines that no Excise Tax is payable by the Executive, it shall furnish the Executive with a written opinion that failure to report the Excise Tax on the Executive's applicable federal income tax return would not result in the imposition of a negligence or similar penalty. If the Accounting Firm determines that a reduction in Payments is required as a result of the provisions of the last sentence of Section 8(a), the Executive, in the Executive's sole and absolute discretion, may determine which Payments shall be reduced to the extent necessary so that no portion thereof shall be subject to the Excise Tax, and the Company shall pay such reduced amount to the Executive. Any determination by the Accounting firm shall be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment") or Gross-Up Payments are made by the Company which should not have been made ("Overpayments"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts its remedies pursuant to

Section 8(c) and the Executive thereafter is required to make a payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive. In the event the amount of the Gross-Up Payment exceeds the amount necessary to reimburse the Executive for his Excise Tax, the Accounting firm shall determine the amount of the Overpayment that has been made and any such Overpayment shall be promptly paid by the Executive to or for the benefit of the Company.

(c) The Executive shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification shall be given as soon as practicable but no later than ten business days after the Executive receives written notification of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the 30-day period following the date on which it gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Executive in writing prior to the expiration of such period that it desires to contest such claim, the Executive shall:

(i) give the Company any information reasonably requested by the Company relating to such claim;

(ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company;

(iii) cooperate with the Company in good faith in order to contest such claim effectively; and

(iv) permit the Company to participate in any proceedings relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Executive harmless, on an after-tax basis, for any taxes, including any Excise Tax or income tax (including interest and penalties with respect thereto) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 8(c), the Company shall control all proceedings taken in connection with such contest and, at its sale option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct the Executive to pay the tax claimed and sue for a refund or contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; provided, however, that if the Company directs the Executive to pay such claim and sue for a

refund, the Company shall advance the amount of such payment to the Executive, on an interest-free basis and shall indemnify and hold the Executive harmless, on an after-tax basis, from any taxes, including any Excise Tax or income tax (including interest or penalties with respect thereto) imposed with respect to such advance or with respect to any imputed income with respect to such advance; and provided, further, that any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

(d) If after the receipt by the Executive of an amount advanced by the Company pursuant to Section 8(c), the Executive becomes entitled to receive any refund with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Section 8(c)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 8(c), a determination is made that the Executive shall not be entitled to any refund with respect to such claim and the Company docs not notify the Executive in writing of its intent to contest such denial of refund prior to the expiration of 30 days after such determination, then such advance shall be forgiven and shall not be required to be repaid and the amount of such advance shall offset, to the extent thereof, the amount of Gross-Up Payment required to be paid.

EXECUTIVE NON-COMPETITION AGREEMENT

This Agreement is made among Richard K. Struthers (the "Executive"), MBNA Corporation (the "Corporation") and MBNA America Bank, N.A. (the "Bank") (the Corporation and the Bank are collectively designated in this Agreement as the "Company").

1 . Purpose. Executive is a senior executive of the Company and has extensive knowledge of the Company's business and marketing practices, customer and vendor relationships and other matters of a confidential nature which are proprietary and highly valuable to the Company. The Company's business would be substantially damaged if, following the end of the Executive's employment by the Company, the Executive were to be employed by a competitor of the Company or to use or disclose to others the Company's business information. The purpose of this Agreement is to set forth certain agreements between the Executive and the Company relating to the Executive's activities following the end of the Executive's employment by the Company.

2 . Non-competition. Unless otherwise agreed in writing by the Company, the Executive will not, directly or indirectly, in any capacity (including as director, officer, employee, stockholder, partner, owner, consultant or advisor) provide services of any kind, anywhere in the world, until eighteen (18) months following the end of the Executive's employment by the Company ("Restricted Period"), to any Issuer of MasterCard, VISA, American Express, Discover Card or any other type or credit card or charge card, any bank or other lender which makes consumer loans of any kind, any insurance company or agency which issues or markets personal lines insurance policies, or any affiliate of any such entity. These services include, but are not limited to, services relating to (i) sales, endorsement, co-branding or similar agreements, (ii) product development and marketing, (iii) credit approval and collections, (iv) customer service, (v) funding or other treasury matters, (vi) loan portfolio acquisitions, mergers or other acquisitions, (vii) financial, legal or accounting matters, or (viii) acquisition of or advice or assistance to others to acquire the Corporation or the Bank or beneficial ownership of 10% or more of the Corporation's Common Stock. In addition, the Executive agrees that during the Restricted Period, the Executive will not provide services to any affinity group or commercial organization, or any affiliate of such entity, relating to an affinity or co-branded credit card, consumer loan or personal lines insurance program with the Company or any other entity. The Executive agrees that these restrictions are reasonable.

3. Confidentiality.

a. Following the end of the Executive's employment by the Company, or sooner upon request of the Company, the Executive will deliver to the Company the originals and all copies of all records and other documents acquired in the Executive's capacity as an employee of the Company which relate to the Company or its business, customers, vendors or employees and which are in the Executive's possession or within the Executive's control, other than records and other documents which (i) are a matter or public record, (ii) relate directly and primarily to the Executive's compensation and benefits as an employee of the Company, or (iii) the Company gives the Executive permission to retain in the Executive's possession. The Executive shall not retain or deliver to any other person any copies of any such records or documents.

b. The Executive will not use for the Executive's benefit or for the benefit of any person other than the Company, and will not ever disclose to any person who is not a Company employee, or to any Company employee except as necessary in the performance of the Executive's duties to the Company, any confidential information concerning the Company. The determination of whether information concerning the Company is confidential shall be made by the Company in its sole discretion. The Executive acknowledges that all information concerning the Company, its plans, programs, policies, finances, customers, vendors, employees and business shall be deemed confidential unless a matter of public record or unless publicly known otherwise than through a breach by the Executive of this Agreement.

c. The Executive will not make any statement in writing, orally or otherwise, to any person, including without limitation any employee, customer or other person known by the Executive to be a business associate of the Company or of its directors, officers or employees, which criticizes, disparages, condemns or impugns the reputation or character of the Company or any director, officer or employee of the Company, whether or not true and whether or not confidential.

d. The Executive shall not disclose this Agreement or any provision of this Agreement to any person without the Company's prior written consent except that (i) the Executive may disclose the terms of this Agreement as necessary in connection with obtaining personal tax, financial planning or legal advice; and (ii) the Executive may disclose the terms of Section 2 to any person who proposes to engage the Executive as an employee or consultant. This obligation of the Executive shall continue notwithstanding the filing of a copy of this Agreement with the Securities and Exchange Commission.

e. Disclosure which otherwise would constitute a breach of this Section 3 shall not be deemed a breach thereof to the extent such disclosure is required by law.

f. The obligations of the Executive under Section 3.a. and 3.b. shall continue so long as the information remains confidential. The obligations of the Executive under Section 3.d. shall expire eighteen (18) months after the end of the Executive's employment with the Company.

4 . Consideration to Executive. As consideration to the Executive for the execution and performance of this Agreement, the Company will issue to the Executive 52,515 shares of the Corporation's Common Stock subject to the restrictions set forth in Section 5 of this Agreement ("Restricted Shares") and will make the payments described in Section 6 of this Agreement. Additional consideration to the Executive for the execution and performance of this Agreement includes the continued employment of the Executive by the Company, and the compensation and benefits received and to be received by the Executive in connection with the Executive's present and future employment by the Company.

5. Restricted Shares.

a. Except as provided below in Section 5.b. or as otherwise approved in writing by the Company, the Restricted Shares may not be sold or transferred by the Executive until after the Restricted Period.

b. If the Executive's employment is terminated due to the death or Disability (as defined in the Policies adopted under the Corporation's 1997 Long Term Incentive Plan ("Policies")) of the Executive, all restrictions on the Restricted Shares shall lapse.

c. As described in Section 4, the Restricted Shares have been granted as consideration for the Executive agreeing to the provisions of Sections 2 and 3 of this Agreement. Accordingly, the restrictions on the Restricted Shares shall not lapse upon a Change in Control (as defined in the Policies) or a termination of the Executive's employment due to Retirement (as defined in the Policies), notwithstanding any provisions in the Policies to the contrary. Furthermore, the Restricted Shares shall not be forfeited as a result of termination of the Executive's employment, regardless of the reason for termination, notwithstanding any provision in the Policies to the contrary.

d. If during the Restricted Period the Executive violates any provision of Section 2 of this Agreement, then in addition to any other remedies available at law or in equity or under this Agreement, the Restricted Shares shall be forfeited.

e. Even if the Executive is no longer obligated to comply with Section 2 of this Agreement in the limited circumstances described in Section 6.a. of this Agreement, the Restricted Shares remain subject to the terms of this Section 5 as these shares have been granted as consideration for the Executive agreeing to the provisions of Sections 2 and 3 of this Agreement. Accordingly, in such case the Restricted Shares may not be sold or transferred during the Restricted Period as provided in Section 5.a. and the Restricted Shares shall be forfeited if during the Restricted Period the Executive violates any provision of Section 2 or 3.

f. The Corporation agrees to issue the Restricted Shares registered in the name of the Executive upon execution of this Agreement. Thereafter the Executive shall have all of the rights of a stockholder of the Corporation with respect to such shares, including the right to receive dividends and to vote, subject to this Agreement. If any of the shares are forfeited, the Executive authorizes the Corporation to cancel the shares and the certificates for the shares and irrevocably appoints the Corporation as its attorney-in-fact for this purpose. The Corporation will hold certificates representing the shares until the Restricted Period has lapsed or terminated. Upon lapse or termination of the Restricted Period, the Corporation will deliver to the Executive a certificate representing the shares. Certificates delivered to the Executive evidencing such shares may bear a legend to the effect that they may be sold, pledged or otherwise transferred only in accordance with applicable federal and state securities laws. The Executive agrees to sell or transfer such shares only in accordance with applicable laws.

g. The Executive shall be entitled to receive dividends and distributions paid by the Corporation with respect to the shares subject to the following. Dividends paid by the Corporation in cash with respect to the shares shall be paid to the Executive as and when paid by the Corporation to its stockholders, and the Executive shall be entitled to retain such cash dividends notwithstanding subsequent forfeiture of the shares. Dividends paid by the Corporation in stock or other property or shares issued with respect to Common Stock in connection with a stock split, reclassification of shares or recapitalization of the Corporation, shall be issued in the name of the Executive but retained by the Corporation until expiration of the Restricted Period and, in the event of a forfeiture, shall be retained by the Corporation without payment of any consideration to the Executive.

6. Payments.

a. If the Executive's employment ends (i) as a result of the Executive's retirement, resignation or otherwise voluntarily by the Executive or (ii) for Cause (as defined below) by the Company, the Company may elect by written notice to the Executive sent within 30 business days following the end of the Executive's employment, to commence making the payments set forth in Section 6.c. ("Non-Compete Payments") during the Restricted Period, in which event the Executive shall be required to comply with Section 2 of this Agreement. If the Company does not make such election, the Executive shall not be required to comply with Section 2 of this Agreement. During the 30 business day notice period under this Section 6.a. the Executive shall be required to comply with Section 2 of the Agreement unless the Company sends a written notice to the Executive stating that the Company will not require such compliance.

b. If the Executive's employment is terminated by the Company without Cause, the Company shall make the Non-Compete Payments during the Restricted Period and the Executive shall be required to comply with Section 2 of this Agreement.

c. The Non-Compete Payments will be an amount equal to the Executive's salary at the time of the Executive's employment termination payable in bi-weekly installments.

d. If the Executive fails to comply with Section 2 or 3 of this Agreement, the Company will not be obligated to make the Non-Compete Payments.

e. The Company will not be obligated to make the Non-Compete Payments if the Executive receives a payment under the Company's Supplemental Executive Retirement Plan. In such case, the Executive shall still be required to comply with Section 2 of this Agreement.

f. For purposes of this Agreement, "Cause" shall mean the occurrence of one of the following:

(i) A conviction of the Executive of (i) a felony or (ii) any lesser crime or offense than a felony involving the property of the Company, provided that such lesser crime or offense causes demonstrable and serious injury to the Company, monetary or otherwise.

(ii) The willful engaging by the Executive in conduct which has caused demonstrable and serious injury to the Company, monetary or otherwise, as evidenced by a determination in a binding and final judgment, order or decree of a court or administrative agency of competent jurisdiction, in effect after exhaustion or lapse of all rights of appeal, in an action, suit or proceeding, whether civil, criminal, administrative or investigative.

(iii) Willful gross neglect of the Executive's duties, willful gross dereliction of duty or other grave misconduct by the Executive and failure to cure such situation within thirty (30) days after receipt of notice thereof from the Chief Executive Officer of the

Corporation or the Bank. For purposes of this Agreement, no act, or failure to act, by an Executive shall be deemed "willful" unless done, or omitted to be done, not in good faith and without reasonable belief that the Executive's action or omission was in the best interest of the Company. Notwithstanding the foregoing, an Executive shall not be deemed to have been terminated for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the affirmative vote of not less than three-quarters (3/4) of the entire membership of the Board of Directors of the Corporation at a meeting called and held for such purpose (after reasonable notice to the Executive and an opportunity for the Executive, together with the Executive's counsel, to be heard before the Board of Directors, finding that in the good faith opinion of the Board of Directors the Executive is guilty of conduct set forth above in clauses (i), (ii) or (iii) of this subsection and specifying the particulars thereof in detail.

g. Following termination of the Executive's employment with the Company, the Executive will be entitled to receive any benefits to which the Executive is entitled under the Company's pension and profit sharing plans and under its other compensation and benefit plans in accordance with the terms of those plans, including provisions, if applicable, for termination, forfeiture or reduction of benefits upon termination of employment or engaging in competition with the Company. No financial benefits will accrue to the Executive under those plans following the end of the Executive's employment by the Company.

h. The Executive will not, as a condition to receipt of the Non-Compete Payments, be required to seek or accept other employment of any kind, nor will any compensation received by the Executive from another employer be deducted or credited against such payments.

i. The Executive will not be excused from compliance with Section 2 of this Agreement if the Company has failed to make Non-Compete Payments because the Company believes in good faith that the Executive has violated the terms of this Agreement, even if the Company's belief is incorrect, provided that the Company resumes payments when it determines that its belief is incorrect. In such event, the Executive's only remedy shall be a suit for damages against the Company.

7. Other Terms.

a. In the event of the death or permanent disability of the Executive, this Agreement shall terminate and the Executive shall not be entitled to receive any Non-Compete Payments.

b. This Agreement represents the entire agreement, and supersedes all prior and contemporaneous agreements and understandings, relative to the same subject matter. Except as set forth below, this Agreement does not affect or amend prior agreements as to the Company's benefit plans available generally to employees, the Corporation's Supplemental Executive Retirement Plan if applicable, split dollar insurance agreements if applicable, stock option and restricted stock agreements if applicable, and any Executive Deferred Compensation Plan agreements with the Executive. Notwithstanding the preceding sentence, the Company and the Executive agree that the term "competition" in the Corporation's Supplemental Executive Retirement Plan and in the Policies adopted under the Corporation's 1997 Long Term Incentive Plan shall be interpreted to include the activities described in Section 2 of this Agreement.

b. This Agreement may not be amended or changed, and neither party shall be deemed to have waived any provision of this Agreement, unless the amendment or change or waiver is set forth in writing signed by a duly authorized officer of the Company and by the Executive. The failure of either party to enforce any term of this Agreement shall not constitute a waiver of any rights or deprive the party of the right to insist thereafter upon strict adherence to that or any other term of this Agreement, nor shall a waiver of any breach of this Agreement constitute a waiver of any preceding or succeeding breach.

c. The Executive acknowledges that the Executive has read and understands each provision of this Agreement and has had an opportunity for counsel of the Executive's choice to review this Agreement and that no promises or inducements have been made for the Executive to sign this Agreement except as expressly set forth in this Agreement.

d. The Executive agrees to pay to the Company any federal, state and local income and other taxes required by law to be withheld with respect to any compensation, benefit or other action taken by or pursuant to this Agreement, including, without limitation, any taxes payable with respect to vesting of restricted stock. Such payment may be made in cash or, with respect to the vesting of the Restricted Shares, by delivering shares of Common Stock, including shares of Common Stock otherwise deliverable in connection with the vesting of the Restricted Shares, as authorized in the Plan and Policies as the same may be amended from time to time. The Company has the right to deduct from any payment of any kind otherwise due the Executive any such taxes, or to retain or sell without notice a sufficient number of Restricted Shares to be issued to the Executive to cover any such taxes. The Executive shall not be entitled to be "grossed up" with respect to any taxes.

e. This Agreement shall be interpreted under the laws of the State of Delaware, without regard to principles of conflicts of laws.

f. The Executive agrees that any breach by the Executive of any provision of Section 2 or 3 of this Agreement would cause the Company irreparable damage and that no remedy available at law would be adequate for such violation. Accordingly, in addition to any other remedies available at law or in equity or under any Company benefit or compensation plan or this Agreement, the Company may immediately seek enforcement of this Agreement in a court of appropriate jurisdiction by means of specific performance or injunction, without posting of a bond, or otherwise.

g. It is the intention of the parties that this Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of Section 2 or Section 3 of this Agreement to be unenforceable, the parties agree that, if allowed by law, that provision shall be reduced to the degree necessary to render it enforceable without affecting the rest of this Agreement, and, if such reduction is not allowed by law, the parties shall promptly agree in writing to a provision to be substituted therefor which will have an effect as close as possible to the invalid provision that is consistent with applicable law. The invalidity or unenforceability of any provision of this Agreement shall not affect or limit the validity and enforceability of the other provisions hereof.

h. This Agreement shall inure to the benefit of and be binding upon and enforceable by the Company's successors and assigns, including any successor through merger or purchase of substantially all the assets of the Company.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 9th day of August, 1999.

WITNESS ATTEST:

/s/ John W. Scheflen

/s/ David M. Hirt
David M. Hirt
Assistant Secretary

/s/ David M. Hirt
David M. Hirt
Assistant Secretary

EXECUTIVE

/s/ Richard K. Struthers
Richard K. Struthers

MBNA CORPORATION

By: /s/ John W. Scheflen
John W. Scheflen
Executive Vice President

MBNA AMERICA BANK, N.A.

By: /s/ John W. Scheflen
John W. Scheflen
Vice Chairman

AGREEMENT REGARDING PARTICIPATION IN THE MBNA CORPORATION SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN

THIS AGREEMENT (the "Agreement") is made by and between Bank of America Corporation, a Delaware corporation ("Bank of America"), and Richard K. Struthers ("Executive").

Statement of Purpose

Executive participates in the MBNA Corporation Supplemental Executive Retirement Plan (the "SERP"). The parties desire to amend the SERP as to Executive's participation thereunder to provide for the cessation of additional benefit accruals for Executive with respect to compensation and service for periods beginning after December 31, 2008. The purpose of this Agreement is to set forth the terms and conditions of such cessation of benefit accruals, including without limitation setting forth (i) the amount of the benefit accrued under the SERP for Executive as of December 31, 2008 and (ii) the terms and provisions for the payment of such frozen SERP benefit following a subsequent termination of employment with Bank of America. The provisions of this Agreement shall control notwithstanding any provision of the SERP to the contrary. Unless indicated otherwise, capitalized terms used herein shall be as defined in the SERP.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, Bank of America and Executive do hereby agree as follows:

1. SERP Amendment. Executive's participation in the SERP is amended effective as of the date hereof as follows:

(a) Amount of Frozen SERP Benefit. As of December 31, 2008, Executive had accrued a benefit under the SERP expressed as an annual annuity commencing at age 60. Executive previously made an irrevocable election to have the SERP benefit payable in the form of a lump sum. The parties agree that the lump sum present value of the SERP benefit as of December 31, 2008 shall be calculated as follows:

(i) Step 1: The present value of the age 60 SERP annuity as of December 31, 2008 based upon Executive's "average monthly earnings" (as defined in the SERP) and the other terms of the SERP in effect as of such date, taking into account the required offsets under Section 4.03 of the SERP, shall be determined using (i) the

"applicable mortality table" under Code Section 417(e)(3)(B) for December 2008, and (ii) the "applicable interest rate" under Code Section 417(e)(3)(C) for December 2008 (i.e., based on the adjusted first, second and third segment rates per the requirements of the Pension Protection Act), but without regard to the phase-in of the segment rates otherwise applicable under Code Section 417(e)(3)(D).

(ii) Step 2: The amount determined in Step 1 shall be discounted from age 60 to December 31, 2008 using the "adjusted second segment rate" under Code Section 417(e)(3)(D) for December 2008, but without regard to the phase-in of the segment rates otherwise applicable under Code Section 417(e)(3)(D).

The amount determined under Step 2 is referred to herein as the "Frozen SERP Benefit."

(b) Time and Form of Payment of Frozen SERP Benefit. The Frozen SERP Benefit shall be increased with interest fixed at the same rate used under Step 2 above, compounded annually, through the earlier of (i) the date of Executive's termination of employment with Bank of America, whether voluntary or involuntary, for any reason other than a termination of employment by Bank of America for Cause or (ii) the date of Executive's death. The amount of the Frozen SERP Benefit as of such date shall be payable to Executive (or to Executive's Beneficiary in case of death) in a single cash payment as soon as administratively practicable, but no more than 75 days, after such date; provided, however, that (x) if Executive is a "specified employee" within the meaning of Code Section 409A as of the date of Executive's termination of employment with Bank of America, payment of the Frozen SERP Benefit shall be delayed until the completion of six months after such termination of employment, in which case the Frozen SERP Benefit shall continue to be adjusted with interest at the same fixed rate through the payment date; and (y) if Executive's employment is terminated by Bank of America for Cause, the Frozen SERP Benefit shall be forfeited. For purposes hereof, "termination of employment" shall be as defined in Code Section 409A and Bank of America's 409A Policy.

(c) Effect on SERP. Executive's right to receive payment of the Frozen SERP Benefit shall be in lieu of any other benefits that may otherwise be payable to Executive (or Executive's Beneficiary) under the SERP, including without limitation retirement benefits under Article IV, death benefits under Article V and disability benefits under Article VI of the SERP. The provisions of Article VIII (Plan Administration, Named Fiduciary and Claims Procedure) and Article IX (Miscellaneous) of the SERP shall continue to apply to Executive's participation in the SERP.

2. Miscellaneous.

(a) Entire Agreement. This Agreement contains the entire agreement between Bank of America and Executive with respect to the subject matter hereof, and no amendment, modification or cancellation hereof shall be effective unless the same is in writing and executed by the parties hereto (or by their respective duly authorized representatives).

(b) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, legal representatives, successors and assigns, if any.

(c) Multiple Originals. This Agreement is executed in multiple originals, each of which shall be deemed an original hereof.

IN WITNESS WHEREOF, Bank of America has caused this instrument to be executed by its duly authorized officer, and Executive has hereunto set his hand, all on the 22nd day of December, 2008.

BANK OF AMERICA CORPORATION

By: /s/ E. Randall Morrow
Name: E. Randall Morrow
Title: Senior Vice President

"Bank of America"

/s/ Richard K. Struthers
Richard K. Struthers

"Executive"

MERRILL LYNCH & CO., INC.

EMPLOYEE STOCK COMPENSATION PLAN

ARTICLE I — GENERAL.

Section 1.1 Purpose.

The purposes of the Merrill Lynch & Co., Inc. Employee Stock Compensation Plan (the **"Plan"**) are: (a) to deliver a portion of annual year-end bonuses in stock, in lieu of cash, to key employees of Merrill Lynch & Co., Inc., a Delaware corporation (**"ML & Co."**), its subsidiaries and affiliates; (b) to attract, retain and motivate key employees of outstanding competence and ability who are capable of having a significant impact on the performance of ML & Co.; (c) to encourage long-term stock ownership by employees; and (d) to align the interests of those employees with those of the stockholders of ML & Co.

Section 1.2 Definitions.

For the purpose of the Plan, the following terms shall have the meanings indicated:

(a) **"affiliate"** shall mean a corporation or other entity controlled by, controlling or under common control with ML & Co. and designated by the Committee from time to time as such.

(b) **"Board of Directors"** or **"Board"** shall mean the Board of Directors of ML & Co.

(c) **"Code"** shall mean the Internal Revenue Code of 1986, as amended, including any successor law thereto.

(d) **"Company"** shall mean ML & Co. and any corporation, partnership, or other entity of which ML & Co. owns or controls, directly or indirectly, not less than 50% of the total combined voting power of all classes of stock or other equity interests. For purposes of the Plan, the terms "ML & Co." and "Company" shall include any successor thereto.

(e) **"Committee"** shall mean the Management Development and Compensation Committee of the Board of Directors, or its functional successor or any other Board committee that has been designated by the Board of Directors to administer the Plan.

(f) **"Common Stock"** shall mean the Common Stock, par value $1.33 1/3 per share, of ML & Co. and a **"share of Common Stock"** shall mean one share of Common Stock.

(g) **"Disability,"** unless otherwise provided herein, shall mean any physical or mental condition that, in the opinion of the Head of Human Resources of Merrill Lynch & Co., Inc. (or his or her functional successor), renders an employee incapable of engaging in any employment or occupation for which he is suited by reason of education or training.

(h) **"Fair Market Value"** of a share of Common Stock on any date means the closing price of a share of Common Stock as reflected in the report of composite trading of New York Stock Exchange listed securities for that day (or, if no Shares were publicly traded on that day, the immediately preceding day that Shares were so traded) published in The Wall Street Journal [Eastern Edition] or in any other publication selected by the Committee; provided, however, that if the shares of Common Stock are misquoted or omitted by the selected publication(s), the Committee shall directly solicit the information from officials of the stock exchanges or from other informed independent market sources.

(i) **"Grant Document"** shall mean a written document that sets forth the terms and conditions of an award of Restricted Shares, Restricted Units, Stock Options or Stock Appreciation Rights granted under the Plan.

(j) **"Key Employee"** means any employee who has been designated by ML & Co. as one of the 50 highest paid employees (based on W-2 income) as of the most recently completed fiscal year.

(k) **"Participant"** shall mean any employee who has met the eligibility requirements set forth in Section 1.5 hereof as of the time of grant and to whom a grant has been made and is outstanding under the Plan.

(l) **"Restricted Period"** shall mean, in relation to Restricted Shares or Restricted Units or shares received upon the exercise of Stock Options, the period determined by the Committee, during which restrictions on the transferability of such Restricted Shares or Restricted Units or shares received upon the exercise of Stock Options are in effect.

(m) **"Restricted Share"** shall mean a share of Common Stock, granted to a Participant pursuant to Article II that is subject to the restrictions set forth in Section 2.2 hereof.

(n) **"Restricted Unit"** shall mean a right, granted to a Participant pursuant to Section 2.3 of Article II, to receive either: (1) an amount in cash equal to the Fair Market Value of one share of Common Stock, or (2) one share of Common Stock, as provided by the Committee at the time of grant.

(o) **"Stock Appreciation Right"** shall mean a right, granted to a Participant pursuant to Article IV hereof to receive upon exercise of such right before a specified date, to receive, in cash or shares of Common Stock (or a combination thereof) as determined by the Committee, an amount equal to the increase in Fair Market Value, of a specified number of shares of Common Stock over a specified exercise price per share.

(p) **"Stock Option"** shall mean a right, granted to a Participant pursuant to Article III to purchase on exercise of the Stock Option, before a specified date and at a specified exercise price per share, a specified number of shares of Common Stock.

(q) **"Termination of Employment"** shall mean the termination of the participant's employment with the Company and any of its Subsidiaries or Affiliates other than in connection with Retirement or Disability. Temporary absences from employment because of illness, vacation or leave of absence and transfers among the Company and its subsidiaries and affiliates shall not be considered Terminations of Employment.

(r) **"Vesting Period"** shall mean, in relation to Restricted Shares, Restricted Units, Stock Options, or Stock Appreciation Rights, any period determined by the Committee during which such Restricted Shares, Restricted Units, Stock Options or Stock Appreciation Rights may expire or be forfeited if the Participant terminates employment or if other circumstances specified by the Committee arise. The Vesting Period for Restricted Shares or Restricted Units granted as part of a year-end stock bonus may not be less than three years from the date of grant, provided that, the Committee may determine that year-end grants may vest in substantially equal installments over three years, with the final installment vesting no earlier than the third anniversary of the date of grant.

Section 1.3 Administration.

(a) The Plan shall be administered by the Committee. Subject to the provisions of the Plan, the Committee shall have sole and complete authority to: (i) subject to Section 1.5 hereof, select Participants after receiving the recommendations of the management of the Company; (ii) determine the number of shares of Common Stock subject to awards of Restricted Shares, Restricted Units, Stock Options or Stock Appreciation Rights; (iii) determine the time or times

when grants of awards under the Plan are to be made or are to be effective; (iv) determine the terms and conditions subject to which grants of awards under the Plan may be made; (v) extend the term of any Stock Option (but in no event beyond ten years from the date of grant); (vi) determine that all or any portion of any Stock Option shall be canceled upon the Participant's exercise of a tandem Stock Appreciation Rights; (vii) prescribe the form or forms of the Grant Documents or other instruments evidencing any grants made hereunder, including any provisions relating to a Change in Control; (viii) unless prohibited by a Grant Document, amend any outstanding award in any respect, whether or not the rights of the recipient of such award are adversely affected; (ix) adopt, amend, and rescind such rules and regulations as, in its opinion, may be advisable for the administration of the Plan; (x) construe and interpret the Plan and all rules, regulations, and instruments utilized thereunder; (xi) make all determinations deemed advisable or necessary for the administration of the Plan, and (xii) the extent not prohibited by applicable laws or the rules of the New York Stock Exchange applicable to ML & Co., to delegate any of its powers to the Company's Head of Human Resources, or his or her functional successor, or such other officers as may be designated by the Committee. All determinations by the Committee shall be final and binding.

(b) The Committee may cancel any grant under the Plan and issue a new grant in substitution therefor upon such terms as the Committee may, in its sole discretion determine, not inconsistent with the terms of the Plan. Notwithstanding the foregoing, or any other provision of the Plan, in no event shall a Stock Option or Stock Appreciation Right be granted in substitution for a previously granted Stock Option or Stock Appreciation Right being canceled or surrendered as a condition of receiving a new grant, if the new grant would have a lower exercise price than the grant that it replaces nor shall the exercise price of a Stock Option or Stock Appreciation Right be reduced once the Stock Option or Stock Appreciation Right is granted. The foregoing is not intended to prevent equitable adjustment of grants in accordance with Article VI.

(c) The Committee shall act in accordance with the procedures established under ML & Co.'s Certificate of Incorporation and By-Laws, and the Committee's Charter and under any resolution of the Board.

Section 1.4 Shares Subject to the Plan.

(a) The total number of shares of Common Stock that may be issued under the Plan shall be 75,000,000, subject to adjustment for changes in capitalization as provided in Article VI hereof. Shares of Common Stock distributed under the Plan may be authorized but unissued shares or shares that shall have been or may be acquired by ML & Co. in the open market, in private transactions or otherwise. No participant may be granted Stock Options and Stock Appreciation Rights covering in excess of 1 million shares of Common Stock in any fiscal year of the Company.

(b) In calculating the number of shares of Common Stock remaining available for grants of awards under the Plan, the following rules shall apply:

(i) the number of shares of Common Stock remaining for issuance shall be reduced by the number of outstanding Restricted Shares or shares reserved for issuance for outstanding Restricted Units, Stock Options or Stock Appreciation Rights that are payable in shares.

(ii) the number of shares of Common Stock remaining for issuance shall be increased by the number of shares withheld or tendered (by actual delivery or attestation) to pay the exercise price of a Stock Option and by the number of shares withheld from any grant of Restricted Shares or Restricted Units, Stock Option or Stock Appreciation Rights to satisfy tax withholding obligations.

(iii) the number of shares of Common Stock remaining for issuance shall be increased by (A) the number of shares remaining available under the Merrill Lynch & Co., Inc. Long-Term

Incentive Compensation Plan for Managers and Producers and/or (B) the number of shares remaining available under the Merrill Lynch & Co., Inc. Equity Capital Appreciation Plan, in each case on the date that the Committee shall determine to make no further year-end awards in lieu of cash compensation under such plans;

(iv) the number of shares of Common Stock remaining for issuance shall be increased by the number of shares that have been granted as Restricted Shares or that have been reserved for distribution in satisfaction of any Restricted Units, Stock Options or Stock Appreciation Rights and are later forfeited, or that expire or terminate or, for any other reason, are not payable or distributable under the Plan or the Long-Term Incentive Compensation Plan for Managers and Producers;

(v) the number of shares of Common Stock remaining for issuance shall be increased by the number of shares that have been granted in respect of Restricted Units or Stock Appreciation Rights that are settled in cash under the Plan or the Long-Term Incentive Compensation Plan for Managers and Producers; and

(vi) the number of shares of Common Stock remaining for issuance shall be increased by the number of shares repurchased by the Company with cash option proceeds from stock option exercises.

Section 1.5 Eligibility and Participation.

Participation in the Plan shall be limited to officers (other than executive officers as such term is defined in the Securities Exchange Act of 1934) and other salaried, key employees of the Company or an affiliate.

ARTICLE II — RESTRICTED SHARES AND RESTRICTED UNITS.

Section 2.1 Grants of Restricted Shares and Restricted Units.

The Committee may select employees to become Participants (subject to the provisions of Section 1.5 hereof) and grant Restricted Shares or Restricted Units to such Participants at any time. Before making grants, the Committee may receive recommendations of the management of the Company that take into account such factors as level of responsibility, current and past performance, and performance potential.

The grants of Restricted Shares and Restricted Units shall be in respect of such number of shares of Common Stock for such amounts and subject to such terms and conditions as the Committee may establish. Each grant to a Participant shall be evidenced by a Grant Document stating the number of shares of Common Stock subject to Restricted Shares or Restricted Units granted, the terms and conditions of such grant, and the consequences of forfeiture that will apply to such Restricted Shares or Restricted Units, and any other terms, conditions, or rights with respect to such grant as the Committee may determine.

Section 2.2 Restricted Shares.

At the time of grant of Restricted Shares, subject to the receipt by the Company of any applicable consideration for such Restricted Shares, one or more certificates representing the appropriate number of shares of Common Stock granted to a Participant shall be registered in his or her name, but shall be held by the Company for the account of the Participant. The Participant shall have all rights of a holder as to such shares of Common Stock, including the right to receive dividends, and to vote such Common Stock, subject to the following restrictions: (a) the Participant shall not be entitled to delivery of shares of Common Stock until the expiration of the Vesting and Restricted Periods; (b) except as otherwise provided in the Grant Document, none of the Restricted Shares may be sold, transferred, assigned, pledged, or otherwise encumbered or

disposed of during the Restricted Period; and (c) except as otherwise provided in the Grant Document, all rights of the Participant to such Restricted Shares shall terminate without further obligation on the part of the Company and the Restricted Shares shall be cancelled if the Participant incurs a Termination of Employment prior to the end of the Vesting Period applicable to such Restricted Shares or fails to comply with all other terms and requirements specified in the Grant Document. Any shares of Common Stock or other securities or property received with respect to such shares shall be subject to the same restrictions as such Restricted Shares.

Section 2.3 Restricted Units.

During the Vesting Period (or, if longer, the Restricted Period) for Restricted Units, upon the payment of a dividend on a share of Common Stock, a Participant may be paid, with respect to each such Restricted Unit, a cash amount (or, if the Committee so determines, may be granted additional Restricted Units having a value equal to the amount of such dividend payment based on the Fair Market Value of a share of Common Stock on the date of such additional grant), in the same manner, at the same time and in the same amount paid, as such dividend. Except as otherwise provided in the Grant Document or as may be determined by the Committee, all rights of the Participant to such Restricted Units shall terminate without further obligation on the part of the Company and the Restricted Units shall be cancelled without further obligation on the part of the Company if the Participant incurs a Termination of Employment prior to the end of the Vesting Period applicable to such Restricted Units, or fails to comply with all other terms and requirements specified in the Grant Document.

Section 2.4 Adjustment with respect to Restricted Shares and Restricted Units.

Any other provision of the Plan or a Grant Document to the contrary notwithstanding, the Committee may at any time, change or amend the terms and conditions of any outstanding grant of Restricted Shares or Restricted Units, if it determines that conditions, including but not limited to, changes in the economy, changes in competitive conditions, changes in laws or governmental regulations, changes in generally accepted accounting principles, changes in the Company's accounting policies, acquisitions or dispositions by the Company, or the occurrence of other unusual, unforeseen or extraordinary events, so warrant, provided that, the Committee shall not be obligated to change all grants in the same manner or treat all Participants the same.

Section 2.5 Payment of Restricted Shares and Restricted Units.

(a) Restricted Shares. At the end of the Vesting Period (or, if longer, the Restricted Period) applicable to the Participant's Restricted Shares, all restrictions contained in the Grant Document or award of Restricted Shares and in the Plan shall lapse, and the appropriate number of shares of Common Stock (net of shares withheld at the end of the Vesting Period under Section 2.5(c)), shall be delivered to the Participant free of restrictions, in book-entry or certificated form or credited to a brokerage account as the Participant so directs.

(b) Restricted Units. At the end of the Vesting Period (or, if longer, the Restricted Period) applicable to a Participant's Restricted Units, there shall be paid to the Participant, either: (1) an amount in cash equal to the Fair Market Value of one share of Common Stock for each vested Restricted Unit measured on the last trading day of the Vesting Period (or, if longer, the Restricted Period), or (2) one share of Common Stock for each vested Restricted Unit, in each case, net of shares withheld by the Company pursuant to Section 2.5(c) and free of restrictions.

For Restricted Units satisfied in shares of Common Stock, the appropriate number of shares shall be delivered to the Participant in book-entry or certificated form or credited to a brokerage account as the Participant so directs as soon as practicable, but in no event later than 30 days after the end of the Vesting or Restricted Period (whichever is later), provided that, in the event that the end of such period is fewer than 30 days prior to end of the calendar year, the payment of the shares shall be made in the first 30 days of the next succeeding fiscal year.

(c) Payment of Taxes. In the event that an individual is subject to any tax on Restricted Shares or Restricted Units, the Company may permit the Participant to satisfy any federal, state, local or social security tax withholding requirements that occur by deducting from the number of whole shares of Common Stock otherwise deliverable, such number of shares as shall have a Fair Market Value, on the applicable date, equal to the tax required or permitted to be withheld by the Company.

ARTICLE III — STOCK OPTIONS.

Section 3.1 Grants of Stock Options.

The Committee may select employees to become Participants (subject to Section 1.5 hereof) and grant Stock Options to such Participants at any time; provided, however, that Incentive Stock Options only shall be granted within 10 years of the earlier of the date the Plan is adopted by the Board or approved by the stockholders of ML & Co. Before making grants, the Committee may receive the recommendations of the management of the Company, which will take into account such factors as level of responsibility, current and past performance, and performance potential. Subject to the provisions of the Plan, the Committee shall also determine the number of shares of Common Stock to be covered by each Stock Option. The Committee may grant a Stock Appreciation Right in connection with a Stock Option, as provided in Article IV.

Section 3.2 Option Documentation.

Each Stock Option granted under the Plan shall be evidenced by a Grant Document stating the number of shares of Common Stock subject to the Stock Option, the terms and conditions of such grant, any Vesting Period or Restricted Period, the expiration date of such Stock Option and the events of and the consequences of forfeiture that will apply to such Stock Option, and any other terms, conditions or rights with respect to such grant as the Committee may deem appropriate and are not inconsistent with the provisions of the Plan.

Section 3.3 Exercise Price.

The Committee shall establish the exercise price at the time any Stock Option is granted, except that such exercise price shall not be less than 100% of the Fair Market Value of the underlying shares of Common Stock on the day a Stock Option is granted. The exercise price will be subject to adjustment in accordance with the provisions of Article V of the Plan.

Section 3.4 Exercise of Stock Options.

(a) Exercisability and Vesting . Stock Options shall become exercisable at such times and in such installments as the Committee may provide at the time of grant. The Committee also may, but shall not be required to, set a Vesting Period for grants of Stock Options. Once a Stock Option becomes exercisable, a Stock Option may be exercised from the time first set by the Committee until the close of business on the expiration date of the Stock Option, subject to (1) the limitations imposed by ML & Co. policies with respect to employee trading and (2) any limitations on exercise following termination of employment that are contained in the Grant Document.

(b) Option Period. For each Stock Option granted, the Committee shall specify the period during which the Stock Option may be exercised, provided that no Stock Option shall be exercisable after the expiration of ten years from the date of grant of such Stock Option.

Section 3.5 Payment of Exercise Price and Tax Liability Upon Exercise; Delivery of Shares.

(a) Payment of Purchase Price. The exercise price per share of the shares of Common Stock as to which a Stock Option is exercised shall be paid to the Company at the time of exercise (i) in cash, (ii) by actual delivery or attestation to ownership of freely transferable shares of Common Stock already owned by the person exercising the Stock Option (in accordance with rules established by the Head of Human Resources from time to time) having a total real-time market price, at the time of delivery or attestation and on the date of exercise, equal to the exercise price, (iii) a combination of cash and shares of Common Stock equal in value to the exercise price, or (iv) by such other means as the Committee, in its sole discretion, may determine.

(b) Payment of Taxes. Upon exercise, a Participant may elect to satisfy any federal, state, local, foreign, and social security taxes required or permitted by law to be withheld that arise as a result of the exercise of a Stock Option by directing the Company to withhold from the shares of Common Stock otherwise deliverable upon the exercise of such Stock Option, such number of shares as shall have a total real-time market price at the time and on the date of exercise, at least equal to the amount of tax to be withheld.

(c) Delivery of Shares. Upon receipt by the Company of the exercise price and satisfaction of all tax obligations, stock certificate(s) for the shares of Common Stock as to which a Stock Option is exercised (net of any shares withheld pursuant to Section 3.5(b) above) shall be delivered to the person in whose name the Stock Option is outstanding or such person's estate or beneficiaries, as the case may be, or such shares shall be credited to a brokerage account or otherwise delivered, in such manner as such person or such person's estate or beneficiaries, as the case may be, may direct.

(d) Cashless Exercises. If approved by the Committee, payment in full or in part, upon exercise of a Stock Option, may also be made by delivering a properly executed exercise notice to the Company, together with a copy of irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds necessary to pay the purchase price, and, if requested, the amount of any federal, state, local, foreign or social security withholding taxes. To facilitate the foregoing, the Company may enter into agreements for coordinated procedures with one or more brokerage firms.

ARTICLE IV — STOCK APPRECIATION RIGHTS.

Section 4.1 Grants of Stock Appreciation Rights.

The Committee may select employees to become Participants (subject to the provisions of Section 1.5 hereof) and grant Stock Appreciation Rights to such Participants at any time. Before making grants, the Committee must receive the recommendations of the management of the Company, which will take into account such factors as level of responsibility, current and past performance, and performance potential. Subject to the provisions of the Plan, the Committee shall have the authority to grant Stock Appreciation Rights, with or without associated dividend equivalents, in connection with a Stock Option or independently as a stand-alone award. The Committee may grant Stock Appreciation Rights in connection with a Stock Option, either at the time of grant or by amendment, in which case each such Stock Appreciation Right shall be subject to the same terms and conditions as the related Stock Option and shall be exercisable only at such times and to such extent as the related Stock Option is exercisable. A Stock Appreciation Right granted in connection with a Stock Option shall entitle the holder to surrender to the Company the related Stock Option unexercised, or any portion thereof, and receive from the Company in exchange therefore an amount equal to the excess of the Fair Market Value of one share of the Common Stock on the day of the surrender of such Stock Option over the Stock Option exercise price times the number of shares of Common Stock underlying the Stock Option, or portion thereof, that is surrendered. A Stock Appreciation Right granted independently of a Stock Option shall entitle the holder to receive upon exercise an amount equal to the excess of the Fair Market Value of one share of Common Stock on the day preceding the exercise of the Stock Appreciation Right over the Fair Market Value of one share of Common Stock on the date

such Stock Appreciation Right was granted, or such other price determined by the Committee at the time of grant, which shall in no event be less than 100% of the Fair Market Value of one share of Common Stock on the date such Stock Appreciation Right was granted. In addition, the maximum term of Stock Appreciation Rights shall not exceed ten years.

Section 4.2 Payment Upon Exercise of Stock Appreciation Rights.

The Company's obligation to any Participant exercising a Stock Appreciation Right may be paid in cash or shares of Common Stock, or partly in cash and partly in shares of Common Stock, at the sole discretion of the Committee. The number of shares of Common Stock deliverable upon the satisfaction of an obligation in respect of a Stock Appreciation Right that is satisfied in shares of Common Stock shall be determined based on the Fair Market Value of a share of Common Stock on the date of exercise of such Stock Appreciation Right.

ARTICLE V — PAYMENTS UPON TERMINATION OF EMPLOYMENT AFTER A CHANGE IN CONTROL.

Section 5.1 Value of Payments Upon Termination After a Change in Control.

Any other provision of the Plan to the contrary notwithstanding and notwithstanding any election to the contrary previously made by the Participant, in the event a Change in Control shall occur and thereafter the Company shall terminate the Participant's employment without Cause or the Participant shall terminate his or her employment with the Company for Good Reason within six months of the Change of Control, the Participant shall be paid the value of his or her Restricted Shares, Restricted Units, Stock Options, and Stock Appreciation Rights in a lump sum in cash, promptly after termination of his or her employment but, without limiting the foregoing, in no event later than 30 days thereafter, provided that, in the event that, at the time of his or her termination, a Participant is a Key Employee, the payment to such Participant shall be delayed to a date that is six months from the date of such Participant's termination. Payments shall be calculated as set forth below:

(a) Restricted Shares and Restricted Units.

Any payment under this Section 5.1(a) shall be calculated as if all the relevant Vesting and Restricted Periods had been fully completed immediately prior to the date on which the Participant's employment terminates. The amount of any payment to a Participant pursuant to this Section 5.1(a) shall be reduced by the amount of any payment previously made to the Participant with respect to the Restricted Shares and Restricted Units, exclusive of ordinary dividend payments, resulting by operation of law from the Change in Control, including, without limitation, payments resulting from a merger pursuant to state law. The value of the Participant's Restricted Shares and Restricted Units payable pursuant to this Section 5.1(a) shall be the amount equal to the number of the Restricted Shares and Restricted Units outstanding in a Participant's name multiplied by the Fair Market Value of a share of Common Stock on the day the Participant's employment is terminated.

(b) Stock Options and Stock Appreciation Rights.

Any payment for Stock Options and Stock Appreciation Rights pursuant to this Section 5.1(b) shall be calculated as if all such Stock Options and Stock Appreciation Rights, regardless of whether or not then fully exercisable under the terms of the grant, became exercisable immediately prior to the date on which the Participant's employment is terminated. The amount of any payment to a Participant pursuant to this Section 5.1(b) shall be reduced by the amount of any payment previously made to a Participant with respect to the Stock Options and Stock Appreciation Rights, exclusive of any ordinary dividend payments, resulting by operation of law from the Change in Control, including, without limitation, payments resulting from a merger pursuant to state law. The value of the Participant's Stock Options and Stock Appreciation Rights payable pursuant to this Section 5.1(b) shall be:

(i) in the case of a Stock Option, for each underlying share of Common Stock, the excess of the Fair Market Value of a share of Common Stock on the day the Participant's employment is terminated over the per share exercise price for such Stock Option; and

(ii) in the case of a Stock Appreciation Right granted independently of a Stock Option, the Fair Market Value of a share of Common Stock on the day the Participant's employment is terminated, over the Fair Market Value of one share of Common Stock on the date such Stock Appreciation Right was granted, or such other price determined by the Committee at the time of grant.

Section 5.2 A Change in Control.

(a) **Definition of Change in Control.** For purposes of the Plan, a "Change in Control" shall mean the happening of any of the following events:

(i) An acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) (a "Person") of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 30% or more of either (1) the then outstanding shares of common stock of the Company (the "Outstanding Company Common Stock") or (2) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the "Outstanding Company Voting Securities"); excluding, however, the following: (1) Any acquisition directly from the Company, other than an acquisition by virtue of the exercise of a conversion privilege unless the security being so converted was itself acquired directly from the Company, (2) Any acquisition by the Company, (3) Any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any entity controlled by the Company, or (4) Any acquisition pursuant to a transaction which complies with clauses (1), (2) and (3) of subsection (iii) of this Section 5.2(a); or

(ii) A change in the composition of the Board such that the individuals who, as of the effective date of the Plan, constitute the Board (such Board shall be hereinafter referred to as the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; *provided, however,* for purposes of this Section 5.2(a), that any individual who becomes a member of the Board subsequent to the effective date of the Plan, whose election, or nomination for election by the Company's shareholders, was approved by a vote of at least a majority of those individuals who are members of the Board and who were also members of the Incumbent Board (or deemed to be such pursuant to this proviso) shall be considered as though such individual were a member of the Incumbent Board; but, *provided further,* that any such individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 of Regulation 14A promulgated under the Exchange Act) or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board shall not be so considered as a member of the Incumbent Board; or

(iii) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company ("Corporate Transaction"); excluding, however, such a Corporate Transaction pursuant to which (1) all or substantially all of the individuals and entities who are the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such Corporate Transaction will beneficially own, directly or indirectly, more than 50% of, respectively, the outstanding shares of common stock, and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Corporate Transaction (including, without limitation, a corporation which as a result of such

transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Corporate Transaction, of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be, (2) no Person (other than the Company, any employee benefit plan (or related trust) of the Company or such corporation resulting from such Corporate Transaction) will beneficially own, directly or indirectly, 20% or more of, respectively, the outstanding shares of common stock of the corporation resulting from such Corporate Transaction or the combined voting power of the outstanding voting securities of such corporation entitled to vote generally in the election of directors except to the extent that such ownership existed prior to the Corporate Transaction, and (3) individuals who were members of the Incumbent Board will constitute at least a majority of the members of the board of directors of the corporation resulting from such Corporate Transaction; or

(iv) The approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

Section 5.3 Effect of Agreement Resulting in Change in Control.

If ML & Co. executes an agreement, the consummation of which would result in the occurrence of a Change in Control as described in Section 5.2 and such Change in Control actually occurs, then, with respect to a termination of employment without Cause or for Good Reason occurring after the execution of such agreement (and, if such agreement expires or is terminated prior to consummation, prior to such expiration or termination of such agreement), a Change in Control shall be deemed to have occurred as of the date of the execution of such agreement.

Section 5.4 Termination for Cause.

Termination of the Participant's employment by the Company for **"Cause"** shall mean termination upon:

(a) the willful and continued failure by the Participant substantially to perform his or her duties with the Company (other than any such failure resulting from the Participant's incapacity due to physical or mental illness or from the Participant's Retirement or any such actual or anticipated failure resulting from termination by the Participant for Good Reason) after a written demand for substantial performance is delivered to him or her by the Board of Directors, which demand specifically identifies the manner in which the Board of Directors believes that he or she has not substantially performed his or her duties;

(b) the willful engaging by the Participant in conduct that is demonstrably and materially injurious to the Company, monetarily or otherwise; and

(c) any violation of the Corporation's Code of Business Conduct.

No act or failure to act by the Participant shall be deemed "willful" unless done, or omitted to be done, by the Participant not in good faith and without reasonable belief that his or her action or omission was in the best interest of the Company.

Section 5.5 Good Reason.

"Good Reason" shall mean the Participant's termination of his or her employment with the Company if, without the Participant's consent, after he or she has notified the Company and the Company has failed to take action within 60 days, any of the following circumstances shall occur within two years following the Change in Control:

(a) Inconsistent Duties. A meaningful and detrimental alteration in the Participant's responsibilities from those in effect immediately prior to the Change in Control;

(b) Relocation. The relocation of the office of the Company where the Participant is employed at the time of the Change in Control (the "CIC Location") to a location that in his or her good faith assessment is an area not generally considered conducive to maintaining the executive offices of a company such as ML & Co. because of hazardous or undesirable conditions including without limitation a high crime rate or inadequate facilities, or to a location that is more than twenty-five (25) miles away from the CIC Location or the Company's requiring the Participant to be based more than twenty-five (25) miles away from the CIC Location (except for required travel on the Company's business to an extent substantially consistent with his or her customary business travel obligations in the ordinary course of business prior to the Change in Control);

(c) Compensation Plans. The failure by the Company to continue in effect any compensation plan in which the Participant participates, including but not limited to this Plan, the Company's retirement program, Employee Stock Purchase Plan, 1978 Incentive Equity Purchase Plan, Equity Capital Accumulation Plan, Canadian Capital Accumulation Plan, Management Capital Accumulation Plan, limited partnership offerings, cash incentive compensation or any other plans adopted prior to the Change in Control, unless an equitable arrangement (embodied in an ongoing substitute or alternative plan) has been made with respect to such plan in connection with the Change in Control, or the failure by the Company to continue the Participant's participation therein on at least as favorable a basis, both in terms of the amount of benefits provided and the level of his or her participation relative to other Participants, as existed immediately prior to the Change in Control;

(d) Benefits and Perquisites. The failure of the Company to continue to provide the Participant with benefits at least as favorable, in the aggregate, as those enjoyed by the Participant under any of the Company's retirement, life insurance, medical, health and accident, disability, deferred compensation or savings plans in which the Participant was participating immediately prior to the Change in Control; the taking of any action by the Company that would directly or indirectly materially reduce any of such benefits or deprive the Participant of any material fringe benefit enjoyed by him or her immediately prior to the Change in Control, including, without limitation, the use of a car, secretary, office space, telephones, expense reimbursement, and club dues; or the failure by the Company to provide the Participant with the number of paid vacation days to which the Participant is entitled on the basis of years of service with the Company in accordance with the Company's normal vacation policy in effect immediately prior to the Change in Control. The determination of comparability shall be made by an independent benefits consultant;

(e) No Assumption by Successor. The failure of ML & Co. to obtain a satisfactory agreement from any successor to assume and agree to perform a Participant's employment agreement as contemplated thereunder or, if the business of the Company for which his or her services are principally performed is sold at any time after a Change in Control, the purchaser of such business shall fail to agree to provide the Participant with the same or a comparable position, duties, compensation, and benefits as provided to him or her by the Company immediately prior to the Change in Control.

Section 5.6 Effect on Plan Provisions.

In the event of a Change in Control, no changes in the Plan, or in any documents evidencing grants of Restricted Shares, Restricted Units, Stock Options, or Stock Appreciation Rights and no adjustments, determinations or other exercises of discretion by the Committee or the Board of Directors, that were made subsequent to the Change in Control and that would have the effect of diminishing a Participant's rights or his or her payments under the Plan or this Article shall be effective, including, but not limited to, any changes, determinations or other exercises of discretion made to or pursuant to the Plan. Once a Participant has received a payment pursuant

to this Article V, shares of Common Stock that were reserved for issuance in connection with any Restricted Shares or Stock Options for which payment is made shall no longer be reserved and shares of Common Stock that are Restricted Shares or that are restricted and held by the Company, for which payment has been made, shall no longer be registered in the name of the Participant and shall again be available for grants under the Plan.

ARTICLE VI — CHANGES IN CAPITALIZATION.

Any other provision of the Plan to the contrary notwithstanding, if any change shall occur in or affect shares of Common Stock, or awards of Restricted Units, Stock Options or Stock Appreciation Rights on account of a merger, consolidation, reorganization, stock dividend, stock split or combination, reclassification, recapitalization, or special distribution or spinoff to holders of shares of Common Stock (other than regular cash dividends) including, without limitation, a merger or other reorganization event in which the shares of Common Stock cease to exist, then, without any action by the Committee, appropriate adjustments shall be made to (1) the maximum number of shares of Common Stock available for distribution under the Plan including the limitations on the grant of Restricted Stock or Restricted Units; (2) the number and kind of shares subject to or reserved for issuance and payable under outstanding awards of Restricted Units, Restricted Shares, Stock Options or Stock Appreciation Rights; and (3) the exercise price of outstanding Stock Options and Stock Appreciation Rights; *provided however*, that the number of shares Common Stock subject to an award shall always be a whole number. In addition, if in the opinion of the Committee, after consultation with the Company's independent public accountants, changes in the Company's accounting policies, acquisitions, divestitures by the Company, distributions, or other unusual or extraordinary items have disproportionately and materially affected the value of shares of Common Stock, Restricted Units, Stock Options, or Stock Appreciation Rights; and any other terms or provisions of any outstanding grants of Restricted Shares, Restricted Units, Stock Options, or Stock Appreciation Rights, the Committee, in its sole discretion may (but shall not have an obligation to) adjust any other terms or provisions of any outstanding awards of Restricted Shares, Restricted Units, Stock Options or Stock Appreciation Rights, in order to preserve the benefits of such awards for the Participants. In the event of a change in the presently authorized shares of Common Stock that is limited to a change in the designation thereof or a change of authorized shares with par value into the same number of shares with a different par value or into the same number of shares without par value, the shares resulting from any such change shall be deemed to be shares of Common Stock within the meaning of the Plan. In the event of any other change affecting the shares of Common Stock, Restricted Units, Stock Options, or Stock Appreciation Rights, such adjustment shall be made as may be deemed equitable by the Committee to give proper effect to such event.

ARTICLE VII — MISCELLANEOUS.

Section 7.1 Documents Evidencing Grants.

Each award under the Plan shall be evidenced by a written Grant Document, which shall contain such terms and conditions as the Committee deems appropriate. Subject to Section 1.3(b), the Committee may make grants in tandem with or in substitution for any other grant or grants under this Plan or any other plan of the Company. By accepting a grant under the Plan, the recipient thereby agrees that the grant shall be subject to all of the terms and conditions of the Plan and any applicable Grant Document.

Section 7.2 Waiver of Claims.

Each eligible employee recognizes and agrees that prior to receiving a grant he or she has no right to any benefits hereunder. Accordingly, in consideration of a Participant's receipt of a grant hereunder, he or she expressly waives the right to contest the number of shares of Common Stock subject to any grant, the terms contained in any Grant Document evidencing a grant, any determination, action, omission hereunder, or under Grant Document by the Committee, the Company or the Board, or any amendment to the Plan or any particular grant.

Section 7.3 Designation of Beneficiary.

A Participant, or the transferee of a Restricted Share, Restricted Unit or Stock Option, may designate, in a writing delivered to ML & Co. before his or her death, a person or persons or entity or entities to receive, in the event of his or her death, any rights in respect of awards which he or she has been granted and are entitled to under the Plan and the Grant Document. A Participant or Restricted Share, Restricted Unit or Stock Option transferee, may also designate an alternate beneficiary to receive payments if the primary beneficiary does not survive the Participant or the transferee. A Participant or transferee may designate more than one person or entity as his or her beneficiary or alternate beneficiary, in which case such beneficiaries would receive payments as joint tenants with a right of survivorship. A beneficiary designation under the Plan will apply to future grants unless changed or revoked by a Participant or the transferee by filing a written or electronic notification of such change or revocation with the Company. If a Participant or transferee fails to designate a beneficiary, then his or her estate shall be deemed to be his or her beneficiary.

Section 7.4 Employment Rights.

Neither the Plan nor any action taken hereunder shall be construed as giving any employee of the Company the right to become a Participant, and a grant under the Plan shall not be construed as giving any Participant any right to be retained in the employ of the Company or its affiliates or receive further awards under the Plan.

Section 7.5 Nontransferability.

Except as otherwise provided in the Grant Document, a Participant's rights under the Plan, including the right to any amounts or shares of Common Stock payable or distributable in respect of an award under the Plan, may not be assigned, pledged, or otherwise transferred except, in the event of a Participant's death, to his or her designated beneficiary or, in the absence of such a designation, by will or the laws of descent and distribution. All Stock Options and Stock Appreciation Rights shall be exercisable, subject to the terms of this Plan, only by the Participant, or, in the event of the Participant's disability, his or her guardian or legal representative.

Section 7.6 Withholding.

The Company shall have the right, before any payment is made or a certificate for any shares of Common Stock is delivered or any shares of Common Stock are credited to any brokerage account, to deduct or withhold from any payment or distribution of shares of Common Stock under the Plan any federal, state, local or social security or other taxes, including transfer taxes, required or permitted by law to be withheld or to require the Participant or his or her beneficiary or estate, as the case may be, to pay any amount, or the balance of any amount, required or permitted to be withheld.

Section 7.7 Relationship to Other Benefits.

No payment under the Plan shall be taken into account in determining any benefits under any retirement, group insurance, or other employee benefit plan of the Company. The Plan shall not preclude the stockholders of ML & Co., the Board of Directors or any committee thereof, or the Company from authorizing or approving other employee benefit plans or forms of incentive compensation, nor shall it limit or prevent the continued operation of other incentive compensation plans or other employee benefit plans of the Company or the participation in any such plans by Participants in the Plan. The Committee shall establish procedures to permit Participants to satisfy their tax obligations by tendering or withholding shares of Common Stock in a manner that avoids adverse accounting consequences to the Company.

Section 7.8 No Trust or Fund Created.

Neither the Plan nor any grant made hereunder shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company and a Participant or any other person. To the extent that any person acquires a right to receive payments from the Company pursuant to a grant under the Plan, such right shall be no greater than the right of any unsecured general creditor of the Company.

Section 7.9 Expenses.

The expenses of administering the Plan shall be borne by the Company.

Section 7.10 Indemnification.

Service on the Committee shall constitute service as a member of the Board of Directors so that members of the Committee shall be entitled to indemnification and reimbursement as directors of ML & Co. pursuant to its Certificate of Incorporation, By-Laws, or resolutions of its Board of Directors or stockholders.

Section 7.11 Tax Litigation.

The Company shall have the right to contest, at its expense, any tax ruling or decision, administrative or judicial, on any issue that is related to the Plan and that the Company believes to be important to the Company or the Participants in the Plan and to conduct any such contest or any litigation arising therefrom to a final decision.

Section 7.12 Subsidiary Employees.

In the case of a grant of an award to any employee of a subsidiary of ML & Co., ML & Co. may, if the Committee so directs, issue or transfer the shares of Common Stock, if any, covered by the award to the employee of the subsidiary, for such lawful consideration as the Committee may specify, upon the condition or understanding that the subsidiary will transfer the shares of Common Stock to the employee in accordance with the terms of the award specified by the Committee pursuant to the provisions of the Plan. All shares of Common Stock underlying awards that are forfeited or canceled shall revert to ML & Co.

Section 7.13 Foreign Employees and Foreign Law Considerations.

The Committee may grant awards to eligible employees who are foreign nationals, who are located outside the United States or who are not compensated from a payroll maintained in the United States, or who are otherwise subject to (or could cause the Company to be subject to) legal or regulatory provisions of countries or jurisdictions outside the United States, on such terms and conditions different from those specified in the Plan as may, in the judgment of the Senior Vice President of Human Resources, be necessary or desirable to foster and promote achievement of the purposes of the Plan, and, in furtherance of such purposes, the Committee or the Senior Vice President of Human Resources may make such modifications, amendments, procedures, or sub-plans as may be necessary or advisable to comply with such legal or regulatory provisions.

ARTICLE VIII — AMENDMENT AND TERMINATION.

The Board of Directors or the Committee may modify, amend or terminate the Plan at any time, provided that, to the extent required by applicable law or the rules of the New York Stock Exchange that apply to ML & Co., material amendments shall be subject to approval by the stockholders of ML & Co.

ARTICLE IX — INTERPRETATION.

Section 9.1 Governmental and Other Regulations.

The Plan and any grant hereunder shall be subject to all applicable federal, state and local laws, rules, and regulations and to such approvals by any regulatory or governmental agency that may, in the opinion of the counsel for ML & Co., be required.

Section 9.2 Governing Law.

THE PLAN SHALL BE CONSTRUED AND ITS PROVISIONS ENFORCED AND ADMINISTERED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS ENTERED INTO AND PERFORMED ENTIRELY IN SUCH STATE.

ARTICLE X — EFFECTIVE DATE AND TERM.

The Plan shall become effective upon its adoption by the Board of Directors, subject to its approval by the stockholders of ML & Co. Subject to earlier termination in accordance with Article VIII, the Plan shall terminate on the tenth anniversary of its adoption by the Board of Directors, unless stockholders approve an extension of such term.

BANK OF AMERICA CORPORATION

Plan Amendments

WHEREAS, Bank of America Corporation (the "Company") has entered into a Securities Purchase Agreement with the United Stated Department of Treasury (the "Agreement") as part of the Capital Purchase Program under the Emergency Economic Stabilization Act of 2008 ("EESA"); and

WHEREAS, pursuant to Section 1.2(d)(iv) of the Agreement, the Company is required to amend its "Benefit Plans" with respect to its "Senior Executive Officers" (as such terms are defined in the Agreement) to the extent necessary to comply with Section 111 of EESA; and

WHEREAS, the applicable "Benefit Plans" are the plans in which any Senior Executive Officer participates, or is eligible to participate, and the agreements to which any Senior Executive Officer is a party, that either: (i) provides for incentive or bonus compensation based on the achievement of performance goals tied to or affected by the Company's financial results ("Financial Performance Plans") or (ii) provides for payments or benefits upon an "applicable severance from employment" within the meaning of EESA ("Involuntary Separation Pay Arrangements");

NOW, THEREFORE, the Company does hereby declare that each Financial Performance Plan and Involuntary Separation Pay Arrangement is hereby amended effective as of the date hereof as follows:

1. Compliance With Section 111 of EESA. Each Financial Performance Plan and Involuntary Separation Pay Arrangement is hereby amended by adding the following provision as a final section to such arrangement:

"Compliance With Section 111 of EESA. Solely to the extent, and for the period, required by the provisions of Section 111 of the Emergency Economic Stabilization Act of 2008 ("EESA") applicable to participants in the Capital Purchase Program under EESA: (a) each "Senior Executive Officer" within the meaning of Section 111 of EESA shall be ineligible to receive compensation under any plan or agreement that provides for incentive or bonus compensation based on the achievement of performance goals tied to or affected by the Company's financial results that the Compensation and Benefits Committee of the Board of Directors of the Company determines includes incentives for a Senior Executive Officer to take unnecessary and excessive risks that threaten the value of the financial institution; (b) each Senior Executive Officer shall be required to forfeit any bonus or incentive compensation paid to the Senior Executive Officer based on statements of earnings, gains, or other criteria that are later proven to be materially inaccurate; and (c) the Company shall be prohibited from making to each Senior Executive Officer and each Senior Executive Officer shall be ineligible to receive any "golden parachute payment" in connection with the Senior Executive Officer's "applicable severance from employment," in each case, within the meaning of Section 111 of EESA."

2 . Continuation of Affected Plans. Except as expressly or by necessary implication amended hereby, each Financial Performance Plan and Involuntary Separation Pay Arrangement shall continue in full force and effect.

IN WITNESS WHEREOF, Bank of America Corporation has caused this instrument to be executed by its duly authorized officer as of the 22nd day of October, 2008.

BANK OF AMERICA CORPORATION

By: /s/ J. Steele Alphin
J. Steele Alphin, Chief Administrative Officer

Consented and agreed to:

/s/ Kenneth D. Lewis
Kenneth D. Lewis

/s/ Joe L. Price
Joe L. Price

/s/ Amy Woods Brinkley
Amy Woods Brinkley

/s/ Barbara J. Desoer
Barbara J. Desoer

/s/ Liam E. McGee
Liam E. McGee

/s/ Brian T. Moynihan
Brian T. Moynihan

WAIVER

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008.

I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the T ARP Capital Purchase Program.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.

Dated this 28 day of October, 2008

By:

/s/ _____

BANK OF AMERICA CORPORATION

Plan Amendments

WHEREAS, Bank of America Corporation (the "Company") has entered into or will enter into a Securities Purchase Agreement with the United States Department of the Treasury dated on or about Thursday, January 15 2009 (the "Agreement"); and

WHEREAS, pursuant to Sections 1.02(d)(iv)(A) and 4.10(a) of the Agreement, the Company is required to amend its "Benefit Plans" with respect to its "Senior Executive Officers," in each case as such term as defined in the Agreement, in order to comply with Section 111(b) of the Emergency Economic Stabilization Act of 2008 (the "EESA") and the guidance and regulations thereunder that have been issued and as in effect as of the "Closing Date" (as defined in the Agreement), including the rules set forth in 31 CFR Part 30, as and to the extent applicable to the Company's Senior Executive Officers as provided in Section 4.10(a) of the Agreement; and

WHEREAS, pursuant to Sections 1.02(d)(iv)(A) and 4.10(b) of the Agreement, the Company is required to amend its "Benefit Plans" to limit any "golden parachute payments" to the "Other Senior Managers," in each case as such term is defined in the Agreement, to the amounts permitted by the regulations relating to participants in the EESA Capital Purchase Program and the guidelines and rules relating thereto that have been issued and are in effect as of the Closing Date, including 31 CFR Part 30, as and to the extent applicable to the Company's Other Senior Managers as provided in Section 4.10(b) of the Agreement; and

WHEREAS, pursuant to Sections 1.02(d)(iv)(A) and 4.10(c) of the Agreement, the Company is required to amend its "Benefit Plans" to provide that the aggregate amount of "Bonus Compensation" (as defined in the Agreement) that may be paid to the Senior Executive Officers and Other Senior Managers with respect to each of fiscal years 2008 and 2009 shall in no event exceed an amount equal to 60% of the aggregate "Prior Year Bonus Compensation" (as defined in the Agreement) paid to the person(s) employed in the position or positions (to the extent such positions have been restructured since 2007) during the 2007 fiscal year that are held by the Senior Executive Officers and Other Senior Managers as of the Closing Date;

WHEREAS, pursuant to Sections 1.02(d)(iv)(A) and 4.10(g) of the Agreement, the Company is required to administer its "Benefit Plans" to provide that, in the event that any Senior Executive Officer or Other Senior Manager receives a payment in contravention of the provisions of Section 4.10 of the Agreement, the Company shall promptly provide such individual with written notice that the amount of such payment must be repaid to the Company in full within fifteen business days following receipt of such notice and shall promptly inform the United States Department of the Treasury (a) upon discovering that a payment in contravention of a provision of Section 4.10 of the Agreement has been made and (b) following the repayment to the Company of such amount;

WHEREAS, the applicable "Benefit Plans" are the compensation, bonus, incentive and other benefit plans, arrangements and agreements of the Company; and

WHEREAS, for purposes of clarity, and notwithstanding any provision of any Benefit Plan, neither (a) the Company's entry into the Agreement nor (b) the consummation of any transactions contemplated by the Agreement shall (i) constitute a "Change in Control" or any similar event or (ii) have the effect of a "Change in Control" or any similar event, in each case for purposes of any Benefit Plan; and

NOW, THEREFORE, the Company does hereby declare that each Benefit Plan is hereby amended effective as of the date hereof as follows:

1. Securities Purchase Agreement Compliance With Respect to Senior Executive Officers. Each Benefit Plan is hereby amended by adding the following provision as a final section to such arrangement:

"Securities Purchase Agreement Compliance With Respect to Senior Executive Officers. Solely to the extent, and for the period, required by that certain Securities Purchase Agreement between the Company and the United States Department of the Treasury dated on or about Thursday, January 15 2009 (the "Agreement"), and solely with respect to each "Senior Executive Officer" within the meaning of the Agreement: (a) the compensation of each Senior Executive Officer shall be limited in order to exclude incentives for such officers to take unnecessary and excessive risks that threaten the value of the Company; (b) the Company may recover any bonus or incentive compensation paid to the Senior Executive Officer based on statements of earnings, gains, or other criteria that are later proven to be materially inaccurate; and (c) the Company shall be prohibited from making to each Senior Executive Officer and each Senior Executive Officer shall be ineligible to receive any "golden parachute payment" (defined for purposes of the Senior Executive Officers as any payment in the nature of compensation to (or for the benefit of) a Senior Executive Officer made on account of an "applicable severance from employment" (within the meaning of 31 CFR Part 30))."

2. Securities Purchase Agreement Compliance With Respect to Other Senior Managers. Each Benefit Plan is hereby amended by adding the following provision as a final section to such arrangement:

"Securities Purchase Agreement Compliance With Respect to Other Senior Managers. Solely to the extent, and for the period, required by that certain Securities Purchase Agreement between the Company and the United States Department of the Treasury dated on or about Thursday, January 15 2009 (the "Agreement"), and solely with respect to each "Other Senior Manager" within the meaning of the Agreement, the amount of any "golden parachute payment" (within the meaning of 31 CFR Part 30) made to any Other Senior Manager shall be limited to the amounts permitted by the regulations relating to participants in the EESA Capital Purchase Program and the guidelines and rules relating thereto that have been issued and are in effect as of the Closing Date, including 31 CFR Part 30, as if such Other Senior Manager was a "Senior Executive Officer" for purposes of the EESA Capital Purchase Program (except that equity denominated awards settled solely in equity shall not be included in such limit on "golden parachute payments" to Other Senior Managers for these purposes)."

3. Securities Purchase Agreement Compliance With Respect to Senior Executive Officers and Other Senior Managers. Each Benefit Plan is hereby amended by adding the following provision as a final section to such arrangement:

"Securities Purchase Agreement Compliance With Respect to Senior Executive Officers and Other Senior Managers. Solely to the extent, and for the period, required by that certain Securities Purchase Agreement between the Company and the United States Department of the Treasury dated on or about Thursday, January 15 2009 (the "Agreement"), and solely with respect to the "Senior Executive Officers" and "Other Senior Managers" within the meaning of the Agreement: (a) the aggregate amount of "Bonus Compensation" that may be paid to the Senior Executive Officers and Other Senior Managers with respect to each of fiscal years 2008 and 2009 shall in no event exceed an amount equal to 60% of the aggregate "Prior Year Bonus Compensation" (in each case as defined in the Agreement and with such adjustments as are permitted by the Agreement) paid to the person(s) employed in the position or positions (to the extent such positions have been restructured since 2007) during the 2007 fiscal year that are held by the Senior Executive Officers and Other Senior Managers as of the "Closing Date" (within the meaning of the Agreement) (the "Bonus Pool Cap"); provided, that, with respect to fiscal year 2009, the Bonus Pool Cap may be increased by the Company pursuant to the terms of Section 4.10(c) of the Agreement; and (b) in the event that any Senior Executive Officer or Other Senior Manager receives a payment in contravention of the provisions of Section 4.10 of the Agreement, the Company shall comply with the provisions of Section 4.10(g) of the Agreement, and such individual shall repay the Company in full within fifteen business days following receipt of written notice from the Company that the amount of such payment must be repaid."

4. Continuation of Affected Plans. Except as expressly or by necessary implication amended hereby, each Benefit Plan shall continue in full force and effect.

IN WITNESS WHEREOF, Bank of America Corporation has caused this instrument to be executed by its duly authorized officer as of the 15th day of January, 2009.

BANK OF AMERICA CORPORATION

By: /s/ J. Steele Alphin
J. Steele Alphin, Chief Administrative Officer

FORM OF WAIVER

To Whom It May Concern:

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's (hereafter, the "Treasury") Troubled Asset Relief Program, including, without limitation, the Treasury's purchases of preferred stock of my employer pursuant to the Securities Purchase Agreement dated as of October 26, 2008 and the Securities Purchase Agreement to be executed on or about January 16, 2009 (the "Subsequent Agreement") (collectively, the "Programs"), I hereby voluntarily waive any claim against the United States or my employer or its directors, officers, employees and agents for any changes to my compensation or benefits that are required to comply with (i) the Emergency Economic Stabilization Act of 2008 and regulations or other guidance or requirements issued thereunder, including, without limitation, the regulation issued by the Treasury as published in the Federal Register on October 20, 2008, and (ii) as applicable to me, the provisions of the Subsequent Agreement (all such changes are collectively referred to as the "Limitations").

I acknowledge that the Limitations may require modification of the employment, compensation, bonus, incentive, severance and other benefit plans, arrangements, policies and agreements (including, without limitation, any so-called "golden parachute" agreements), whether or not in writing, that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the Programs and I hereby consent to all such modifications. I further acknowledge and agree that if my employer notifies me in writing that I have received payments in violation of the Limitations, I shall repay the aggregate amount of such payments to the employer no later than fifteen business days following my receipt of such notice. I further acknowledge and agree that with respect to fiscal years 2008 and 2009 (i) the amount of any threshold, target or maximum bonus I will be eligible to earn and (ii) the performance goals that must be satisfied to earn such bonus, shall continue to be established, and subject to adjustment by, my employer in its discretion, consistent with the requirements of the Programs.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the Limitations (including without limitation, any claim for any compensation or other payments I would otherwise receive absent the Limitations, any challenge to the process by which the Limitations were adopted and any tort or constitutional claim about the effect of the foregoing on my employment relationship) and I hereby agree that I will not at any time initiate, or cause or permit to be initiated on my behalf, any such claim against the United States, my employer or its directors, officers, employees and agents in any local, state or federal agency, court or other body.

In witness whereof, I execute this waiver on my own behalf, thereby communicating my acceptance and acknowledgement to the provisions herein.

Respectfully,

_____

Name: _____

Title: _____

Date: _____

Bank of America Corporation and Subsidiaries
Ratio of Earnings to Fixed Charges
Ratio of Earnings to Fixed Charges and Preferred Dividends

(Dollars in millions)	Year Ended December 31					
	2008	2007	2006	2005	2004	2003
Excluding Interest on Deposits						
Income before income taxes	**$ 4,428**	$20,924	$31,973	$24,480	$20,908	$15,781
Equity in undistributed earnings of unconsolidated subsidiaries	**144**	(95)	(315)	(151)	(135)	(125)
Fixed charges:						
Interest expense	**25,074**	34,778	29,514	18,397	9,072	6,105
1/3 of net rent expense [(1)]	**791**	669	609	585	512	398
Total fixed charges	**25,865**	35,447	30,123	18,982	9,584	6,503
Preferred dividend requirements	**1,461**	254	33	27	23	6
Fixed charges and preferred dividends	**27,326**	35,701	30,156	19,009	9,607	6,509
Earnings	**$30,437**	$56,276	$61,781	$43,311	$30,357	$22,159
Ratio of earnings to fixed charges	**1.18**	1.59	2.05	2.28	3.17	3.41
Ratio of earnings to fixed charges and preferred dividends	**1.11**	1.58	2.05	2.28	3.16	3.40

(Dollars in millions)	Year Ended December 31					
	2008	2007	2006	2005	2004	2003
Including Interest on Deposits						
Income before income taxes	**$ 4,428**	$20,924	$31,973	$24,480	$20,908	$15,781
Equity in undistributed earnings of unconsolidated subsidiaries	**144**	(95)	(315)	(151)	(135)	(125)
Fixed charges:						
Interest expense	**40,324**	52,871	43,994	27,889	14,993	10,667
1/3 of net rent expense [(1)]	**791**	669	609	585	512	398
Total fixed charges	**41,115**	53,540	44,603	28,474	15,505	11,065
Preferred dividend requirements	**1,461**	254	33	27	23	6
Fixed charges and preferred dividends	**42,576**	53,794	44,636	28,501	15,528	11,071
Earnings	**$45,687**	$74,369	$76,261	$52,803	$36,278	$26,721
Ratio of earnings to fixed charges	**1.11**	1.39	1.71	1.85	2.34	2.41
Ratio of earnings to fixed charges and preferred dividends	**1.07**	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
AS OF 1/31/09

Name	Location
100 Federal Street Limited Partnership	Boston, MA
121 Washington Street Master Tenant, LLC	Providence, RI
200 Allens Avenue, LLC	Providence, RI
201 North Tryon, LLC	Charlotte, NC
214 North Tryon, LLC	Charlotte, NC
222 Broadway, LLC	New York, NY
250 Capital LLC	New York, NY
2007 Merrill Lynch Merchant Banking Fund, L.P.	New York, NY
2008 Merrill Lynch Merchant Banking Fund, L.P.	New York, NY
2008 Merrill Lynch Merchant Banking Fund International, L.P.	New York, NY
1110421 Ontario Limited	Toronto, Ontario, Canada
1300166 Ontario Limited	Toronto, Ontario, Canada
1343190 Alberta Inc.	Toronto, Ontario, Canada
A/M Properties, Inc.	Baltimore, MD
AANAH Holding LLC	Chicago, IL
AANAH Holding LLC II	Chicago, IL
AANAH Holding LLC III	Chicago, IL
Aarco 106 Limited	Chester, United Kingdom
Abilene Park, Inc.	Charlotte, NC
Abilene Partners	Charlotte, NC
Abovo Investment Limited	George Town, Grand Cayman, Cayman Is.
Acao Multimidia S.A.	Sao Paulo, Brazil
Acceptance Alliance, LLC	Louisville, KY
Access 1 Fundo De Investimento Em Cotas De Fundo De Investimento Em Direitos Creditorios Nao Padronizado	Sao Paulo, Brazil
Achilles Trading LLC	Charlotte, NC
Administradora Blue 2234 S. de R.L. de C.V.	Mexico City, Mexico
Advest Capital, Inc.	New York, NY
Advest Group, Inc., The	New York, NY
Advest, Inc.	New York, NY
Advest Insurance Agency, Inc.	Pennington, NJ
Aguila Corp S.A.C.	Lima, Peru
Alamo Funding II, Inc.	Charlotte, NC
Alamo Funding LLC	Charlotte, NC
Alexandra IV, LLC	New York, NY
Alie Street Investments 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.

Name	Location
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 2 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.
Alie Street Investments 28 Limited	London, U.K.
Alliance Enterprise Corporation	Richardson, TX
Almacenadora Serfin, S.A. de C.V.	Mexico City, Mexico
Almacenadora Somex, S.A.	Mexico City, Mexico
Almazora Holdings S.a.r.l.	Luxembourg, Luxembourg
Alnitak Sarl	Luxembourg, Luxembourg
Altier LLC	Charlotte, NC
Amarillo Lane, Inc.	Charlotte, NC
American Campus Power Plant MT, LLC	Raleigh, NC
AMM Holdings Pty Limited	Sydney, New South Wales, Australia
Andrew VI, LLC	New York, NY
Anzac Peaks, Inc.	Charlotte, NC
Apollo Trading LLC	Charlotte, NC
Appold Property Management Limited	London, U.K.
Aquamarine Funding LLC	Charlotte, NC
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
Athabasca Partnership	New York, NY
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
August 2000 U.S. Partnership (In Liquidation)	New York, NY
Augusta Trading LLC	Charlotte, NC
Austin Acquisition Inc.	Charlotte, NC
Automotive Real Estate S.a.r.l.	Luxembourg, Luxembourg
Aztex Associates, L.P.	New York, NY
Aztex Corporation	New York, NY
B of A Issuance B.V.	Amsterdam, The Netherlands
B.A. International (Cayman) Ltd.	George Town, Grand Cayman, Cayman Is.
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

Name	Location
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 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 Costa Rica, Limitada	San Jose, Costa Rica
BA Continuum India Private Limited	Mumbai, India
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 Financial Trading (Amsterdam) Limited	Amsterdam, The Netherlands
BA Global Funding Inc.	George Town, Grand Cayman, Cayman Is.
BA GSTS GP LLC	St. Helier, Jersey, Channel Islands
BA GSTS International B.V.	Amsterdam, The Netherlands
BA GSTS International C.V.	St. Helier, Jersey, Channel Islands
BA Insurance Services, Inc.	Baltimore, MD
BA International Underwriters Limited	London, U.K.
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 Residential Securitization LLC	Charlotte, NC
BA SBIC Sub, Inc.	Chicago, IL
BA Securities Australia Limited	Sydney, New South Wales, Australia
BA Technology I, LLC	Charlotte, NC
BA UK Holdings Limited	London, U.K.
BABC Global Finance Inc.	Toronto, Ontario, Canada
BAC AAH Capital Funding LLC XI	Chicago, IL
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 IX	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 LLC VIII	Chicago, IL
BAC AAH Capital Funding LLC X	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 XIX	Chicago, IL

Name	Location
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 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 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 I, L.P.	Chicago, IL
BAC Mezzanine Management III, L.P.	Chicago, IL
BAC Mezzanine Management, Inc.	Chicago, IL
BAC North America Holding Company	Charlotte, NC
BAC NUBAFA, Inc.	San Francisco, CA
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 II, L.P.	Chicago, IL
BACP Europe Fund IV M, L.P.	Chicago, IL
Bakerton Finance, Inc.	Charlotte, NC
BAL Corporate Aviation, LLC	New Castle, DE
BAL Energy Holding, LLC	San Francisco, CA
BAL Global Finance (Deutschland) GmbH	Dusseldorf, Germany
BAL Global Finance (UK) Limited	London, U.K.
BAL Global Finance Canada Corporation	Toronto, Ontario, Canada
BAL Investment & Advisory, Inc.	San Francisco, CA
BAL Solar I, LLC	San Francisco, CA
BAL Solar II, LLC	San Francisco, CA
BAL Solar III, LLC	San Francisco, CA
Balanced Capital Services, Inc.	Pennington, NJ

Name	Location
Balboa Insurance Company	Irvine, CA
Balboa Life & Casualty LLC	Irvine, CA
Balboa Life Insurance Company	Irvine, CA
Balboa Life Insurance Company of New York	Irvine, CA
Balboa Reinsurance Company	Burlington, VT
Balboa Reinsurance Company of South Carolina	Charleston, SC
Balboa Warranty Services Corporation	Irvine, CA
BALCAP Funding, LLC	San Francisco, CA
BALI Funding Limited Partnership	Gloucestershire, U.K.
BALI Funding Luxembourg Limited	Luxembourg, Luxembourg
Balkhouse Properties Corp.	New York, NY
Ballantyne Funding LLC	Charlotte, NC
Baltic Funding LLC	Charlotte, NC
BAMM Funding I LLC	Charlotte, NC
BAMS Solutions, Inc.	Louisville, KY
BANA (#1) LLC	Charlotte, NC
BANA (Gilbraltar) Holdings Limited	Gibraltar, Gibraltar
BANA Alberta Funding Company, ULC	Calgary, Alberta, Canada
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 PAWTUCKET 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
BANA BACM 2005-2 SB 1 LLC	Charlotte, NC
BANA BACM 2005-3 SB 1 LLC	Charlotte, NC
BANA BACM 2005-4 SB 1 LLC	Charlotte, NC
BANA BACM 2005-5 SB 1 LLC	Charlotte, NC
BANA BACM 2005-6 SB 1 LLC	Charlotte, NC
BANA BACM 2006-4 SB 1 LLC	Charlotte, 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

Name	Location
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 2005-3 SB 1 LLC	Charlotte, NC
BANA DEFEASANCE MANAGER BACM 2005-4 SB 1 LLC	Charlotte, NC
BANA DEFEASANCE MANAGER BACM 2005-5 SB 1 LLC	Charlotte, NC
BANA DEFEASANCE MANAGER BACM 2005-6 SB 1 LLC	Charlotte, NC
BANA DEFEASANCE MANAGER BACM 2006-4 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 SB 1 LLC	Charlotte, NC
BANA DEFEASANCE MANAGER GECMC 2003-C1 TRIZEC 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 DEFEASANCE MANGER BACM 2003-2 PAWTUCKET 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-C1 TRIZEC SB 1 LLC	Charlotte, NC
BANA GECMC 2003-C2 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 Holding Corporation	Charlotte, NC
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
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

Name	Location
Banc of America California Community Venture Fund, LLC	Chicago, IL
Banc of America Capital Holdings V, L.P.	Charlotte, NC
Banc of America Capital Holdings, L.P.	Charlotte, NC
Banc of America Capital Investors SBIC, L.P.	Charlotte, NC
Banc of America Capital Investors V, L.P.	Charlotte, NC
Banc of America Capital Investors, 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 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
Banc of America Large Loan, Inc.	Dover, DE
Banc of America Leasing & Capital, LLC	San Francisco, CA
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 and Institutional Financial Funding, LLC	San Francisco, CA
Banc of America Public Capital Corp	Charlotte, NC

Name	Location
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 Holdings Corporation	Charlotte, NC
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-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 Ventures, Inc.	Charlotte, NC
Banc of America Structured Notes, Inc.	Charlotte, NC
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.
BancBoston Leasing Services Inc.	Boston, MA
BancBoston Real Estate Capital Corporation	Boston, MA
BancBoston Securities International Limited	London, U.K.
BancBoston Ventures Inc.	Boston, MA
Banco Merrill Lynch de Investimentos S.A.	Sao Paulo, Brazil
Banco Santander, S.A.	Mexico City, Mexico
Banco Santander, S.A. Fideicomiso 100740	Mexico City, Mexico
Banco Santander, S.A. Fideicomiso GFSSLPT	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 Auto Receivables Securitization, LLC	Charlotte, NC
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 Charitable Foundation, Inc., The	Charlotte, NC
Bank of America Corporation	Charlotte, NC
Bank of America Healthcare Limited	London, U.K.
Bank of America Malaysia Berhad	Kuala Lumpur, Malaysia

Name	Location
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 Ventures	Foster City, CA
Bank of America, National Association	Charlotte, NC
BankAmerica Acceptance Corp.	Jacksonville, FL
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 Administracao S/A	Sao Paulo, Brazil
BankBoston Capital Trust I	Boston, MA
BankBoston Capital Trust II	Boston, MA
BankBoston Capital Trust III	Boston, MA
BankBoston Capital Trust IV	Boston, MA
BankBoston Co-Investment Partners (1998) L.P.	Boston, MA
BankBoston Co-Investment Partners (1999) L.P.	Boston, MA
BankBoston International Leasing LLC	Providence, RI
Bankers Insurance Company, Ltd.	Hamilton, Bermuda
BAPCC II, LLC	San Francisco, CA
Bardin Road Ventures Inc.	New York, NY
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
Battersea Limited	George Town, Grand Cayman, Cayman Is.
Battle River Terminals ULC	Calgary, Alberta, Canada
BAVP, LP	Foster City, CA
Bay 2 Bay Leasing LLC	San Francisco, CA

Name	Location
Bay Area Credit Services, LLC	New York, NY
BayBanks Mortgage Corp.	Boston, MA
BBC Co-Investment Partners (1998) LP	Boston, MA
BBI Management Co. LLC	Boston, MA
BBI Switch LP	Boston, MA
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
Benson Nominees Limited	London, U.K.
Berendon LLC	New York, NY
Berndale Securities Limited	Melbourne, Victoria, Australia
Bighorn Investments Limited	George Town, Grand Cayman, Cayman Is.
Birchwood Funding LLC	Charlotte, NC
BIRMSON, L.L.C.	Wilton, CT
BJCC, Inc.	Wilton, CT
BKB Foreign Sales Corporation	Christiansted, St.Thomas, U.S. V.I.
Black Mountain Funding LLC	Charlotte, NC
Blackwood Run Trading LLC	Charlotte, NC
Blazer (Cayman) Limited	George Town, Grand Cayman, Cayman Is.
Blue Finn Holdings Limited	George Town, Grand Cayman, Cayman Is.
Blue Ridge Investments, L.L.C.	Charlotte, NC
Bluejay LLC	New York, NY
Bluestar Holdings Limited	George Town, Grand Cayman, Cayman Is.
BN Corp Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
BNI Esmeralda Desenvolvimento Imobiliario Ltda	Sao Paulo, Brazil
BNI Mediterraneo Desenvolvimento Imobiliario Ltda	Sao Paulo, Brazil
BNI Onix Desenvolvimento Imobiliario Ltda.	Sao Paulo, Brazil
BNI Quartzo Desenvolvimento Imobiliß rios Ltda.	Sao Paulo, Brazil
BNI Turmalina Desenvolvimento Imobiliario Ltda	Sao Paulo, Brazil
BoA Internationaal Krediet B.V.	Amsterdam, The Netherlands
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 AF Holding Limited	George Town, Grand Cayman, Cayman Is.
BofA Commodities, Inc.	New York, NY
Bond Products Depositor LLC	Charlotte, NC
Bonifazius Mortgage Investments LLC	Wilmington, DE
Bonifazius Property BV	Amsterdam, The Netherlands
Boston Advisors, Inc.	New York, NY
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
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

Name	Location
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
Bratislava Investment Company s.r.o.	Bratislava, Slovakia
Brazil Real Estate Holdings Empreendimentos Ltda.	Sao Paulo, Brazil
Brazilian Real Estate Partners I Investimentos Imobiliarios Ltda.	Sao Paulo, Brazil
BRCK Holdings I AB	Stockholm, Sweden
BRCK Holdings II AB	Stockholm, Sweden
Breakspear Park Management Ltd	St. Helier, Jersey, Channel Islands
Breakspear Park Unit Trust	St. Helier, Jersey, Channel Islands
Breckenridge Investments Limited	London, U.K.
BREP DHZ I Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
Bridgeport Phase I Tenant LLC	New York, NY
Bridger Holdings LLC	Mill Valley, CA
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
Broadcort Corporation	New York, NY
Brockman Investments LLC	Charlotte, NC
BRV Capital II Ltda	George Town, Grand Cayman, Cayman Is.
BTAC V L.L.C.	New York, NY
BTV, LLC	Atlanta, GA
Bulfinch Indemnity Company, Ltd.	Boston, MA
Bullseye Global Real Estate Partners LP	New York, NY
Bullseye Holdco I LLC	New York, NY
Bullseye Holdco II LLC	New York, NY
Bullseye Real Estate Advisors LLC	New York, NY
Bullseye Real Estate Associates LP	New York, NY
Business Lenders, LLC	New York, NY
C&S Premises-SPE, Inc.	Charlotte, NC
Cabernet I, LLC	New York, NY
Cabot Investments	London, U.K.
Caledonia Trading LLC	Charlotte, NC
Calnevari Holdings, Inc.	Charlotte, NC
CalSTRS/Banc of America Capital Access Fund III, LLC	Chicago, IL
CalSTRS/Banc of America Capital Access Fund, LLC	Chicago, IL
Calvada Lane Pty Limited	Charlotte, NC
Cannon Finance Pty Ltd	Sydney, NSW, Australia
Canyon Station Investments GP	Charlotte, NC
CAP, Inc.	New York, NY
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, S.A. de C.V.	Mexico City, Mexico
Caswell Park, Inc.	Charlotte, NC
Catherine III, LLC	New York, NY
CB Securities Holdings 1, Inc.	Thousand Oaks, CA
CB Securities Holdings 2, Inc.	Thousand Oaks, CA
CBT Realty Corporation	Providence, RI

Name	Location
Centerpoint Development LLC	Baltimore, MD
Centerpoint Theater LLC	Baltimore, MD
Central Park Development Group, LLC	Tampa, FL
CFC International Capital Markets, Limited	London, U.K.
CFC International Mauritius Limited	Port Louis, Mauritius
CH MLOX Pleiades 3	Tokyo, Japan
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
Chetwynd Nominees Limited	London, U.K.
CHL Transfer Corp.	Calabasas, CA
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
Citygate Nominees Limited	London, U.K.
CIVC Partners Fund, L.P.	Chicago, IL
CIVC Partners Fund, LLC	Chicago, IL
Clark Street Redevelopment Corporation	St. Louis, MO
Clipper Mill Federal LLC	Baltimore, MD
CM REO S1 LLC	New York, NY
CNBC Leasing LLC	Chicago, IL
Cold Feet, L.L.C.	Chicago, IL
Colonial Funding LLC	Charlotte, NC
Columbia Diversified Alpha Fund (Master), Ltd.	George Town, Grand Cayman, Cayman Is.
Columbia Diversified Alpha Fund, LP	New York, NY
Columbia Management Advisors, LLC	Boston, MA
Columbia Management Distributors, Inc.	Boston, MA
Columbia Management Financial Services, LLC	Boston, MA
Columbia Management Group, LLC	Boston, MA
Columbia Management Pte. Ltd.	Singapore, Singapore
Columbia Management Services, Inc.	Boston, MA
Columbia Research Market Neutral (Master), Ltd.	George Town, Grand Cayman, Cayman Is.
Columbia Research Market Neutral, L.P.	Boston, MA
Columbia Select Large Cap Growth Fund, Variable Series	Boston, MA
Columbia Select Opportunities Fund, Variable Series	Boston, MA
Columbia Senior Residences at Edgewood, L.P.	Atlanta, GA
Columbia Value and Restructuring Fund, Variable Series	Boston, MA
Columbia Wanger Asset Management, L.P.	Chicago, IL
Columbus Bay Limited	George Town, Grand Cayman, Cayman Is.
Columbus Square II LLC	St. Louis, MO
Columbus Square LLC	Kansas City, MO
Compton Hill Limited	London, U.K.
Concert Funding Number 1 Limited	London, U.K.
Concert Mortgages Holdings Limited	London, U.K.
Concert Mortgages Limited	London, U.K.
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
Corfe Hill Limited	London, U.K.

Name	Location
Corporate Leasing Facilities Limited	London, U.K.
Corporate Properties Services, Inc.	Wilmington, DE
Cortlandt Realty Associates I, L.P.	New York, NY
Countryside SA Holdings, LP	Dallas, TX
Countrywide Alternative Asset Management Inc.	Calabasas, CA
Countrywide Alternative Investments Inc.	Calabasas, CA
Countrywide Asset Management Corp.	Calabasas, CA
Countrywide Bank, FSB	Alexandria, VA
Countrywide Capital I	Calabasas, CA
Countrywide Capital II	Calabasas, CA
Countrywide Capital III	Calabasas, CA
Countrywide Capital IV	Calabasas, CA
Countrywide Capital IX	Calabasas, CA
Countrywide Capital Markets Asia (HK) Limited	Hong Kong, PRC
Countrywide Capital Markets Asia Ltd.	George Town, Grand Cayman, Cayman Is.
Countrywide Capital Markets, LLC	Calabasas, CA
Countrywide Capital V	Calabasas, CA
Countrywide Capital VI	Calabasas, CA
Countrywide Capital VII	Calabasas, CA
Countrywide Capital VIII	Calabasas, CA
Countrywide Commercial Administration LLC	Calabasas, CA
Countrywide Commercial JPI LLC	Calabasas, CA
Countrywide Commercial Mortgage Capital, Inc.	Calabasas, CA
Countrywide Commercial Real Estate Finance, Inc.	Calabasas, CA
Countrywide Derivative Products, Inc.	Calabasas, CA
Countrywide Field Services Corporation	Simi Valley, CA
Countrywide Financial Corporation	Calabasas, CA
Countrywide Foundation, The	Calabasas, CA
Countrywide GP, LLC	Calabasas, CA
Countrywide Hillcrest I, Inc.	Calabasas, CA
Countrywide Home Loans of Minnesota, Inc.	Eden Prairie, MN
Countrywide Home Loans of Tennessee, Inc.	Brentwood, TN
Countrywide Home Loans of Texas, Inc.	Calabasas, CA
Countrywide Home Loans Servicing LP	Plano, TX
Countrywide Home Loans, Inc.	Calabasas, CA
Countrywide Insurance Services of Texas, Inc.	Plano, TX
Countrywide Insurance Services, Inc.	Simi Valley, CA
Countrywide International Consulting Services, LLC	Calabasas, CA
Countrywide International GP Holdings, LLC	Calabasas, CA
Countrywide International Holdings, Inc.	Calabasas, CA
Countrywide International Technology Holdings Limited	St. Peter Port, Guernsey, Channel Islands
Countrywide JV Technology Holdings Limited	St. Peter Port, Guernsey, Channel Islands
Countrywide KB Home Loans, LLC	Plano, TX
Countrywide LFT LLC	Calabasas, CA
Countrywide LP, LLC	Calabasas, CA
Countrywide Management Corporation	Calabasas, CA
Countrywide Mortgage Ventures, LLC	Calabasas Hills, CA
Countrywide Portfolio Accounting Services Inc.	Calabasas, CA
Countrywide Securities Corporation	Calabasas, CA
Countrywide Servicing Exchange	Calabasas, CA
Countrywide Sunfish Management LLC	Calabasas, CA
Countrywide Tax Services Corporation	Simi Valley, CA
Countrywide Warehouse Lending	Calabasas, CA
Covation LLC	Atlanta, GA

Name	Location
Coventry Village Apartments, Inc.	Nashville, TN
CP Development Group 2, LLC	Tampa, FL
CP Development Group 3, LLC	Tampa, FL
CPI Ballpark Investments Ltd.	Port Louis, Mauritius
Credit Opportunities Funding, Inc.	Miami, FL
CREDO Trust	Hamilton, Bermuda
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
CSC Futures Inc.	Calabasas, CA
CSF Holdings, Inc.	Tampa, FL
CTC Real Estate Services	Simi Valley, CA
Cupples Development, L.L.C.	St. Louis, MO
Cupples Garage, L.L.C.	St. Louis, MO
Currency Partners LLC	New York, NY
Currency Partners Sub-Fund I LLC	New York, NY
CW (UK) Services Limited	Dartford, United Kingdom
CW Insurance Group, LLC	Irvine, CA
CW Securities Holdings, Inc.	Calabasas, CA
CW TechSolutions Limited	Dartford, United Kingdom
CW UKTechnology Limited	Dartford, United Kingdom
CWABS II, Inc.	Calabasas, CA
CWABS, Inc.	Calabasas, CA
CWALT, Inc.	Calabasas, CA
CWB Community Assets, Inc.	Thousand Oaks, CA
CWB Mortgage Ventures, LLC	Thousand Oaks, CA
CWB Venture Management Corporation	Thousand Oaks, CA
CWHEQ, Inc.	Calabasas, CA
CWIBH, Inc.	Calabasas, CA
CWMBS II, Inc.	Calabasas, CA
CWMBS, Inc.	Calabasas, CA
CWRBS, Inc.	Calabasas, CA
Cypress Point Trading LLC	Charlotte, NC
Cypress Tree CLAIF Funding LLC	Charlotte, NC
D8 Park Sarl	Luxembourg, Luxembourg
Dacion Corp.	New York, NY
Daffodil Partnership	New York, NY
Dalespring Corporation	Baltimore, MD
Danube 2 S.ar.l	Strassen, Luxembourg
Danube JointCo S.ar.l.	Strassen, Luxembourg
Dartmouth Holdings Limited	Hong Kong, Hong Kong
Davidson Partners Limited	Toronto, Ontario, Canada
Debt Clear Recoveries & Investigations Limited	Manchester, United Kingdom
December 2000 U.S. Partnership	New York, NY
Destination Hotels International Co., Ltd.	Hong Kong, Hong Kong
Destination Hotels International Ltd.	Bangkok, Thailand
Destination Properties (Cha-Am) Co., Ltd.	Bangkok, Thailand
Destination Properties (Eastern Seaboard) Co., Ltd.	Bangkok, Thailand
DFO Partnership	San Francisco, CA
Diamond Springs Trading LLC	Charlotte, NC
DirectNet Insurance Agency, Inc.	Simi Valley, CA
Diversified Global Futures Fund LLC	New York, NY

Name	Location
Diversified Global Markets Fund Ltd.	New York, NY
Dollis Hill Limited	London, U.K.
Dom Immobilien 11/12/13/25 GmbH	Starnberg, Germany
Dom Immobilien 14 GmbH	Starnberg, Germany
Dom Immobilien 15 GmbH	Nordrhein-Westfalen & Hessen, Germany
Dom Immobilien 19/28 GmbH	Nordrhein-Westfalen & Hessen, Germany
Dom Immobilien 23 GmbH	Bayern, Germany
Dom Immobilien 4/6/7 GmbH	Berlin, Germany
Dom Immobilien 9/30 GmbH	Berlin, Germany
Dorton B.V.	Amsterdam, The Netherlands
Double ABS Co., Ltd.	Seoul, Korea
Doublon Holdings S.a.r.l.	Luxembourg, Luxembourg
Doublon Property S.a.r.l.	Luxembourg, Luxembourg
Dover Mortgage Capital 2005-A Corporation	Charlotte, NC
Dover Mortgage Capital Corporation	Charlotte, NC
Dover Two Mortgage Capital 2005-A Corporation	Charlotte, NC
Dover Two Mortgage Capital Corporation	Charlotte, NC
DSP Merrill Lynch Capital Limited	Mumbai, India
DSP Merrill Lynch Limited	Mumbai, India
DSP Merrill Lynch Securities Trading Limited	Mumbai, India
DSP Merrill Lynch Trust Services Limited	Mumbai, India
Dunes Funding LLC	Charlotte, NC
Eagle Corporation, The	Boston, MA
Eagle Investments S.A., The	Montevideo, Uruguay
Eaglewood Apartments, LLC	Tampa, FL
Eaglewood Course Development, LLC	Tampa, FL
Eban Incorporated	Dallas, TX
Eban Village I, Ltd.	Dallas, TX
Eban Village II, Ltd.	Dallas, TX
Echo Canyon Park LLC	Charlotte, NC
Ecolife Ambar Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Bueno Empreendimentos Imbiliβrios Ltda.B1229	Sao Paulo, Brazil
Ecolife Campo Grande Empreendimentos Imobiliβrios Ltda.	Sao Paulo, Brazil
Ecolife Cristal Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Jade Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Jalisco Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Jardim California Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Jaspe Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Lagoa Taquaral Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Lapis-Lazuli Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Marfim Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Morumbi Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Perola Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Petropolis Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Rubelita Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Tatuape Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Tres Rios Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Turmalinas Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Vergueiro Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Vila Maria Empreendimentos Imobiliarios S.A.	Sao Paulo, Brazil
Ecolife Vila Nova Cachoeirinha Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecolife Vila Sonia Empreendimentos Imobiliβrios S.A.	Sao Paulo, Brazil
Ecoone Basileia Empreendimentos Imobiliβrios Ltda.	Sao Paulo, Brazil
ECOPAR—Ecoesfera Participações S.A.	Sao Paulo, Brazil

Name	Location
Ecoway Carrao Empreendimentos Imobilißrios S.A.	Sao Paulo, Brazil
Ecoway Mapendi Empreendimentos Imobilißrios Ltda.	Sao Paulo, Brazil
Edgewood Partners, LLC	Atlanta, GA
Edificaciones Arendonk, S.L.	Madrid, Spain
Edward IV, LLC	New York, NY
Effinity Financial Corporation	Alexandria, VA
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 (Cayman) Funding I Limited	George Town, Grand Cayman, Cayman Is.
EFP (Cayman) Funding II Limited	George Town, Grand Cayman, Cayman Is.
EFP (Hong Kong) Funding 2006-1 Partnership	Hong Kong, SAR
EFP (Hong Kong) Funding 2006-2 Partnership	Hong Kong, SAR
EFP (Hong Kong) Funding I Limited	Hong Kong, SAR
EFP (Hong Kong) Funding II Partnership	Hong Kong, SAR
EFP Netherlands Investment II, V.O.F.	Amsterdam, The Netherlands
EFP Netherlands Investment, B.V.	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
Elizabeth VI, LLC	New York, NY
Elmfield Investments Limited	London, U.K.
Elmsleigh Funding, Ltd.	George Town, Grand Cayman, Cayman Is.
ELT Ltd.	Charlotte, NC
EM Government Bond Investments LP	New York, NY
EM Structured Investments GmbH	Frankfurt, Germany
EM Structured Investments S. de R.L. de C.V.	New York, NY
EM Structured Investments, LLC	New York, NY
Empatheia II LLC	New York, NY
ENB Realty Co., Inc.	Chicago, IL
Endeavour, LLC	Babylon, NY
Enhanced P-2 Partnership	New York, NY
Enhanced Trust 1998 Series B	New York, NY
Enhanced Trust 1998 Series P-1	New York, NY
Enhanced Trust Series 2000-1	New York, NY
Enhanced Trust Series 2000-2	New York, NY
Enhanced Trust Series 2001-1	New York, NY
Enhanced Trust Series 2002-2	New York, NY
Enhanced Trust Series 2003-A	New York, NY
Enhanced Trust Series 2003-C	New York, NY
Enhanced Trust Series 2003-D	New York, 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 Analytics, LLC	Scottsdale, AZ
Equity Finance Delaware, LLC	New York, NY
Equity Margins Ltd.	Melbourne, Victoria, Australia
Equity Margins Nominees Limited	Melbourne, Victoria, Australia

Name	Location
Equity/Protect Reinsurance Company	Jacksonville, FL
Escoesfera Participacoes S.A.	Sao Paulo, Brazil
Europa D8 Park Sarl	Luxembourg, Luxembourg
Europe Card Services General Partner Limited	Grand Cayman, Cayman Islands
Europe Card Services Partners (Scotland) LP	Edinburgh, Scotland
Everest Funding LLC	Charlotte, NC
Excelsior Buyout Management, LLC	Stamford, CT
Excelsior Buyout Partners, LLC	Stamford, CT
F. R. Holdings, Inc.	San Francisco, CA
Fairfield Nominees Ltd.	George Town, Grand Cayman, Cayman Is.
Fallon Lane II, Inc.	Charlotte, NC
Fallon Lane LLC	Charlotte, NC
FAM Distributors, Inc.	Plainsboro, NJ
FBB Co., Ltd.	Tokyo, Japan
FBD Co., Ltd.	Tokyo, Japan
FBF Insurance Agency, Inc.	Avon, MA
FBO Ventures, LLC	New York, NY
FCA Company, LLC	Providence, RI
FCP ML Global Umbrella	Paris, France
FCP ML Euro FEVR	Paris, France
FDS Financial Data Services Limited	Dublin, Ireland
Federal Street Investments S.A.	Montevideo, Uruguay
Federal Street Shipping LLC	Boston, MA
Fernhill Holding, Inc.	San Francisco, CA
Ferrybridge Investments Limited	London, U.K.
FF Mortgage Corporation	New York, NY
FFG Property Holding Corp.	Providence, RI
FHA Company, LLC	Providence, RI
FIA (Gibraltar) Holdings Limited	Gibraltar, Gibraltar
FIA (Gibraltar) SLP Holdings Limited	Gibraltar, Gibraltar
FIA Card Services, National Association	Wilmington, DE
FIA Funding Luxembourg Limited	Luxembourg, Luxembourg
FIA Holdings S.a.r.l.	Luxembourg, Luxembourg
FIA Holdings, LP	Edinburgh, Scotland
FIA Swiss Funding Limited	Luxembourg, Luxembourg
Fideicomiso GSSLPT	Mexico City, Mexico
Fiduciary Services (UK) Limited	London, U.K.
Fiduciary Services Ltd.	George Town, Grand Cayman, Cayman Is.
FIM Funding, Inc.	Boston, MA
Financial Centre Insurance Agency, Inc.	Boston, MA
Financial Data Services, Inc.	Jacksonville, FL
Financial ServiceSolutions Information Systems, LLC	Charlotte, NC
Financial ServiceSolutions, LLC	Charlotte, NC
Financial Stocks US MAP Fund Ltd.	London, U.K.
Finch Funding LLC	Charlotte, NC
Finsbury Square Limited Partnership	Washington, DC
Finsbury Square Manager LLC	Washington, DC
First 165 Properties Corp.	New York, NY
First Bank of Pinellas County Land Corporation	Tampa, FL
First Capital Corporation of Boston	Boston, MA
First Franklin Financial Corporation	San Jose, CA
First Permanent Financial Services Pty Ltd	Sydney, Australia
First Permanent Securities Limited	Sydney, Australia
First Permanent Securities Mortgage Warehouse Trust 2000-1	Sydney, Australia

Name	Location
First Permanent Super Prime RMBS Trust 2006-1	Sydney, Australia
First Republic Investment Management, Inc.	San Francisco, CA
First Republic Preferred Capital Corporation	San Francisco, CA
First Republic Preferred Capital Corporation II	San Francisco, CA
First Republic Securities Company, LLC	San Francisco, CA
First Republic Wealth Advisors, LLC	San Francisco, CA
Firstval Properties, Inc.	Bethlehem, PA
Five Dollars a Day, LLC	San Francisco, CA
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 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 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
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 Life Insurance Company	Horsham, PA
Fleet NJ Community Development Corp.	Hartford, CT
Fleet Overseas Asset Management, Inc.	Boston, MA
Fleet Pennsylvania Services Inc.	Scranton, PA
Fleet Property Company	Providence, RI
Fleet Retail Group, LLC	Boston, MA
Fleet Venture Partners I	Providence, RI
Fleet Venture Partners III	Providence, RI
Fleet Venture Resources, Inc.	Providence, RI

Name	Location
FleetBoston Co-Investment Partners (2000) LP	Boston, MA
FleetBoston Co-Investment Partners (2001) LP	Boston, MA
Forest Japan MAP Fund Ltd.	London, U.K.
Forest SPC LLC	Charlotte, NC
Foxwood (FP) Limited	London, U.K.
Framework, Inc.	Charlotte, NC
FRB Acceptance LLC	San Francisco, CA
FSC Corp.	Boston, MA
Fugu Credit Limited	London, U.K.
Full Court Tenant, LLC	New York, NY
Fund Asset Management, L.P.	New York, NY
Fund Five Financial, Inc.	San Francisco, CA
Fundo de Investimento em Direito Creditorio Nao Padronizado Tratex Precatorios II	Sao Paulo, Brazil
Fundo de Investimento em Direito Creditorio PCG Brasil Multi Carteira	Sao Paulo, Brazil
Fundo de Investimento Financeiro Multimercado Agata	Sao Paulo, Brazil
Fundo de Investimento Financeiro Multimercado Diamond	Sao Paulo, Brazil
Fundo de Investimento Financeiro Multimercado Iceberg	Sao Paulo, Brazil
Fundo de Investimento Financeiro Multimercado Verona	Sao Paulo, Brazil
Future Check LLC	Charlotte, NC
Galante S.a.r.l.	Luxembourg, Luxembourg
GALCO B.V.	Amsterdam, The Netherlands
Galway Holdings Trust	Dublin, Ireland
Garden Property LLC	Pennington, NJ
Gardnerton Partners	Charlotte, NC
Gaskell Management LLC	Charlotte, NC
Gatwick LLC	Charlotte, NC
GBP Funding 2007-A Limited	London, U.K.
GEARS Holding LLC 2004-A	Charlotte, NC
GEARS Holding LLC 2005-A	Charlotte, NC
GEM 21 s.r.l.	Milan, Italy
General Fidelity Insurance Company	Columbia, SC
General Fidelity Life Insurance Company	Columbia, SC
Genesis Capital K.K.	Tokyo, Japan
Germany Telecommunications 1 S.a.r.L	Luxembourg, Luxembourg
Gestion Santander, S.A. de C.V., Sociedad Operadora de Sociedades de Inversion	Mexico City, Mexico
GHL Mortgage Originations Limited	Dartford, United Kingdom
GHL Mortgage Services Limited	Dartford, United Kingdom
GHL Payment Transmission Limited	Dartford, United Kingdom
GHL Services Limited	Dartford, United Kingdom
GHL Technology Limited Partnership	Dartford, United Kingdom
Giants ABS Co., Ltd.	Seoul, Korea
GK Ad astra	Tokyo, Japan
GK Brown Chip Properties	Tokyo, Japan
GK Carpe Diem	Tokyo, Japan
GK Nagareyama	Tokyo, Japan
GK Per Aspera	Tokyo, Japan
GK Premium Bridge	Tokyo, Japan
Gleneagles Trading LLC	Charlotte, NC
Glenwood Investments Limited	George Town, Grand Cayman, Cayman Is.
Global Home Loans Limited	Dartford, United Kingdom
Global Principal Finance Company, LLC	New York, NY
Global Structured Finance & Investments LLC	New York, NY

Name	Location
GlobaLoans International Technology Limited Partnership	Dartford, United Kingdom
GlobaLoans JV Limited Partnership	Dartford, United Kingdom
GMI Investments, Inc.	New York, NY
GMI Strategic Investments, LLC	New York, NY
Gold Magnet (BVI) Limited	Tortola, British Virgin Islands
Gold Park Creek LLC	Charlotte, NC
Goldbourne Park Limited	Dublin, Ireland
Golden Gate Invesments S.A.	Bogota, Colombia
Golden Iris Trust	New York, NY
Golden Peak Investments LLC	Charlotte, NC
Good Neighbor Labuan Holdings Ltd.	Labuan, Malaysia
Government Securities Delaware, LLC	Princeton, NJ
GPC Securities, Inc.	Atlanta, GA
GPFC Ireland Limited	Dublin, Ireland
GPI Investment Holdings (Belgium) BVBA	Brussels, Belgium
Green Equity Inc.	New York, NY
Greenwood Apartments, LLC	Tampa, FL
Groom Lake, LLC	Charlotte, NC
Grupo Financiero Bank of America, S.A. de C.V.	Mexico City, Mexico
Grupo Financiero Santander, S.A.B. de C.V.	Mexico City, Mexico
GTVBI, Inc.	Port Louis, Mauritius
Hachiko, LLC	San Francisco, CA
Hampton Funding LLC	Charlotte, NC
Hannibal Associates, L.P.	New York, NY
Hannibal Properties Corp.	New York, NY
Hanover Holdings Limited	George Town, Grand Cayman, Cayman Is.
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
Henry II, LLC	New York, NY
Hercules Trading LLC	Charlotte, NC
Herzog Commodities, Inc.	New York, NY
Herzog, Heine, Geduld Global, Inc.	New York, NY
Herzog, Heine, Geduld International, Inc.	New York, NY
Herzog, Heine, Geduld, LLC	New York, NY
Hever Hill Limited	London, U.K.
High Grade Structured Credit CDO 2007-1	George Town, Grand Cayman, Cayman Is.
Hilltop Energy Investment Corp. II	Grand Cayman, Cayman Islands
Hilltop Proprietary Investment, LLC	Houston, TX
Historic Ellison, L.P.	Kansas City, MO
Historic Munsey LLC	Baltimore, MD
HLTV Securitization Corporation	Calabasas, CA
HNC Realty Company	Hartford, CT

Name	Location
Holding Services Ltd.	Grand Cayman, Cayman Islands
Home Equity USA, Inc.	Providence, RI
Home Loan Services, Inc.	Pittsburgh, PA
HomeFocus Services, LLC	St. Louis, MO
HomeFocus Tax Services, LLC	Richmond, VA
Homestead Trading LLC	Charlotte, NC
Hornby Lane Limited	Dublin, Ireland
Hospitality & Leisure—Fondo comune di investimento immobiilare speculativo di tip chiuso	Milan, Italy
Howlan Park Limited	Dublin, Ireland
HQ North Company Inc.	New York, NY
Hunters Station LLC	Charlotte, NC
IBK Holdings International Principal Investments, Ltd.	New York, NY
IBK Holdings Principal Investments, LLC	New York, NY
IBK International Principal Investments, Ltd.	New York, NY
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
Indopark (Cayman) Limited	Grand Cayman, Cayman Islands
Indopark Holdings Limited	Port Louis, Mauritius
Industrial Investment Corporation	Baltimore, MD
Inmobiliaria de Lerma y Amazonas, S.A. de C.V.	Mexico City, Mexico
Institucion Financiera Externa Merrill Lynch Bank Uruguay S.A.	Montevideo, Uruguay
Instituto Santander Serfin, A.C.	Mexico City, Mexico
International Special Situations Holdings C.V.	George Town, Grand Cayman, Cayman Is.
Inversiones Merrill Lynch Chile II Limitada	Santiago, Chile
Inversiones Merrill Lynch Chile Limitada	Santiago, Chile
Investco LLC, Series 2003-1	Wilmington, DE
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 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 Fund 15 B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund 16 B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund 17 B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund 18 B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund I B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund II B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund III B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund IV B.V.	Amsterdam, The Netherlands
Investments 2234 Overseas Fund IX 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

Name	Location
Investments 2234 Overseas Fund X 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 2234, LLC	Charlotte, NC
Investments Dos Dos Tres Cuatro Chile Holdings S.A.	Santiago, Chile
Investor Bruckner, LLC	Boston, MA
Investor Protection Insurance Company	Burlington, VT
IQ Financial Products LLC	New York, NY
IQ Investment Advisors LLC	New York, NY
Ironwood (FP) Limited	London, U.K.
Isabella I, LLC	New York, NY
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.
James I, LLC	New York, NY
JCCA, Inc.	Wilton, CT
Jin Sheng Asset Management Company Limited	Taipei, Taiwan
July 2001 U.S. Partnership	New York, NY
Jupiter Loan Funding LLC	Charlotte, NC
Kaldi Funding LLC	Charlotte, NC
Kauai Hotel, L.P.	Los Angeles, CA
KECALP Inc.	New York, NY
KECALP International Ltd.	New York, NY
Keowee Falls Funding LLC	Charlotte, NC
KML Holdings Co., Ltd.	Labuan, Malaysia
KML II Holdings Co., Ltd.	Labuan, Malaysia
Korea Ranger Limited	Seoul, Korea
L.A. Funding LLC	Charlotte, NC
Laguna Funding LLC	Charlotte, NC
LandSafe Appraisal Services, Inc.	Plano, TX
LandSafe Credit, Inc.	Rosemead, CA
LandSafe Flood Determination, Inc.	Plano, TX
LandSafe Services of Alabama, Inc.	Montgomery, AL
LandSafe Services, Inc.	Rosemead, CA
LandSafe Title Agency of Ohio, Inc.	Rosemead, CA
LandSafe Title of California, Inc.	Rosemead, CA
LandSafe Title of Florida, Inc.	Rosemead, CA
LandSafe Title of Maryland, Inc.	Baltimore, MD
LandSafe Title of Texas, Inc.	Rosemead, CA
LandSafe Title of Washington, Inc.	Simi Valley, CA
LandSafe, Inc.	Plano, TX
Laredo Park Holdings, Inc.	Charlotte, NC
Laredo Partners	Charlotte, NC
LAREH SPV I Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
LAREH SPV II Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
LaSalle Community Development Corporation	Chicago, IL
LaSalle Funding LLC	Chicago, IL
LaSalle Global Trust Services Limited	London, U.K.
LaSalle GTS (UK) Limited	London, U.K.
LaSalle GTS Nominees Limited	London, U.K.
LaSalle National Trust Delaware	Wilmington, DE
LaSalle Street Capital, Inc.	Chicago, IL
LaSalle Trade Services Corporation	Chicago, IL
LaSalle Trade Services Limited	Hong Kong, PRC

Name	Location
Lat-Am Bridge Holdco LLC	New York, NY
Latin America Real Estate Holdings, LLC	New York, NY
Lazard Europe MAP Fund Ltd.	London, U.K.
LBC Limited	Nassau, Bahamas
Leaves, LLC	San Francisco, CA
Lexington Trails Holdings, LP	Dallas, TX
Leyden Bay B.V.	Amsterdam, The Netherlands
LFAS Custodial Services (Jersey) Limited	St. Helier, Jersey, Channel Islands
LFAS Fund Administration (Cayman) Ltd.	George Town, Grand Cayman, Cayman Is.
LFAS Fund Administration (Jersey) Limited	St. Helier, Jersey, Channel Islands
LFS Administration Services (Ireland) Limited	Dublin, Ireland
LFS Custodial Services (Ireland) Limited	Dublin, Ireland
Liberty (Australia) Trust	Sydney, Australia
Liberty Limited Partnership	Sydney, Australia
Limacon Park Limited	Dublin, Ireland
Lincoln Road Real Estate Partners, LLC	Miami Beach, FL
Links at Eastwood LLC, The	Charlotte, NC
Linville Funding LLC	Charlotte, NC
Live Oak Apartments, LLC	Charlotte, NC
Loans.co.uk Limited	Watford, England
Lynx Associates, L.P.	New York, NY
Lynx Properties Corp.	New York, NY
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
Majestic Acquisitions Limited	London, U.K.
Malbec II, LLC	New York, NY
Mallorn Capital LLC	New York, NY
Managed Account Advisors LLC	Jersey City, NJ
Manele Bay II Limited	Amsterdam, The Netherlands
Mangrove TMK	Tokyo, Japan
Marlborough Sounds LLC	Charlotte, NC
Marlin House Holdings Limited	Herts, England
Mars 1, LLC	New York, NY
Marsico Management Holdings, L.L.C.	Charlotte, NC
Maryvale Urban Investments, Inc.	Phoenix, AZ
Mauritius Capital Partners	Port Louis, Mauritius
MaxCasa I Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa II Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa III Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa IV Empreendimentos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa IX Empreendimetos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa X Empreendimetos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa XII Empreendimetos Imobiliarios Ltda.	Sao Paulo, Brazil
MaxCasa XIII Empreendimetos Imobiliarios Ltda.	Sao Paulo, Brazil
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

Name	Location
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 Finance Limited	Chester, England
MBNA Europe Funding, PLC	Chester, England
MBNA Europe Holdings Limited	Chester, England
MBNA Funding Company Limited	Chester, England
MBNA Global Services Limited	Chester, England
MBNA Holdings, Inc.	Wilmington, DE
MBNA Indian Services Private Limited	Bangalore, India
MBNA International Properties Limited	Chester, England
MBNA Ireland Limited	Carrick-on-Shannon, Ireland
MBNA Luxembourg Holdings S.a.r.l.	Grand Duchy of Luxembourg, Luxembourg
MBNA Marketing Systems, Inc.	Wilmington, DE
MBNA Property Services Limited	Chester, England
MBNA R & L S.a.r.l.	Kirschberg, Luxembourg
MBNA Receivables Limited	Chester, England
MBNA Technology, Inc.	Wilmington, DE
MD PE Shopping Park Ltda.	Sao Paulo, Brazil
Mecklenburg Park, Inc.	Charlotte, NC
Medina Lane, Inc.	Charlotte, NC
Mediterranean Funding LLC	Charlotte, NC
Mei Tou (Tianjin) Property Holdings Limited	People’s Republic of China
Mei Tou Holdings Limited	Port Louis, Mauritius
Mei Ya (Tianjin) Property Holdings Limited	People’s Republic of China
Menkent Sarl	Luxembourg, Luxembourg
Mercury 1, LLC	New York, NY
Meritplan Insurance Company	Irvine, CA
Merlot III, LLC	New York, NY
Merrill Diamond Funds	Grand Duchy of Luxembourg, Luxembourg
Merrill Invest (Australia) Limited	Sydney, Australia
Merrill Lynch Alternative Investments LLC	New York, NY
Merrill Lynch Aquisicoes e Participacoes Brasil Ltda	Sao Paulo, Brazil
Merrill Lynch Argentina S.A.	Capital Federal, Argentina
Merrill Lynch Asia Incorporated	New York, NY
Merrill Lynch Asia Investments Limited	Port Louis, Mauritius
Merrill Lynch (Asia Pacific) Limited	Hong Kong, PRC
Merrill Lynch Asian Real Estate Fund Manager Pte. Ltd.	Singapore, Singapore
Merrill Lynch Asian Real Estate Opportunity Fund II, L.P.	Grand Cayman, Cayman Islands
Merrill Lynch Asian Real Estate Opportunity Fund II Pte. Ltd.	Singapore, Singapore
Merrill Lynch (Australasia) Pty Ltd.	Sydney, Australia
Merrill Lynch (Australia) Funding (No. 1) Pty Limited	Melbourne, Victoria, Australia
Merrill Lynch (Australia) Futures Limited	Sydney, Australia
Merrill Lynch (Australia) Nominees Pty. Limited	Melbourne, Victoria, Australia
Merrill Lynch (Australia) Pty Ltd	Sydney, Australia
Merrill Lynch (B.V.I.) Limited	Tortola, British Virgin Islands
Merrill Lynch Bank (Suisse) S.A.	Geneva, Switzerland
Merrill Lynch Bank & Trust Co., FSB	New York, NY
Merrill Lynch Bank and Trust Company (Cayman) Limited	George Town, Grand Cayman, Cayman Is.
Merrill Lynch Bank USA	Salt Lake City, UT
Merrill Lynch Benchmark Holdings LLC	New York, NY
Merrill Lynch Benefits Ltd.	Toronto, Canada
Merrill Lynch (Bermuda) Services Limited	Hamilton, Bermuda

Name	Location
Merrill Lynch (Camberley) Limited	London, U.K.
Merrill Lynch Canada Credit Inc.	Toronto, Ontario, Canada
Merrill Lynch Canada Finance Company	Toronto, Ontario, Canada
Merrill Lynch Canada Holdings Company	Toronto, Ontario, Canada
Merrill Lynch Canada Inc.	Toronto, Ontario, Canada
Merrill Lynch Canada Services Inc.	Toronto, Ontario, Canada
Merrill Lynch Capital Canada Inc.	Toronto, Ontario, Canada
Merrill Lynch Capital Corporation	New York, NY
Merrill Lynch Capital Markets AG	Zurich, Switzerland
Merrill Lynch Capital Markets Espana, S.A., S.V.	Madrid, Spain
Merrill Lynch Capital Markets (France) SAS	Paris, France
Merrill Lynch Capital Markets (Taiwan) Limited	Taipei, Taiwan
Merrill Lynch Capital Partners, Inc.	New York, NY
Merrill Lynch Capital Services, Inc.	New York, NY
Merrill Lynch Chile Holdings 1 LLC	New York, NY
Merrill Lynch Chile Holdings 2 LLC	New York, NY
Merrill Lynch Chile S.A.	Santiago, Chile
Merrill Lynch CICG, L.P.	New York, NY
Merrill Lynch CIS Limited	London, U.K.
Merrill Lynch & Co., Canada Ltd.	Toronto, Canada
Merrill Lynch & Co., Inc.	Charlotte, NC
Merrill Lynch Colombia Ltda.	Bogota, Colombia
Merrill Lynch Commercial Finance Corp.	New York, NY
Merrill Lynch Commodities (Europe) Holdings Limited	London, U.K.
Merrill Lynch Commodities (Europe) Limited	London, U.K.
Merrill Lynch Commodities (Europe) Trading Limited	London, U.K.
Merrill Lynch Commodities Canada, ULC	Toronto, Ontario, Canada
Merrill Lynch Commodities GmbH	London, U.K.
Merrill Lynch Commodities Ltd Belgrade	Belgrade, Serbia
Merrill Lynch Commodities Luxembourg S.a.r.l.	Luxembourg, Luxembourg
Merrill Lynch Commodities S.r.l.	Bucharest, Romania
Merrill Lynch Commodities, Inc.	Houston, TX
Merrill Lynch Commodity Financing Inc.	New York, NY
Merrill Lynch Commodity Partners, L.P.	George Town, Grand Cayman, Cayman Is.
Merrill Lynch Community Development Company, LLC	New York, NY
Merrill Lynch Consulting Services (Beijing) Company Limited	Beijing, People’s Republic of China
Merrill Lynch Corporate (New Zealand) Limited	Geneva, Switzerland
Merrill Lynch Corporate Services Limited	London, U.K.
Merrill Lynch Corredores de Bolsa S.A.	Santiago, Chile
Merrill Lynch Credit Corporation	Jacksonville, FL
Merrill Lynch Credit Products, LLC	New York, NY
Merrill Lynch Credit Reinsurance Limited	Hamilton, Bermuda
Merrill Lynch Defease HoldCo, LLC	New York, NY
Merrill Lynch Depositor, Inc.	New York, NY
Merrill Lynch Derivative Products AG	Zurich, Switzerland
Merrill Lynch Diversified Investments, LLC	New York, NY
Merrill Lynch Equities (Australia) Limited	Sydney, Australia
Merrill Lynch Equities Limited	London, U.K.
Merrill Lynch Espanola Agencia de Valores S.A.	Madrid, Spain
Merrill Lynch Europe Funding	London, U.K.
Merrill Lynch Europe Intermediate Holdings	London, U.K.
Merrill Lynch Europe Liquidity Company Limited	London, U.K.
Merrill Lynch Europe Limited	London, U.K.
Merrill Lynch Europe Ltd.	New York, NY

Name	Location
Merrill Lynch Europe S.A.	New York, NY
Merrill Lynch European Asset Holdings Inc.	New York, NY
Merrill Lynch Far East Limited	Hong Kong, PRC
Merrill Lynch Fiduciary Services, Inc.	Pennington, NJ
Merrill Lynch Finance (Australia) Pty Limited	Sydney, Australia
Merrill Lynch Financial Assets Inc.	Toronto, Ontario, Canada
Merrill Lynch Financial Markets, Inc.	New York, NY
Merrill Lynch Financial Services Limited	Dublin, Ireland
Merrill Lynch France SAS	Paris, France
Merrill Lynch Fund Investors Inc.	New York, NY
Merrill Lynch Funding Corporation	New York, NY
Merrill Lynch Futures (Hong Kong) Limited	Hong Kong, PRC
Merrill Lynch Futures Asia Limited	Hong Kong, PRC
Merrill Lynch GENCO II, LLC	New York, NY
Merrill Lynch GENCO, LLC	New York, NY
Merrill Lynch Gilts Holdings Limited	London, U.K.
Merrill Lynch Gilts Investments Limited	London, U.K.
Merrill Lynch Gilts (Nominees) Limited	London, U.K.
Merrill Lynch Global Asset Management Limited	London, U.K.
Merrill Lynch Global Capital, L.L.C.	New York, NY
Merrill Lynch Global Emerging Markets Partners II, LLC	New York, NY
Merrill Lynch Global Emerging Markets Partners, L.P.	New York, NY
Merrill Lynch Global Emerging Markets Partners, LLC	New York, NY
Merrill Lynch Global Private Equity (Asia) Ltd.	Hong Kong, PRC
Merrill Lynch Global Private Equity (Australia) Pty Limited	Sydney, Australia
Merrill Lynch Global Private Equity, Inc.	New York, NY
Merrill Lynch Global Services Pte. Ltd.	Singapore, Singapore
Merrill Lynch Global (Taiwan) Ltd.	Taipei, Taiwan
Merrill Lynch Government Securities Inc.	New York, NY
Merrill Lynch Government Securities of Puerto Rico, Inc.	New York, NY
Merrill Lynch GP Inc.	New York, NY
Merrill Lynch Group Holdings I, L.L.C.	New York, NY
Merrill Lynch Group Holdings II, L.L.C.	New York, NY
Merrill Lynch Group Holdings III, L.L.C.	New York, NY
Merrill Lynch Group Holdings IV, L.L.C.	New York, NY
Merrill Lynch Group Holdings Limited	Dublin, Ireland
Merrill Lynch Group, Inc.	Charlotte, NC
Merrill Lynch Hedge Fund Integration Services, Inc.	New York, NY
Merrill Lynch HK Services Limited	Hong Kong, PRC
Merrill Lynch Holdings Latin America 1, LLC	New York, NY
Merrill Lynch Holdings Latin America 2, LLC	New York, NY
Merrill Lynch Holdings Latin America 3, LLC	New York, NY
Merrill Lynch Holdings Latin America 4, LLC	New York, NY
Merrill Lynch Holdings Latin America 5, LLC	New York, NY
Merrill Lynch Holdings Latin America, Inc.	New York, NY
Merrill Lynch Holdings Limited	New York, NY
Merrill Lynch Holdings (Mauritius)	Port Louis, Mauritius
Merrill Lynch Home Equity Acceptance, Inc.	New York, NY
Merrill Lynch Hopewell LLC	Pennington, NJ
Merrill Lynch, Hubbard Inc.	New York, NY
Merrill Lynch (India) Technology Services Private Limited	Mumbai, India
Merrill Lynch Insurance Group Services, Inc.	Jacksonville, FL
Merrill Lynch Insurance Group, Inc.	Pennington, NJ
Merrill Lynch International (Australia) Ltd	Sydney, Australia

Name	Location
Merrill Lynch International	London, U.K.
Merrill Lynch International Bank	New York, NY
Merrill Lynch International Bank Limited	Dublin, Ireland
Merrill Lynch International Capital Management (Guernsey) II Limited	Guernsey, Channel Islands
Merrill Lynch International Capital Management (Guernsey) Limited	Guernsey, Channel Islands
Merrill Lynch International & Co. C.V.	Curacao, Netherlands Antilles
Merrill Lynch International Finance (Cayman) Ltd.	Grand Cayman, Cayman Islands
Merrill Lynch International Finance Corporation	New York, NY
Merrill Lynch International Finance, Inc.	New York, NY
Merrill Lynch International Holdings Inc.	New York, NY
Merrill Lynch International Incorporated	New York, NY
Merrill Lynch International Management Limited	Hamilton, Bermuda
Merrill Lynch International Services Limited	Toronto, Ontario, Canada
Merrill Lynch Invest SAS	Paris, France
Merrill Lynch Investment Holdings (Mauritius) Limited	Port Louis, Mauritius
Merrill Lynch Investment Managers (Finance) Limited	London, U.K.
Merrill Lynch Investment Managers Finance (Isle of Man) Limited	Douglas, Isle of Man
Merrill Lynch Investment Managers Group Services Limited	London, U.K.
Merrill Lynch Investment Managers Holdings B.V.	Amsterdam, The Netherlands
Merrill Lynch Investment Managers, L.P.	New York, NY
Merrill Lynch Islands Limited	Grand Cayman, Cayman Islands
Merrill Lynch Israel Ltd.	Luxembourg, Luxembourg
Merrill Lynch Japan Finance Co., Ltd.	Tokyo, Japan
Merrill Lynch Japan Securities Co., Ltd.	Tokyo, Japan
Merrill Lynch (Jersey) Holdings Limited	St. Helier, Jersey, Channel Islands
Merrill Lynch JPNDC, Inc.	New York, NY
Merrill Lynch KECALP International, L.P. 1997	New York, NY
Merrill Lynch KECALP International, L.P. 1999	New York, NY
Merrill Lynch KECALP L.P. 1997	New York, NY
Merrill Lynch KECALP L.P. 1999	New York, NY
Merrill Lynch, Kingdom of Saudi Arabia Company	Kingdom of Saudi Arabia
Merrill Lynch (KL) Sdn. Bhd.	Penang, Malaysia
Merrill Lynch L.P. Holdings Inc.	New York, NY
Merrill Lynch Labuan Holdings Limited	Labuan, Malaysia
Merrill Lynch Life Agency	Pennington, NJ
Merrill Lynch Life Agency Inc. (Montana)	Pennington, NJ
Merrill Lynch Life Agency Inc. (Oklahoma)	Pennington, NJ
Merrill Lynch Life Agency Inc. (Puerto Rico)	Pennington, NJ
Merrill Lynch Life Agency Inc. (Virgin Islands)	Pennington, NJ
Merrill Lynch Life Agency Inc. (Washington)	Pennington, NJ
Merrill Lynch Liquidity Portfolio, L.P.	Edinburgh, Scotland
Merrill Lynch LLC	Moscow, Russia
Merrill Lynch Luxembourg Capital Funding SARL	Luxembourg, Luxembourg
Merrill Lynch Luxembourg Finance S.A.	Luxembourg, Luxembourg
Merrill Lynch Luxembourg Holdings S.a.r.l.	Luxembourg, Luxembourg
Merrill Lynch Luxembourg Investments S.a.r.l.	Luxembourg, Luxembourg
Merrill Lynch (Luxembourg) S.a.r.l.	Luxembourg, Luxembourg
Merrill Lynch Management GmbH	Frankfurt, Germany
Merrill Lynch Markets (Australia) Pty. Limited	Sydney, Australia
Merrill Lynch (Mauritius) Investments Limited	Port Louis, Mauritius
Merrill Lynch Mauritius Portfolio Company No. Three	Port Louis, Mauritius
Merrill Lynch Mauritius Portfolio Company No. Two	Port Louis, Mauritius
Merrill Lynch MBP Inc.	New York, NY
Merrill Lynch Menkul Degerler A.S.	Istanbul, Turkey

Name	Location
Merrill Lynch Mexico Holdings 1, LLC	New York, NY
Merrill Lynch Mexico Holdings 2, LLC	New York, NY
Merrill Lynch Mexico, S.A. de C.V., Casa de Bolsa	Mexico City, Mexico
Merrill Lynch Middle East Holding Company	London, U.K.
Merrill Lynch Middle East Holding I, L.L.C.	London, U.K.
Merrill Lynch Middle East Holdings II, L.L.C.	London, U.K.
Merrill Lynch Middle East Holdings III, L.L.C.	London, U.K.
Merrill Lynch Middle East Holdings IV, L.L.C.	London, U.K.
Merrill Lynch Money Markets Inc.	New York, NY
Merrill Lynch (Montevideo) S.A.	Montevideo, Uruguay
Merrill Lynch Mortgage and Investment Corporation	Pennington, NJ
Merrill Lynch Mortgage Capital Inc.	New York, NY
Merrill Lynch Mortgage Investors, Inc.	New York, NY
Merrill Lynch Mortgage Lending, Inc.	New York, NY
Merrill Lynch Mortgage Services Corporation	New York, NY
Merrill Lynch Municipal ABS, Inc.	New York, NY
Merrill Lynch N.V.	Amsterdam, The Netherlands
Merrill Lynch NJ Investment Corporation	Pennington, NJ
Merrill Lynch NMTC Corp.	New York, NY
Merrill Lynch Nominees (Hong Kong) Limited	Hong Kong, PRC
Merrill Lynch Nominees Limited	London, U.K.
Merrill Lynch OCRE General Ltd.	St. Helier, Jersey, Channel Islands
Merrill Lynch OCRE Holdings Ltd.	St. Helier, Jersey, Channel Islands
Merrill Lynch OCRE Jersey Ltd.	St. Helier, Jersey, Channel Islands
Merrill Lynch Options/Futures Management Service Corporation	New York, NY
Merrill Lynch Participacoes, Financas e Servicos Ltda	Sao Paulo, Brazil
Merrill Lynch Partnership Holdings, LLC	New York, NY
Merrill Lynch PCG, Inc.	New York, NY
Merrill Lynch, Pierce, Fenner & Smith (Brokers & Dealers)	London, U.K.
Merrill Lynch, Pierce, Fenner & Smith (Hellas) E.P.E.	London, U.K.
Merrill Lynch, Pierce, Fenner & Smith (Middle East) S.A.L.	Beirut, Lebanon
Merrill Lynch, Pierce, Fenner & Smith Belge S.A.	Brussels, Belgium
Merrill Lynch, Pierce, Fenner & Smith de Argentina Sociedad Anonima, Financiera, Mobiliaria y de Mandatos	Capital Federal, Argentina
Merrill Lynch, Pierce, Fenner & Smith Incorporated	New York, NY
Merrill Lynch, Pierce, Fenner & Smith Limited	Toronto, Ontario, Canada
Merrill Lynch, Pierce, Fenner & Smith SAS	Paris, France
Merrill Lynch PNG LNG Corp	George Town, Grand Cayman, Cayman Is.
Merrill Lynch Polska Sp. z o.o.	Warsaw, Poland
Merrill Lynch Portfolio Management Inc.	New York, NY
Merrill Lynch Portfolio Managers (Channel Islands) Limited	St. Helier, Jersey, Channel Islands
Merrill Lynch Portfolio Managers Limited	London, U.K.
Merrill Lynch Princeton Incorporated	New York, NY
Merrill Lynch Principal Finance LLC	New York, NY
Merrill Lynch Principal Investments Co., Ltd.	Tokyo, Japan
Merrill Lynch Private (Australia) Limited	Melbourne, Victoria, Australia
Merrill Lynch Private Capital Inc.	New York, NY
Merrill Lynch Professional Clearing Corp.	New York, NY
Merrill Lynch Properties Korea L.L.C.	Seoul, Korea
Merrill Lynch Purchase Price Investment LLC	New York, NY
Merrill Lynch Real Estate II Incorporated	New York, NY
Merrill Lynch Reinsurance Solutions LTD	Hamilton, Bermuda
Merrill Lynch Representacoes Ltda	Sao Paulo, Brazil
Merrill Lynch S.A.	Luxembourg, Luxembourg

Name	Location
Merrill Lynch S.A. Corretora de Titulos e Valores Mobiliarios	Sao Paulo, Brazil
Merrill Lynch S.A.M.	Monte Carlo
Merrill Lynch S.I.M. Srl	Rome, Italy
Merrill Lynch Scotland Finance II Limited Partnership	Edinburgh, Scotland
Merrill Lynch Scotland Finance III Limited Partnership	Edinburgh, Scotland
Merrill Lynch Scotland Finance Limited Partnership	Edinburgh, Scotland
Merrill Lynch Securities (Taiwan) Ltd.	Taipei, Taiwan
Merrill Lynch Securities (Thailand) Limited	Bangkok, Thailand
Merrill Lynch Settlement Services, Inc.	Jacksonville, FL
Merrill Lynch SIG Administradora e Gestora de Recursos Ltda.	Sao Paulo, Brazil
Merrill Lynch Singapore Commodities Pte. Ltd.	Singapore, Singapore
Merrill Lynch (Singapore) Pte Ltd.	Singapore, Singapore
Merrill Lynch South Africa (Proprietary) Limited	Gauteng, South Africa
Merrill Lynch Specialty Finance LLC	New York, NY
Merrill Lynch SSG S.A.R.L.	Luxembourg, Luxembourg
Merrill Lynch SSG, L.P.	New York, NY
Merrill Lynch Strategic Investment Advisors Inc.	New York, NY
Merrill Lynch Strategic Investments Holdings, LLC-1	New York, NY
Merrill Lynch Strategic Investments, LLC-2	New York, NY
Merrill Lynch Structured Investments, LLC	New York, NY
Merrill Lynch Television, Inc.	New York, NY
Merrill Lynch Trust Company of Delaware	Wilmington, DE
Merrill Lynch Trust Services S.A.	Geneva, Switzerland
Merrill Lynch UK Finance	London, U.K.
Merrill Lynch (UK) Healthcare Trustee Limited	London, U.K.
Merrill Lynch UK Holdings	London, U.K.
Merrill Lynch (UK) Pension Plan Trustees Limited	London, U.K.
Merrill Lynch Utah Investment Corporation	Salt Lake City, UT
Merrill Lynch Valores S.A. Sociedad de Bolsa	Capital Federal, Argentina
Merrill Lynch Venture Capital Inc.	New York, NY
Merrill Lynch Ventures Administrators, LLC	New York, NY
Merrill Lynch Ventures, LLC	New York, NY
Merrill Lynch Ventures L.P. 2001	New York, NY
Merrill Lynch Yatirim Bank A.S.	Istanbul, Turkey
Merrill Lynch/WFC/L, Inc.	New York, NY
MerryPlace at Pleasant City Associates, Ltd.	Tampa, FL
MerryPlace Development, LLC	Charlotte, NC
MerryPlace, LLC	Charlotte, NC
Mership Nominees Limited	London, U.K.
MESBIC Ventures, Inc.	Richardson, TX
Metro Plaza, Inc.	Boston, MA
Mid-Atlantic Gotham Golf, Inc.	New York, NY
Middletown Finance, LLC	Charlotte, NC
Midland Doherty Realty Inc.	Toronto, Ontario, Canada
Midland Walwyn Capital Corporation	Toronto, Ontario, Canada
Midland Walwyn Inc.	Toronto, Ontario, Canada
Midway Road Funding Ltd.	George Town, Grand Cayman, Cayman Is.
Midway Trust	Wilmington, DE
Midwest Affordable Housing 1997-1, L.L.C.	Charlotte, NC
Midwest Mezzanine Fund III, L.P.	Chicago, IL
Mier-Day Properties, LLC	San Francisco, CA
Milestone (Cayman) Limited	Grand Cayman, Cayman Islands
Mineral Rapids Investments LP	Charlotte, NC
Mitchell Funding LLC	Charlotte, NC

Name	Location
MJB Co. Ltd.	Hong Kong, PRC
ML 1633 Broadway LLC	New York, NY
ML 2003 Alpha LLC	New York, NY
ML 2003 Beta LLC	New York, NY
ML 35 LLC	New York, NY
ML 300 Corporation	Pennington, NJ
ML 300 Spear LLC	New York, NY
ML Aberdare	George Town, Grand Cayman, Cayman Is.
ML Aeolus Co-Invest Ltd.	New York, NY
ML Agriculture Beta and Positive Alpha Fund—SPGSCI Agriculture TR Benchmark	Paris, France
ML Andromeda (Cayman)	George Town, Grand Cayman, Cayman Is.
ML Asian R.E. Fund (ERISA), L.P.	New York, NY
ML Asian R.E. Fund (Germany) L.P.	New York, NY
ML Asian R.E. Fund II (ML), L.P.	New York, NY
ML Asian R.E. Fund (ML), L.P.	
ML Asian R.E. Fund (Scotland) GP, Limited	New York, NY
ML Asian R.E. Fund C.I.M.P., L.P.	New York, NY
ML Asian R.E. Fund C.I.P., L.P.	New York, NY
ML Asian R.E. Fund C.I.R.P., L.P.	New York, NY
ML Asian R.E. Fund GP, L.L.C.	New York, NY
ML Asian R.E. Fund II GP, L.L.C.	New York, NY
ML Asian R.E. Fund GP, L.P.	New York, NY
ML Asian R.E. Fund II GP, L.P.	New York, NY
ML Asian R.E. Fund ML C.I., L.P.	New York, NY
ML ASM Co-Invest, Ltd.	New York, NY
ML Asset Backed Corporation	New York, NY
ML Asset Holdings LLC	Wilmington, DE
ML Balkhouse Properties Corp.	New York, NY
ML Banderia Cayman BRL Inc.	New York, NY
ML Basil Trust	George Town, Grand Cayman, Cayman Is.
ML BCV Two Hotels LLC	New York, NY
ML Beech	George Town, Grand Cayman, Cayman Is.
ML BOC, L.P.	New York, NY
ML Bosphorus Holdings LLC	Wilmington, DE
ML Bosphorus RE Holdings Jersey I Ltd.	St. Helier, Jersey, Channel Islands
ML Breakspear Property Ltd	St. Helier, Jersey, Channel Islands
ML BREP II, LLC	New York, NY
ML BREP Member LLC	New York, NY
ML BREP MM LLC	New York, NY
ML Bullseye PGP LLC	New York, NY
ML Cable Holdings Limited	London, U.K.
ML Cable Investments 1 Limited	London, U.K.
ML Cable Investments 2 Limited	London, U.K.
ML Cable Investments 3 Limited	London, U.K.
ML CAM Jersey Limited	Pennington, NJ
ML Canary (Cayman)	George Town, Grand Cayman, Cayman Is.
ML Cardiff Holdings Limited	St. Helier, Jersey, Channel Islands
ML Cardiff Jersey Limited	St. Helier, Jersey, Channel Islands
ML Cayman 2003 Holding Corp.	New York, NY
ML Cayman 2003 Investor Corp.	New York, NY
ML Cayman Holdings Inc.	New York, NY
ML Cayman Positions, Ltd.	New York, NY
ML Chestnut	George Town, Grand Cayman, Cayman Is.

Name	Location
ML City Center LLC	New York, NY
ML Commodity Beta and Positive Alpha Fund—DJAIG TR Benchmark	Paris, France
ML Commodity Beta and Positive Alpha Fund—RICI TR Benchmark	Paris, France
ML Commodity Beta and Positive Alpha Fund—SPGSCI TR Benchmark	Paris, France
ML Compayne	George Town, Grand Cayman, Cayman Is.
ML Convermex Co-Invest Ltd.	New York, NY
ML Cortlandt Realty Corporation	New York, NY
ML Credit Investments Series 2008-1 Limited	St. Helier, Jersey, Channel Islands
ML Credit Investments Series 2008-2 Limited	St. Helier, Jersey, Channel Islands
ML Credit Trading (Jersey) Limited	St. Helier, Jersey, Channel Islands
ML Credit Trading Mosel Limited	St. Helier, Jersey, Channel Islands
ML Cruzeiro Cayman BRL Inc.	New York, NY
ML Diversified Shareholdings V SAS	Paris, France
ML Dom Luxembourg II Sarl	Luxembourg, Luxembourg
ML Dom Luxembourg Sarl	Luxembourg, Luxembourg
ML Dover Properties, Inc.	New York, NY
ML Elkhorn Co.	George Town, Grand Cayman, Cayman Is.
ML EMEA Holdings II LLC	New York, NY
ML EMEA Holdings LLC	New York, NY
ML EMGF Mosel S.a.r.l.	Luxembourg, Luxembourg
ML Employees LBO Managers, Inc.	New York, NY
ML Energy Fund Management, LLC	Houston, TX
ML Energy Investment Corp.	Grand Cayman, Cayman Islands
ML Energy Investment Fund Upstream (PNG) Pty Ltd	Sydney, NSW, Australia
ML Energy Partners, LLC	Houston, TX
ML Equity Holdings LLC	New York, NY
ML Equity Solutions Jersey Limited	St. Helier, Jersey, Channel Islands
ML Europe Hedged Equity Strategies Fund Ltd.	London, U.K.
ML European Asian R.E. Fund U.S. Investment Advisor, L.L.C.	New York, NY
ML European R.E. Fund (ML), L.P.	New York, NY
ML European R.E. Fund (T.E.), L.P.	New York, NY
ML European R.E. Fund (U.S.T.), L.P.	New York, NY
ML European R.E. Fund C.I.M.P., L.P.	New York, NY
ML European R.E. Fund C.I.P., L.P.	New York, NY
ML European R.E. Fund C.I.R.P., L.P.	New York, NY
ML European R.E. Fund GP II, L.P.	New York, NY
ML European R.E. Fund GP, L.L.C.	New York, NY
ML European R.E. Fund GP, L.P.	New York, NY
ML European R.E. Fund M.L.P., L.P.	New York, NY
ML European R.E. Fund ML C.I., L.P.	New York, NY
ML European Real Estate Fund (German), L.P.	New York, NY
ML FBO Holdings, LLC	New York, NY
ML Film Entertainment International Inc.	New York, NY
ML Florido Cayman MX Inc.	New York, NY
ML FPL Holdings, LLC	New York, NY
ML Fund Administrators Inc.	New York, NY
ML GBP Hold Co LLC	New York, NY
ML GBP Investments, Inc.	New York, NY
ML GCRE GP, L.L.C.	New York, NY
ML GCRE IBK LLC	New York, NY
ML GCRE LPH LLC	New York, NY
ML Global Private Equity Fund, L.P.	New York, NY
ML Global Private Equity Partners, L.P.	New York, NY

Name	Location
ML Hannibal Properties Corp.	New York, NY
ML Hayden Trust	George Town, Grand Cayman, Cayman Is.
ML HCA Co-Invest Ltd.	New York, NY
ML Hedge Fund Ventures	New York, NY
ML Hedge Fund Ventures II	New York, NY
ML Hertz Co-Investor GP, L.L.C.	New York, NY
ML Hillyer, LLC	New York, NY
ML Houston GP, Inc.	New York, NY
ML Houston Ltd.	New York, NY
ML Houston Mezz LLC	New York, NY
ML IBK Positions, Inc.	New York, NY
ML Infrastructure Holdings II Ltd.	New York, NY
ML Infrastructure Holdings LLC	New York, NY
ML Infrastructure Holdings Ltd.	New York, NY
ML Infrastructure Holdings S.ar.l.	New York, NY
ML Insurance (IOM) Limited	Douglas, Isle of Man
ML Invest Finance II, L.L.C.	New York, NY
ML Invest Finance, L.L.C.	New York, NY
ML Invest Holdings	London, U.K.
ML Invest, Inc.	New York, NY
ML Invest Scotland Finance II Limited Partnership	Edinburgh, Scotland
ML Invest Scotland Finance III Limited Partnership	Edinburgh, Scotland
ML Invest Scotland Finance Limited Partnership	Edinburgh, Scotland
ML Knight 2003 Holding Corp.	New York, NY
ML Knight 2003 Investor Corp.	New York, NY
ML Larch	George Town, Grand Cayman, Cayman Is.
ML Lareh Asset Manager LLC	New York, NY
ML Lareh Member LLC	New York, NY
ML Lareh MM LLC	New York, NY
ML LCI Asia L.P.	New York, NY
ML LCI Europe L.P.	New York, NY
ML Leasing Equipment Corp.	New York, NY
ML Leasing Servicing, Inc.	New York, NY
ML Life Agency Inc. (Texas)	Pennington, NJ
ML Liquidity Portfolio LLC	New York, NY
ML MBF GP, Ltd.	New York, NY
ML MBS Management, LLC	New York, NY
ML MBS Services Limited	London, U.K.
ML Media Management Inc.	New York, NY
ML Mezzanine II, Inc.	New York, NY
ML Mortgage Holdings Inc.	Pennington, NJ
ML Mosel Funding USA LLC	New York, NY
ML Mosel Holdings Gibraltar Ltd.	Gibraltar, Gibraltar
ML Mosel Holdings Luxembourg S.a.r.l.	Luxembourg, Luxembourg
ML N&W Investor S.a.r.L.	Luxembourg, Luxembourg
ML Newcastle (Gibraltar) Limited	Gibraltar, Gibraltar
ML Newcastle Investments Limited	St. Helier, Jersey, Channel Islands
ML Newcastle Issuer S.a.r.l.	Luxembourg, Luxembourg
ML Newcastle Luxembourg S.a.r.l.	Luxembourg, Luxembourg
ML NPC Co-Invest Ltd.	New York, NY
ML Nuveen Co-Invest, Ltd.	New York, NY
ML Oak (Cayman)	George Town, Grand Cayman, Cayman Is.
ML Observatory Trust	George Town, Grand Cayman, Cayman Is.
ML Onyx Properties Corp.	New York, NY

Name	Location
ML Orion HoldCo, LLC	New York, NY
ML Orion Investments, LLC	New York, NY
ML Palm, LLC	New York, NY
ML Petrie Parkman Co., Inc.	New York, NY
ML Phoenix Inns LLC	New York, NY
ML Phoenix Manager LLC	New York, NY
ML Pine	George Town, Grand Cayman, Cayman Is.
ML Plainsboro Limited Partnership	Plainsboro, NJ
ML Ponserv Inc.	New York, NY
ML Pontiac Properties Corp.	New York, NY
ML Pref LLC	New York, NY
ML Pref Member LLC	New York, NY
ML Priory	George Town, Grand Cayman, Cayman Is.
ML Private Equity Offshore Ltd.	New York, NY
ML Private Finance LLC	New York, NY
ML Ray Co-Investor GP Ltd.	New York, NY
ML Ray Investor GP Ltd.	New York, NY
ML Ray Investor, L.P.	New York, NY
ML Ray Investor S.a.r.L.	New York, NY
ML Rowley	George Town, Grand Cayman, Cayman Is.
ML Salinas Cayman MX Inc.	New York, NY
ML Spider	George Town, Grand Cayman, Cayman Is.
ML ST/PCV LLC	New York, NY
ML Stonelake Asset Manager LLC	New York, NY
ML Stonelake GP LLC	New York, NY
ML Stonelake LP	New York, NY
ML Tate Financing Co.	New York, NY
ML Taurus Administrators, L.L.C.	New York, NY
ML Taurus, Inc.	New York, NY
ML Terrano, LLC	New York, NY
ML Tonala Cayman MX Inc.	New York, NY
ML Tower Trust	George Town, Grand Cayman, Cayman Is.
ML Ubase Holdings Co., Ltd.	Labuan, East Malaysia
ML UK Capital Holdings	London, U.K.
ML UK Funding Limited	London, U.K.
ML UK Services Limited	London, U.K.
ML Umbrella FCP	Paris, France
ML US Hedged Equity Strategies Fund Ltd.	London, U.K.
ML USD MBS Management, LLC	New York, NY
ML Veda Co-Invest, Ltd.	New York, NY
ML VI Hotel Co LLC	New York, NY
ML Viola, LLC	New York, NY
ML Watford Property Ltd.	St. Helier, Jersey, Channel Islands
ML Whitby (Gibraltar) Limited	Gibraltar, Gibraltar
ML Whitby Investments Limited	St. Helier, Jersey, Channel Islands
ML Whitby Issuer S.a.r.l.	Luxembourg, Luxembourg
ML Whitby Luxembourg S.a.r.l.	Luxembourg, Luxembourg
ML Windy City Investments Holdings, L.L.C.	New York, NY
MLAE Nominees Pty Limited	Sydney, NSW, Australia
MLANNA Fixtures GmbH	Berlin, Germany
MLANNA Real Estate 1 S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate 2 S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate 3 S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate 4 S.a.r.l.	Luxembourg, Luxembourg

Name	Location
MLANNA Real Estate 5 S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate 6 S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate 7 S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate GP S.a.r.l.	Luxembourg, Luxembourg
MLANNA Real Estate S.e.c.s.	Luxembourg, Luxembourg
MLBC, Inc.	Chicago, IL
MLBUSA Community Development Corp.	New York, NY
MLBUSA Funding Corporation	Salt Lake City, UT
MLCC Acquisition Corp.	New York, NY
MLCC Mortgage Investors, Inc.	New York, NY
MLCI Holdings, Inc.	Houston, TX
MLDP Holdings, Inc.	New York, NY
MLEIH Funding	London, U.K.
MLEQ Nominees Pty Limited	Sydney, NSW, Australia
MLFM S.A.	Geneva, Switzerland
MLFS Hold Co A Limited	George Town, Grand Cayman, Cayman Is.
MLFS Hold Co LLC	Wilmington, DE
MLGHF HEGIO SAS	Paris, France
MLGP Urban Renewal LLC	Pennington, NJ
MLGPE A-RE LLC	New York, NY
MLGPE Delaware LLC	New York, NY
MLGPE Fund International II, L.P.	New York, NY
MLGPE Fund US Alternative, L.P.	New York, NY
MLGPE Fund US II, L.P.	New York, NY
MLGPE HK GP Limited	Hong Kong, PRC
MLGPE International Capital Ltd.	New York, NY
MLGPE International Strategies Ltd.	New York, NY
MLGPE Ltd.	New York, NY
MLGPE Partners II, L.P.	New York, NY
MLGPE US Capital LLC	New York, NY
MLGPE US Strategies LLC	New York, NY
MLGPI Holdings B.V.	Amsterdam, The Netherlands
MLH Group Inc.	New York, NY
MLH Merger Corporation	New York, NY
MLHC, Inc.	New York, NY
MLHM, Inc.	New York, NY
MLHQ, LLC	New York, NY
MLHRE Incorporated	New York, NY
mlib (historic)	London, U.K.
MLIM Capital Limited	London, U.K.
MLIM Investments Limited	George Town, Grand Cayman, Cayman Is.
MLIS Limited	London, U.K.
MLMBCAV, Inc.	New York, NY
MLMCI Ohio, Inc.	New York, NY
MLMCI, LLC	New York, NY
MLML Subdebt Holding LLC	New York, NY
MLOC European Real Estate S.a.r.l.	Luxembourg, Luxembourg
MLOCG European Real Estate S.a.r.l.	Luxembourg, Luxembourg
MLP Nominees Pty Limited	Melbourne, Victoria, Australia
MLRBB SAS	Paris, France
MLRE II Incorporated	New York, NY
MLWert 1 Sarl	Luxembourg, Luxembourg
MLWert 2 Sarl	Luxembourg, Luxembourg
MLWert 3 Sarl	Luxembourg, Luxembourg

Name	Location
MLWert 4 Sarl	Luxembourg, Luxembourg
MLWert Holdings Sarl	Luxembourg, Luxembourg
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
Modena 2004—1 LLC	New York, NY
Modena 2004—2 LLC	New York, NY
Modena 2004 Business Trust	New York, NY
Modena 2004 Holding LLC	New York, NY
Modena 2004 Parent Trust	New York, NY
Modena Newcorp, Inc.	New York, NY
Mohawk River Funding II, L.L.C.	Houston, TX
MOIL Corporation	Wilton, CT
Mortgage Equity Conversion Asset Corporation	Wilmington, DE
Mortgage Holdings Limited	London, U.K.
Mortgages 1 Limited	London, U.K.
Mortgages 2 Limited	London, U.K.
Mortgages 3 Limited	London, U.K.
Mortgages 4 Limited	London, U.K.
Mortgages 5 Limited	London, U.K.
Mortgages 6 Limited	London, U.K.
Mortgages 7 Limited	London, U.K.
Mortgages DACS Limited	London, U.K.
Mortgages No. 2 DACS Limited	London, U.K.
Mortgages No. 3 (DACS) Limited	London, U.K.
Mortgages No. 4 (DACS) Limited	London, U.K.
Mortgages No. 5 (DACS) Limited	London, U.K.
Mortgages plc	London, U.K.
Movie ABS Co., Ltd.	Seoul, Korea
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
N.Y. Nominees Limited	London, U.K.
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
NEBACO, INC.	Charlotte, NC
Neptune 1, LLC	New York, NY

Name	Location
NeSBIC Buy Out Fund Invest VII B.V.	Utrecht, The Netherlands
Nevis Investments Limited	George Town, Grand Cayman, Cayman Is.
New Smith Japan New Horizons MAP Fund	London, U.K.
New Star Gemini Europe MAP Fund Ltd.	London, U.K.
Newark Lane Pty Limited	Charlotte, NC
Newcastle Capital Ireland Limited	Dublin, Ireland
Newco Home Funding Partners, LLC	Springfield, VA
Newfound Bay Investments Limited	London, U.K.
Newfound Bay Limited	London, U.K.
Newgate Funding (Options) Limited	London, U.K.
Newland Lane Limited	George Town, Grand Cayman, Cayman Is.
Newport E & S Insurance Company	Plano, TX
Newport Insurance Company	Irvine, CA
Newport Management Corporation	Irvine, CA
Nexstar Financial Corporation	Saint Charles, MO
Nightingale Lane Pty Limited	Charlotte, NC
Nihonbashi Loan Service Corporation	Tokyo, Japan
Nihonbashi Residential Mortgage Corporation	Tokyo, Japan
Ninth North-Val, Inc.	Baltimore, MD
Nippon Holdings, LLC	New York, NY
Nippon Loans, LLC	New York, NY
Nippon REO, LLC	New York, NY
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
Norris Associates, L.L.C.	Charlotte, NC
Norstar Venture Partners I	Providence, RI
North Cove CDO II, LTD.	George Town, Grand Cayman, Cayman Is.
North East Hillcroft, Inc.	Providence, RI
North South Holdings Sarl	Luxembourg, Luxembourg
North South Properties S.a.r.l.	Luxembourg, Luxembourg
Northam Lane Limited	George Town, Grand Cayman, Cayman Is.
NorthEnd Advisor Managing Member LLC	New York, NY
NorthEnd Holding Company LLC	New York, NY
NorthEnd Income Property Trust, Inc.	New York, NY
NorthEnd Operating Partnership LP	New York, NY
NorthEnd Realty Advisors LLC	New York, NY
Northern Antelope Holdings, Inc.	New York, NY
Northquay Investments Limited	London, U.K.
NorthRoad Capital Management LLC	New York, NY
Norton Golf LLC	Boston, MA
NPC International S.A. de C.V.	Juarez, Mexico
NYLIM Europe MAP Fund Ltd.	New York, NY
Oakland Funding No. 1 LLC	Charlotte, NC
Oakland Funding No. 2 LLC	Charlotte, NC
Oakridge Pines, LLC	Tampa, FL
O'Connor European Property Partners, L.P.	Wilmington, DE
Odessa Park, Inc.	Charlotte, NC
Oechsle International Advisors, LLC	Boston, MA
Oldland Lane Limited	George Town, Grand Cayman, Cayman Is.
One Bryant Park LLC	New York, NY
Onslow Finance LLC	Charlotte, NC

Name	Location
OOO Merrill Lynch Securities	Moscow, Russia
Operadora de Derivados Sanatander, S.A. de C.V.	Mexico City, Mexico
Orix Funding LLC	Charlotte, NC
Orta S.r.l.	Rome, Italy
Ortensia S.r.l.	Rome, Italy
Oshkosh/McNeilus Financial Services Partnership	Dodge Center, MN
OSP Funding LLC	Charlotte, NC
Ostseeklinik Poel GmbH & Co. KG	Poel, Germany
Ostseeklinik Poel Verw. U. BetGes. mbH	Poel, Germany
Otter Lake Funding LLC	Charlotte, NC
Pacesetter/MVHC, Inc.	Richardson, TX
Pacific Dunes Trading LLC	Charlotte, NC
Pacific Funding LLC	Charlotte, NC
Panchshil Techpark Private Limited	Mumbai, India
Paneldeluxe Company Limited	Chester, England
Paradise Funding, Ltd.	George Town, Grand Cayman, Cayman Is.
Paradise Urban Investments, LLC	Dallas, TX
Paramount Nominees Limited	London, U.K.
Pariter Solutions, LLC	San Francisco, CA
Park Granada LLC	Calabasas, CA
Park Monaco Inc.	Calabasas, CA
Park Sienna LLC	Calabasas, CA
Parkside Residential LLC	Washington, DC
Parkside Senior Housing LLC	Washington, DC
PC Dallas Holdings, LP	Dallas, TX
PC/Flowers I Inc.	New York, NY
PC/Flowers Inc.	New York, NY
Peapack Properties Corp.	New York, NY
Pearl Cayman 1 Limited	London, U.K.
Pegasus R.E.F. I LLC	New York, NY
Pegasus R.E.F. Manager LLC	New York, NY
Pegasus Trading LLC	Charlotte, NC
Peninsula Capital Corporation	Seoul, Korea
Perissa LLC	San Francisco, CA
Persimmon Springs Funding LLC	Charlotte, NC
PH Sentry Associates	Blue Bell, PA
Phoenix Inns Hotel Co. LLC	New York, NY
Phoenix Inns Hotel MM LLC	New York, NY
Phone Bachut SAS	Lyon, France
Phone Belgique Illzach SAS	Illzach, France
Phone Cognac Jay SAS	Paris, France
Phone Coutures Caen SAS	Caen, France
Phone Edison Besancon SAS	Besancon, France
Phone France Holdings SAS	Paris, France
Phone Le Canet Marseille SAS	Marseille, France
Phone Luxembourg Holdings S.a.r.L.	Luxembourg, Luxembourg
Phone Luxembourg Properties S.a.r.L.	Luxembourg, Luxembourg
Phone Lyautey Lagny SAS	Paris, France
Phone Marie Curie Tour SAS	La Ville-Aux-Dames, France
Phone Part Dieu SAS	Lyon, France
Phone Schiltigheim SAS	Schiltigheim, France
Phone Sidot Montpellier SAS	Montpellier, France
Phone Sotteville Halage SAS	Sotteville le Rouen, France
Phone Soupetard Toulouse SAS	Toulouse, France

Name	Location
Phone Ste Claire Deville Toulon SAS	Toulon, France
Phone Villeneuve D'Ascq SAS	Villeneuve d'Ascq, France
Piccadilly Financing LLC	Charlotte, NC
PIH Albany LLC	New York, NY
PIH Beaverton LLC	New York, NY
PIH Bend LLC	New York, NY
PIH Eugene LLC	New York, NY
PIH Lake Oswego LLC	New York, NY
PIH Olympia LLC	New York, NY
PIH Phoenix LLC	New York, NY
PIH Salem LLC	New York, NY
PIH South Salem LLC	New York, NY
PIH Tigard LLC	New York, NY
PIH Vancouver LLC	New York, NY
Pilot Financial Corp.	Blue Bell, PA
Pine Harbour Limited	London, U.K.
Pinehurst Trading, Inc.	Charlotte, NC
Pinnacle Ridge Funding LLC	Charlotte, NC
Pinot IV, LLC	New York, NY
Pinyon Park LLC	Charlotte, NC
PJM Office Building, LLC	Baltimore, MD
PJM Retail Center, LLC	Baltimore, MD
Plano Partners	Charlotte, NC
Pluto 1, LLC	New York, NY
Poel Baltic Holding, S.a.r.l.	Luxembourg, Luxembourg
Poel Baltic Land, S.a.r.l.	Luxembourg, Luxembourg
Poplar Partners I	Charlotte, NC
Poseidon Trading LLC	Charlotte, NC
Power Equities, Inc.	Richardson, TX
Powergate Associates Limited	Amsterdam, The Netherlands
PPC, LLC	New York, NY
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
Premium Credit Receivables Limited	Epsom, United Kingdom
Premium Residence Tokutei Mokuteki Kaisha	Tokyo, Japan
Princeton Administrators, L.P.	New York, NY
Princeton Retirement Group, Inc., The	Atlanta, GA
Princeton Services, Inc.	New York, NY
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

Name	Location
Propco Bridge LLC	New York, NY
PT Merrill Lynch Indonesia	Jakarta, Indonesia
Puritan Mill, LLC	Atlanta, GA
Pydna Corporation	San Francisco, CA
Quail Brook Holdings, LP	Dallas, TX
Quail Creek Holdings, LP	Dallas, TX
RAB UK MAP Fund Ltd.	London, U.K.
Raintree Trading LLC	Charlotte, NC
Rameau S.A.R.L.	Paris, France
Ravenswood Investments LLC	Charlotte, NC
RCL Holdings LLC	Chicago, IL
ReconTrust Company	Thousand Oaks, CA
ReconTrust Company, National Association	Thousand Oaks, CA
Red Fox Funding LLC	Charlotte, NC
Red River Holdings Limited	Grand Cayman, Cayman Islands
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
Research Europe Limited	Chester, United Kingdom
Richard III, LLC	New York, NY
Ridgewood Holdings Limited	Port Louis, Mauritius
RIHT Life Insurance Company	Phoenix, AZ
Rising Sun Mills LLC	Baltimore, MD
Ritchie Court M Corporation	Baltimore, MD
Riverfalls Urban Investments, LLC	Dallas, TX
Riversgate Limited	London, U.K.
Riviera Funding LLC	Charlotte, NC
Robertson Stephens Asset Management, Inc.	San Francisco, CA
Robertson Stephens Capital Markets Holdings Ltd.	Tel Aviv, Israel
Robertson Stephens Credit Corporation	Boston, MA
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
Rob-Wal Investment Co.	Chicago, IL
Rock Harbour Funding LLC	Charlotte, NC
Rockett, LLC, The	San Francisco, CA
ROP Investments Limited	Grand Cayman, Cayman Islands
Rosebank Meadows Subdivision, LLC	Nashville, TN
Rosedale General Partner, LLC	Baltimore, MD
Rosedale Terrace Limited Partnership	Baltimore, MD
Roszel Advisors, LLC	Pennington, NJ
Round Spring Investments GP	Charlotte, NC
Ruby Aircraft Leasing and Trading Limited	London, U.K.
RWB Holdings S.a.r.l.	Luxembourg, Luxembourg
S.N.C. Nominees Limited	London, U.K.
Salem Lafayette Development LLC	Boston, MA

Name	Location
Saturn 1, LLC	New York, NY
Sauternes V, LLC	New York, NY
Savoie Holdings S.a.r.l.	Luxembourg, Luxembourg
Sawgrass Trading LLC	Charlotte, NC
SB Holdings, Inc.	Charlotte, NC
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
Sealion Nominees Limited	London, U.K.
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, S.A.	Mexico City, Mexico
Seminole Funding LLC	Charlotte, NC
Service-Wright Corporation	Washington, DC
Servicios Corporativos Seguros Serfin, S.A. de C.V.	Mexico City, Mexico
Seville Urban Investments, LLC	Dallas, TX
Sierra Nevada Realty, G.P.	Charlotte, NC
Siltex Properties Corp.	New York, NY
Silver Peak REIT Holding Company, Inc.	Charlotte, NC
Silver Peak REIT, Inc.	Charlotte, NC
Silverado I BT	Charlotte, NC
Silvertree Australian Investments Pty Limited	Sydney, New South Wales, Australia
Silverwood (FP) Limited	London, U.K.
Simmons Canyon Partners, LLC	New York, NY
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
Smith Bros Limited	London, U.K.
Smith Bros Nominees Limited	London, U.K.
Smith Bros Participations Limited	London, U.K.
Smother, LLC	San Francisco, CA
SNC Farringdon International (Holdings) BV	Amsterdam, The Netherlands
SNC International (Holdings) Limited	London, U.K.
SNC Securities Limited	London, U.K.
SNCFE Limited	Hong Kong, PRC
Sofia II, LLC	New York, NY
Solar Villa Investments Limited	Grand Cayman, Cayman Islands
Solimar Shipping Limited	London, U.K.
SOP M Corp.	Baltimore, MD
South Charles Capital Partners I, L.P.	Baltimore, MD
South Charles Investment Corporation	Baltimore, MD
South Point Inc.	New York, NY
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.

Name	Location
Southstar Holding Corp.	New York, NY
Southstar I, LLC	New York, NY
Southstar II, LLC	New York, NY
Southstar III, LLC	New York, NY
Southstar IV, LLC	New York, NY
Southstar V, LLC	New York, NY
Sovran Capital Management Corporation	Richmond, VA
Spectrum Mortgage Company, Inc.	Princeton, NJ
Spring Valley Management LLC	Charlotte, NC
Spruce Bay Limited	George Town, Grand Cayman, Cayman Is.
SPV Colombia I LLC	New York, NY
SPV Colombia II LLC	New York, NY
SRF 2000, Inc.	Charlotte, NC
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
Standard Federal Bank Community Development Corporation	Chicago, IL
Stanton Road Housing LLC	Washington, DC
Stanwich Loan Funding LLC	Charlotte, NC
Steers LLC Series 2003-3	New York, NY
Steers Trust Series 2000-1	New York, NY
Steers Trust Series 2000-2	New York, NY
Steers Trust Series 2001-1	New York, NY
Steers Trust Series 2003-A	New York, NY
Steers Trust Series 2003-C	New York, NY
Steers Trust Series 2005-A	New York, NY
Steers Trust Series 2005-B	New York, NY
Steers Trust Series 2007-A	New York, NY
Steppington/Dallas, Inc.	Dallas, TX
Sterling Farms Funding, Inc.	Las Vegas, NV
Stonegate Meadows, L.P.	Kansas City, MO
Stonelake ML Holdings LP	New York, NY
Stonelake ML Infrastructure Partners LP	New York, NY
Stourbridge Investments Limited	London, U.K.
Stowe Hill Limited	London, U.K.
Structured Access LLC	New York, NY
Suhail Sarl	Luxembourg, Luxembourg
Summit Capital Trust I	Wilmington, DE
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
Taiwan Hang Fung Asset Management Company Ltd.	Taipei, Taiwan
Talmont Investments S.a.r.l.	New York, NY
Tarrill Limited	Godalming, Surrey, United Kingdom
Taurus Finance Inc.	New York, NY
Teardrop Diamond, LLC	San Francisco, CA
Temmurgal HoldingCo AB	Geneva, Switzerland
Temmurgal InvestmentCo AB	Geneva, Switzerland
Tidewater Pointe Funding LLC	Charlotte, NC
Tikkurila Holdings II S.a.r.l.	Luxembourg, Luxembourg

Name	Location
Tinfoil B.V.	Amsterdam, The Netherlands
TK Holdings I, LLC	New York, NY
Tonopah, LLC	Charlotte, NC
Topanga XI Inc.	George Town, Grand Cayman, Cayman Is.
Topanga XV Inc.	George Town, Grand Cayman, Cayman Is.
Topanga XX Inc.	George Town, Grand Cayman, Cayman Is.
Tops Capital Private Real Estate Investment Trust Fund I	Seoul, Korea
Tops Capital Private Real Estate Investment Trust No. 2	Seoul, Korea
Town Park Associates, LLC	Miami, FL
Transistor Holdings, LLC	Las Vegas, NV
Transistor, LLC	Las Vegas, NV
Transit Holding, Inc.	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
Trusite Real Estate Services, Inc.	Simi Valley, CA
Tryon Assurance Company, Ltd.	Hamilton, Bermuda
Turtle Hill GP LLC	Kansas City, MO
Turtle Hill Townhomes, L.P.	Kansas City, MO
Twin Falls SL	Madrid, Spain
Two Broadway Incorporated	New York, NY
Two Broadway V Incorporated	New York, NY
Tyler Trading, Inc.	Charlotte, NC
U.S. Trust Company of Delaware	Wilmington, DE
U.S. Trust Hedge Fund Management, Inc.	Stamford, CT
UBOC Guaranteed Tax Credit Fund IX, L.L.C.	Walnut Creek, CA
UBOC Guaranteed Tax Credit Fund VIII, L.L.C.	Walnut Creek, CA
Ulysses Leasing Limited	St. Helier, Jersey, Channel Islands
Union Realty and Securities Company	St. Louis, MO
Urban Mecca I, LLC	Atlanta, GA
UST Securities Corp.	Stamford, CT
V. Funds Limited	New York, NY
Valley Energy E&P Investments, LLC	Houston, TX
Valley Energy Investment Fund International, L.P.	George Town, Grand Cayman, Cayman Is.
Valley Energy Investment Fund U.S., L.P.	Houston, TX
Valley Energy Investment Holdings (Mauritius) Limited	Port Louis, Mauritius
Varese Holdings S.ar.l.	Luxembourg, Luxembourg
Venco, B.V.	George Town, Grand Cayman, Cayman Is.
Vendcrown Limited	Epsom, United Kingdom
Venus 1, LLC	New York, NY
Vercoe Insurance Agency, Inc.	Pennington, NJ
Verdington LLC	Charlotte, NC
Verdot VI, LLC	New York, NY
Vernon Park LLC	Charlotte, NC
Victoria V, LLC	New York, NY
Viewpointe Archive Services, L.L.C.	Charlotte, NC
Villages Urban Investments, LLC	Phoenix, AZ
Vine Street Lofts, L.P.	Kansas City, MO
Vine Street Views, L.L.C.	Kansas City, MO

Name	Location
WAM Acquisition GP, Inc.	Chicago, IL
Washington Mill Lofts LLC	Boston, MA
Washington Mill Manager LLC	Boston, MA
Waterville Funding LLC	Charlotte, NC
Wave Lending Holdings Limited	London, U.K.
Wave Lending Limited	London, U.K.
Wave Mortgages Limited	London, U.K.
Waverly Partners Inc.	New York, NY
Waxhaw Park Investments LLC	Charlotte, NC
WCG ML Feeder Fund, L.P.	New York, NY
WCH Limited Partnership	Dallas, TX
WD Georgia LLC	New York, NY
WD South Carolina, LLC	New York, NY
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
Westpoint D2 Distribution Park Holdings sarl	Luxembourg, Luxembourg
Westpoint Luxembourg Holdings sarl	Luxembourg, Luxembourg
Westquay Investments Limited	London, U.K.
Westside Acquisition, LLC	Charlotte, NC
WFC Air Inc.	New York, NY
WH/DFW Land CO.	New York, NY
Whistling Pines Funding LLC	Charlotte, NC
Whitby Capital Ireland Limited	Dublin, Ireland
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
William V, LLC	New York, NY
Willow Park LLC	Charlotte, NC
Willowbrook Funding LLC	Charlotte, NC
Willows SA Holdings, LP	Dallas, TX
Wilshire Credit Corporation	Beaverton, OR
Windeluxe Company Limited	Chester, England
WM Developer LLC	Boston, MA
WM Master Tenant LLC	Boston, MA
Wolsey Park Management Ltd.	St. Helier, Jersey, Channel Islands
Wolsey Park Unit Trust	St. Helier, Jersey, Channel Islands
Woori Marlin II ABS Co., Ltd.	Seoul, Korea
Woori Marlin III ABS Co., Ltd.	Seoul, Korea
Woori SME First ABS Co., Ltd.	Seoul, Korea
Worthington Avenue, LLC	Charlotte, NC
WOW! Mortgages & Loans Limited	London, U.K.
Y.K. Tokyo Portfolio Investment	Tokyo, Japan
Yao Yong Real Property Co., Ltd.	Taipei, Taiwan
Yellow Rose Investments Company	Charlotte, NC
Yerington LLC	Charlotte, NC
YK Merrill Lynch GPE Japan	Tokyo, Japan

Name	Location
YK NB Estate	Tokyo, Japan
YK Poseidon Capital	Tokyo, Japan
Yong Tai Asset Management Company Limited	Taipei, Taiwan
YT West Tower Holdings Limited	Grand Cayman, Cayman Islands
Yugen Kaisha Merrill Lynch Japan Strategic Investments	Tokyo, Japan
Yugen Sekinin Chukanhojin Value Creation Investments	Tokyo, Japan
ZAR Sovereign Bond Investments LP	New York, NY
Zentac Productions, Inc.	San Francisco, CA
Zeus Recovery Fund SA	Luxembourg, Luxembourg
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. 333-155381; 333-152418; 333-133852; 333-112708; 333-123714; 333-70984; 333-15375; 333-18273; 333-97157; 333-97197; 333-83503; 333-07229; 333-51367; 033-57533; 033-30717; 033-49881; 333-13811; 333-47222; 333-64450; and 333-104151);
- the Registration Statements on Form S-8 (Nos. 333-157085; 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. 333-153771; 333-149204; 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 25, 2009 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PRICEWATERHOUSECOOPERS LLP

Charlotte, North Carolina
February 27, 2009

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 Edward P. O'Keefe, 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, 2008, 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 28, 2009

Signature	Title	Date
/S/ KENNETH D. LEWIS **Kenneth D. Lewis**	Chairman, Chief Executive Officer, President and Director (Principal Executive Officer)	January 28, 2009
/S/ JOE L. PRICE **Joe L. Price**	Chief Financial Officer (Principal Financial Officer)	January 28, 2009
/S/ CRAIG R. ROSATO **Craig R. Rosato**	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	January 28, 2009
/S/ WILLIAM BARNET, III **William Barnet, III**	Director	January 28, 2009
/S/ FRANK P. BRAMBLE, SR. **Frank P. Bramble, Sr.**	Director	January 28, 2009
/S/ JOHN T. COLLINS **John T. Collins**	Director	January 28, 2009
/S/ GARY L. COUNTRYMAN **Gary L. Countryman**	Director	January 28, 2009
/S/ TOMMY R. FRANKS **Tommy R. Franks**	Director	January 28, 2009
/S/ CHARLES K. GIFFORD **Charles K. Gifford**	Director	January 28, 2009
/S/ MONICA C. LOZANO **Monica C. Lozano**	Director	January 28, 2009
/S/ WALTER E. MASSEY **Walter E. Massey**	Director	January 28, 2009
/S/ THOMAS J. MAY **Thomas J. May**	Director	January 28, 2009
/S/ PATRICIA E. MITCHELL **Patricia E. Mitchell**	Director	January 28, 2009
/S/ THOMAS M. RYAN **Thomas M. Ryan**	Director	January 28, 2009
/S/ O. TEMPLE SLOAN, JR. **O. Temple Sloan, Jr.**	Director	January 28, 2009
/S/ MEREDITH R. SPANGLER **Meredith R. Spangler**	Director	January 28, 2009
/S/ ROBERT L. TILLMAN **Robert L. Tillman**	Director	January 28, 2009
/S/ JACKIE M. WARD **Jackie M. Ward**	Director	January 28, 2009

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each the several undersigned directors whose signatures appear below, hereby makes, constitutes and appoints Teresa M. Brenner, Alice A. Herald and Edward P. O'Keefe, and each of them acting individually, his true and lawful attorneys with power to act without any other and with full power of substitution, to prepare, execute, deliver and file in his name and on his behalf, and in each of the undersigned director's capacity or capacities as shown below, an Annual Report on Form 10-K for the year ended December 31, 2008, 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, each of the undersigned directors, in the capacity or capacities noted, has hereunto set his hand as of the date indicated below.

Signature	Title	Date
/S/ VIRGIS W. COLBERT **Virgis W. Colbert**	Director	January 30, 2009
/S/ JOSEPH PRUEHER **Joseph Prueher**	Director	February 18, 2009
/S/ CHARLES O. ROSSOTTI **Charles O. Rossotti**	Director	February 23, 2009

BANK OF AMERICA CORPORATION
BOARD OF DIRECTORS
RESOLUTIONS

January 28, 2009
Annual Report on Form 10-K

NOW, THEREFORE, BE IT:

RESOLVED, that Teresa M. Brenner, Alice A. Herald and Edward P. O'Keefe 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 2008 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;

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 (the "Corporation"), do hereby certify that the foregoing is a true and correct copy of the resolutions duly adopted by the Board of Directors of the Corporation at a meeting of the Board of Directors held on January 28, 2009, at which meeting a quorum was present and acting throughout and that said resolutions are in full force and effect and have not been amended or rescinded as of the date hereof.

IN WITNESS WHEREOF, I have hereupon set my hand and affixed the seal of the Corporation as of February 9, 2009.

/s/ ALLISON L. GILLIAM
Assistant Secretary

(CORPORATE SEAL)

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 27, 2009

/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 27, 2009

/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, 2008 (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 27, 2009

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:

(3) I am the Chief Financial Officer of Bank of America Corporation (the "Registrant").

(4) 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, 2008 (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 27, 2009