

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

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

For the Quarterly Period Ended June 30, 2018

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

**Former name, former address and former fiscal year, if changed since last report:**

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 whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth 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

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2).

Yes  No

On July 27, 2018, there were 9,988,249,714 shares of Bank of America Corporation Common Stock outstanding.

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### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Bank of America Corporation (the "Corporation") and its management may make certain statements that constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements can be identified by the fact that they do not relate strictly to historical or current facts. Forward-looking statements often use words such as "anticipates," "targets," "expects," "hopes," "estimates," "intends," "plans," "goals," "believes," "continue" and other similar expressions or future or conditional verbs such as "will," "may," "might," "should," "would" and "could." Forward-looking statements represent the Corporation's current expectations, plans or forecasts of its future results, revenues, expenses, efficiency ratio, capital measures, strategy and future business and economic conditions more generally, and other future matters. These statements are not guarantees of future results or performance and involve certain known and unknown risks, uncertainties and assumptions that are difficult to predict and are often beyond the Corporation's control. Actual outcomes and results may differ materially from those expressed in, or implied by, any of these forward-looking statements.

You should not place undue reliance on any forward-looking statement and should consider the following uncertainties and risks, as well as the risks and uncertainties more fully discussed under Item 1A. Risk Factors of our 2017 Annual Report on Form 10-K and in any of the Corporation's subsequent Securities and Exchange Commission filings: the Corporation's potential claims, damages, penalties, fines and reputational damage resulting from pending or future litigation, regulatory proceedings and enforcement actions, including inquiries into our retail sales practices, and the possibility that amounts may be in excess of the Corporation's recorded liability and estimated range of possible loss for litigation exposures; the possibility that the Corporation could face increased servicing, securities, fraud, indemnity, contribution or other claims from one or more counterparties, including trustees, purchasers of loans, underwriters, issuers, monolines, private-label and other investors, or other parties involved in securitizations; the possibility that future representations and warranties losses may occur in excess of the Corporation's recorded liability and estimated range of possible loss for its representations and warranties exposures; the Corporation's ability to resolve representations and warranties repurchase and related claims, including claims brought by investors or trustees seeking to avoid the statute of limitations for repurchase claims; uncertainties about the financial stability and growth rates of non-U.S. jurisdictions, the risk that those jurisdictions may face difficulties servicing their sovereign debt, and related stresses on financial markets, currencies and trade, and the Corporation's exposures to such risks, including direct, indirect and operational;

the impact of U.S. and global interest rates, currency exchange rates, economic conditions, trade policies and potential geopolitical instability; the impact on the Corporation's business, financial condition and results of operations of a potential higher interest rate environment; the possibility that future credit losses may be higher than currently expected due to changes in economic assumptions, customer behavior, adverse developments with respect to U.S. or global economic conditions and other uncertainties; the Corporation's ability to achieve its expense targets, net interest income expectations, or other projections; adverse changes to the Corporation's credit ratings from the major credit rating agencies; estimates of the fair value of certain of the Corporation's assets and liabilities, which may change; uncertainty regarding the content, timing and impact of regulatory capital and liquidity requirements; the potential impact of total loss-absorbing capacity requirements; potential adverse changes to our global systemically important bank surcharge; the potential impact of Federal Reserve actions on the Corporation's capital plans; the possible impact of the Corporation's failure to remediate a shortcoming identified by banking regulators in the Corporation's Resolution Plan; the effect of regulations, other guidance or additional information on our estimated impact of the Tax Cuts and Jobs Act; the impact of implementation and compliance with U.S. and international laws, regulations and regulatory interpretations, including, but not limited to, recovery and resolution planning requirements, Federal Deposit Insurance Corporation assessments, the Volcker Rule, fiduciary standards and derivatives regulations; a failure in or breach of the Corporation's operational or security systems or infrastructure, or those of third parties, including as a result of cyber attacks; the impact on the Corporation's business, financial condition and results of operations from the planned exit of the United Kingdom from the European Union; and other similar matters.

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.

Notes to the Consolidated Financial Statements referred to in the Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) are incorporated by reference into the MD&A. Certain prior-period amounts have been reclassified to conform to current-period presentation. Throughout the MD&A, the Corporation uses certain acronyms and abbreviations which are defined in the Glossary.

## Executive Summary

### Business Overview

The Corporation is a Delaware corporation, a bank holding company (BHC) and a financial holding company. When used in this report, “the Corporation” may refer to Bank of America Corporation individually, Bank of America Corporation and its subsidiaries, or certain of Bank of America Corporation’s subsidiaries or affiliates. Our principal executive offices are located in Charlotte, North Carolina. Through our banking and various nonbank subsidiaries throughout the U.S. and in international markets, we provide a diversified range of banking and nonbank financial services and products through four business segments: *Consumer Banking*, *Global Wealth & Investment Management (GWIM)*, *Global Banking* and *Global Markets*, with the remaining operations recorded in *All Other*. We operate our banking activities primarily under the Bank of America, National Association (Bank of America, N.A. or BANA) charter. At June 30, 2018, the Corporation had approximately \$2.3 trillion in assets and a headcount of approximately 208,000 employees.

As of June 30, 2018, we served clients through operations across the United States, its territories and more than 35 countries. Our retail banking footprint covers approximately 85 percent of the U.S. population, and we serve approximately 47 million consumer and small business relationships with approximately 4,400 retail financial centers, approximately 16,100 ATMs, and leading digital banking platforms (www.bankofamerica.com) with approximately 36 million active users, including over 25 million active mobile users. We offer industry-leading support to approximately three million small business owners. Our wealth management businesses, with client balances of approximately \$2.8 trillion, provide tailored solutions to meet client needs through a full set of investment management, brokerage, banking, trust and retirement products. 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.

## Recent Events

### Capital Management

Following completion of the Federal Reserve System’s (Federal Reserve) 2018 Comprehensive Capital Analysis and Review (CCAR), the Federal Reserve did not object to the Corporation’s capital plan, which is estimated to return approximately \$26 billion to common shareholders over the next four quarters through a quarterly common stock dividend increase and common stock repurchases. That estimate is based upon the Corporation’s current number of outstanding shares and share price.

As part of the capital plan, on July 26, 2018, the Corporation’s Board of Directors (the Board) declared a quarterly common stock dividend of \$0.15 per share, an increase of 25 percent, payable on September 28, 2018 to shareholders of record as of September 7, 2018.

Also, on June 28, 2018, the Board authorized the repurchase of approximately \$20.6 billion in common stock from July 1, 2018 through June 30, 2019, which includes approximately \$600 million in repurchases to offset shares awarded under equity-based compensation plans during the same period. The repurchase program covers both common stock and warrants. For additional information, see the Corporation’s Current Report on Form 8-K filed with the Securities and Exchange Commission (SEC) on June 28, 2018.

During the second quarter of 2018, we repurchased \$5.0 billion of common stock pursuant to the Board’s repurchase authorizations announced on June 28, 2017 and December 5, 2017. These repurchase authorizations expired on June 30, 2018. For additional information, see Capital Management on page 22.

### Trust Preferred Securities Redemption

On April 30, 2018, the Corporation announced that it submitted redemption notices for 11 series of trust preferred securities, resulting in the redemption of such trust preferred securities along with the applicable trust common securities (held by the Corporation or its affiliates) on June 6, 2018. Upon redemption of the trust preferred securities and the extinguishment of the related junior subordinated notes issued by the Corporation, we recorded a charge to other income of \$729 million. For additional information, see Liquidity Risk on page 26 and the Corporation’s Current Report on Form 8-K filed with the SEC on April 30, 2018.

## Financial Highlights

**Table 1 Summary Income Statement and Selected Financial Data**

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(Dollars in millions, except per share information)				
<b>Income statement</b>				
Net interest income	\$ 11,650	\$ 10,986	\$ 23,258	\$ 22,044
Noninterest income	10,959	11,843	22,476	23,033
<b>Total revenue, net of interest expense</b>	<b>22,609</b>	<b>22,829</b>	<b>45,734</b>	<b>45,077</b>
Provision for credit losses	827	726	1,661	1,561
Noninterest expense	13,284	13,982	27,181	28,075
<b>Income before income taxes</b>	<b>8,498</b>	<b>8,121</b>	<b>16,892</b>	<b>15,441</b>
Income tax expense	1,714	3,015	3,190	4,998
<b>Net income</b>	<b>6,784</b>	<b>5,106</b>	<b>13,702</b>	<b>10,443</b>
Preferred stock dividends	318	361	746	863
<b>Net income applicable to common shareholders</b>	<b>\$ 6,466</b>	<b>\$ 4,745</b>	<b>\$ 12,956</b>	<b>\$ 9,580</b>
<b>Per common share information</b>				
Earnings	\$ 0.64	\$ 0.47	\$ 1.26	\$ 0.95
Diluted earnings	0.63	0.44	1.25	0.89
Dividends paid	0.12	0.075	0.24	0.15
<b>Performance ratios</b>				
Return on average assets	1.17 %	0.90 %	1.19 %	0.94 %
Return on average common shareholders' equity	10.75	7.75	10.80	7.91
Return on average tangible common shareholders' equity (1)	15.15	10.87	15.21	11.15
Efficiency ratio	58.76	61.25	59.43	62.28
<b>Balance sheet</b>				
Total loans and leases			\$ 935,824	\$ 936,749
Total assets			2,291,670	2,281,234
Total deposits			1,309,691	1,309,545
Total common shareholders' equity			241,035	244,823
Total shareholders' equity			264,216	267,146

(1) Return on average tangible common shareholders' equity is a non-GAAP financial measure. For more information and a corresponding reconciliation to accounting principles generally accepted in the United States of America (GAAP) financial measures, see Non-GAAP Reconciliations on page 53.

Net income was \$6.8 billion and \$13.7 billion, or \$0.63 and \$1.25 per diluted share for the three and six months ended June 30, 2018 compared to \$5.1 billion and \$10.4 billion, or \$0.44 and \$0.89 per diluted share for the same periods in 2017. The improvement in net income for the three and six months ended June 30, 2018 was driven by a decrease in income tax expense due to the impacts of the Tax Cuts and Jobs Act (the Tax Act), an increase in net interest income and a decline in noninterest expense, partially offset by a decline in noninterest income. Impacts from the Tax Act include a reduction in the federal tax rate to 21 percent from 35 percent.

Total assets increased \$10.4 billion from December 31, 2017 to \$2.3 trillion at June 30, 2018 driven by higher cash and cash equivalents from liquidity management actions and an increase in securities borrowed or purchased under agreements to resell due to growth in *Global Markets*. These increases were partially offset by decreases in trading account assets due to reduced inventory levels in *Global Markets* and lower loans held-for-sale (LHFS).

Total liabilities increased \$13.4 billion from December 31, 2017 to \$2.0 trillion at June 30, 2018 primarily driven by higher short-term borrowings due to higher Federal Home Loan Bank (FHLB) advances and an increase in trading account liabilities

driven by activity in *Global Markets*. Shareholders' equity decreased \$2.9 billion from December 31, 2017 primarily due to returns of capital to shareholders through common stock repurchases and common and preferred stock dividends, market value declines in debt securities and the redemption of preferred stock, partially offset by net income and issuances of preferred stock.

### Net Interest Income

Net interest income increased \$664 million to \$11.7 billion, and \$1.2 billion to \$23.3 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017. The net interest yield increased five basis points (bps) to 2.34 percent, and three bps to 2.35 percent for the same periods. These increases were primarily driven by higher interest rates and higher commercial loan balances funded by deposit growth, partially offset by the impact of the sale of the non-U.S. consumer credit card business in the second quarter of 2017 and, for the six months ended June 30, 2018, higher funding costs in *Global Markets*. For more information regarding interest rate risk management, see Interest Rate Risk Management for the Banking Book on page 50.

## Noninterest Income

**Table 2 Noninterest Income**

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Card income	\$ 1,542	\$ 1,469	\$ 2,999	\$ 2,918
Service charges	1,954	1,977	3,875	3,895
Investment and brokerage services	3,458	3,460	7,122	6,877
Investment banking income	1,422	1,532	2,775	3,116
Trading account profits	2,315	1,956	5,014	4,287
Other income	268	1,449	691	1,940
<b>Total noninterest income</b>	<b>\$ 10,959</b>	<b>\$ 11,843</b>	<b>\$ 22,476</b>	<b>\$ 23,033</b>

Noninterest income decreased \$884 million to \$11.0 billion, and \$557 million to \$22.5 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017. The following highlights the significant changes.

- Investment and brokerage services income increased \$245 million for the six-month period primarily due to assets under management (AUM) flows and higher market valuations, partially offset by the impact of changing market dynamics on transactional revenue and AUM pricing.
- Investment banking income decreased \$110 million and \$341 million primarily due to declines in advisory fees and debt issuances, partially offset by an increase in equity issuances.
- Trading account profits increased \$359 million and \$727 million primarily driven by increased client activity in equity financing and derivatives, and strong trading performance in equity derivatives and macro-related products, partially offset by weakness in credit products.
- Other income decreased \$1.2 billion in both periods primarily due to the impact of a \$793 million pretax gain recognized in

the second quarter of 2017 in connection with the sale of the non-U.S. consumer credit card business and, in the second quarter of 2018, a negative impact from a \$729 million charge related to the redemption of certain trust preferred securities, partially offset by a \$572 million gain from the sale of certain non-core mortgage loans.

### Provision for Credit Losses

The provision for credit losses increased \$101 million to \$827 million, and \$100 million to \$1.7 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017 primarily due to portfolio seasoning and loan growth in the U.S. credit card portfolio and a slower pace of improvement in the consumer real estate portfolio. The increases were partially offset by improvement in the commercial portfolio primarily driven by a reduction in energy exposures, and the impact of the sale of the non-U.S. consumer credit card business during the second quarter of 2017. For more information on the provision for credit losses, see Provision for Credit Losses on page 45.

## Noninterest Expense

**Table 3 Noninterest Expense**

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Personnel	\$ 7,944	\$ 8,040	\$ 16,424	\$ 16,515
Occupancy	1,022	1,001	2,036	2,001
Equipment	415	427	857	865
Marketing	395	442	740	774
Professional fees	399	485	780	941
Data processing	797	773	1,607	1,567
Telecommunications	166	177	349	368
Other general operating	2,146	2,637	4,388	5,044
<b>Total noninterest expense</b>	<b>\$ 13,284</b>	<b>\$ 13,982</b>	<b>\$ 27,181</b>	<b>\$ 28,075</b>

Noninterest expense decreased \$698 million to \$13.3 billion, and \$894 million to \$27.2 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017 primarily driven by lower other general operating expense. The decrease in other general operating expense resulted from a \$295 million impairment charge recognized in the second quarter of 2017 related to certain data centers as well as lower litigation expense in 2018. Most other expense categories also declined compared to the same periods in 2017 reflecting operating efficiencies.

## Income Tax Expense

**Table 4 Income Tax Expense**

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Income before income taxes	\$ 8,498	\$ 8,121	\$ 16,892	\$ 15,441
Income tax expense	1,714	3,015	3,190	4,998
Effective tax rate	20.2%	37.1%	18.9%	32.4%

The effective tax rates for the three and six months ended June 30, 2018 reflect the 21 percent federal tax rate and the other provisions of the Tax Act, as well as the impact of our recurring tax preference benefits. The six-month effective rate also included tax benefits related to stock-based compensation.

The effective tax rates for the three and six months ended June 30, 2017 were driven by the impact of our recurring tax preference benefits partially offset by a tax charge related to the sale of the non-U.S. consumer credit card business during the second quarter of 2017. The six-month effective tax rate also included tax benefits related to stock-based compensation.

We expect the effective tax rate for the second half of 2018 to be approximately 21 percent, absent unusual items.

## Supplemental Financial Data

In this Form 10-Q, we present certain non-GAAP financial measures. Non-GAAP financial measures exclude certain items or otherwise include components that differ from the most directly comparable measures calculated in accordance with GAAP. Non-GAAP financial measures are provided as additional useful information to assess our financial condition, results of operations (including period-to-period operating performance) or compliance with prospective regulatory requirements. These non-GAAP financial measures are not intended as a substitute for GAAP financial measures and may not be defined or calculated the same way as non-GAAP financial measures used by other companies.

We view net interest income and related ratios and analyses on a fully taxable-equivalent (FTE) basis, which when presented on a consolidated basis, are non-GAAP financial measures. 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 21 percent for 2018 (35 percent for all prior periods) and a representative state tax rate. In addition, certain performance measures, including the efficiency ratio and net interest yield, utilize net interest income (and thus total revenue) on an FTE basis. The efficiency ratio measures the costs expended to generate a dollar of revenue, and net interest yield measures the bps we earn over the cost of funds. We believe that presentation of these items on an FTE basis allows for comparison of amounts from both taxable and tax-exempt sources and is consistent with industry practices.

We may present certain key performance indicators and ratios excluding certain items (e.g., debit valuation adjustment (DVA) gains (losses)) which result in non-GAAP financial measures. We

believe that the presentation of measures that exclude these items is useful because such measures provide additional information to assess the underlying operational performance and trends of our businesses and to allow better comparison of period-to-period operating performance.

We also evaluate our business based on certain ratios that utilize tangible equity, a non-GAAP financial measure. Tangible equity represents an adjusted shareholders' equity or common shareholders' equity amount which has been reduced by goodwill and certain acquired intangible assets (excluding mortgage servicing rights (MSRs)), net of related deferred tax liabilities. These measures are used to evaluate our use of equity. In addition, profitability, relationship and investment models use both return on average tangible common shareholders' equity and return on average tangible shareholders' equity as key measures to support our overall growth goals. These ratios are as follows:

- Return on average tangible common shareholders' equity measures our earnings contribution as a percentage of adjusted common shareholders' equity. The tangible common equity ratio represents adjusted ending common shareholders' equity divided by total assets less goodwill and certain acquired intangible assets (excluding MSRs), net of related deferred tax liabilities.
- Return on average tangible shareholders' equity measures our earnings contribution as a percentage of adjusted average total shareholders' equity. The tangible equity ratio represents adjusted ending shareholders' equity divided by total assets less goodwill and certain acquired intangible assets (excluding MSRs), net of related deferred tax liabilities.
- Tangible book value per common share represents adjusted ending common shareholders' equity divided by ending common shares outstanding.

We believe that the use of ratios that utilize tangible equity provides additional useful information because they present measures of those assets that can generate income. Tangible book value per share provides additional useful information about the level of tangible assets in relation to outstanding shares of common stock.

The aforementioned supplemental data and performance measures are presented in Tables 5 and 6.

For more information on the reconciliation of these non-GAAP financial measures to GAAP financial measures, see Non-GAAP Reconciliations on page 53.



**Table 5 Selected Quarterly Financial Data**

	2018 Quarters		2017 Quarters		
	Second	First	Fourth	Third	Second
(In millions, except per share information)					
<b>Income statement</b>					
Net interest income	\$ 11,650	\$ 11,608	\$ 11,462	\$ 11,161	\$ 10,986
Noninterest income (1)	10,959	11,517	8,974	10,678	11,843
Total revenue, net of interest expense	22,609	23,125	20,436	21,839	22,829
Provision for credit losses	827	834	1,001	834	726
Noninterest expense	13,284	13,897	13,274	13,394	13,982
Income before income taxes	8,498	8,394	6,161	7,611	8,121
Income tax expense (1)	1,714	1,476	3,796	2,187	3,015
Net income (1)	6,784	6,918	2,365	5,424	5,106
Net income applicable to common shareholders	6,466	6,490	2,079	4,959	4,745
Average common shares issued and outstanding	10,181.7	10,322.4	10,470.7	10,197.9	10,013.5
Average diluted common shares issued and outstanding	10,309.4	10,472.7	10,621.8	10,746.7	10,834.8
<b>Performance ratios</b>					
Return on average assets	1.17%	1.21%	0.41%	0.95%	0.90%
Four quarter trailing return on average assets (2)	0.93	0.86	0.80	0.91	0.89
Return on average common shareholders' equity	10.75	10.85	3.29	7.89	7.75
Return on average tangible common shareholders' equity (3)	15.15	15.26	4.56	10.98	10.87
Return on average shareholders' equity	10.26	10.57	3.43	7.88	7.56
Return on average tangible shareholders' equity (3)	13.95	14.37	4.62	10.59	10.23
Total ending equity to total ending assets	11.53	11.43	11.71	11.91	12.00
Total average equity to total average assets	11.42	11.41	11.87	12.03	11.94
Dividend payout	18.83	19.06	60.35	25.59	15.78
<b>Per common share data</b>					
Earnings	\$ 0.64	\$ 0.63	\$ 0.20	\$ 0.49	\$ 0.47
Diluted earnings	0.63	0.62	0.20	0.46	0.44
Dividends paid	0.12	0.12	0.12	0.12	0.075
Book value	24.07	23.74	23.80	23.87	24.85
Tangible book value (3)	17.07	16.84	16.96	17.18	17.75
<b>Market price per share of common stock</b>					
Closing	\$ 28.19	\$ 29.99	\$ 29.52	\$ 25.34	\$ 24.26
High closing	31.22	32.84	29.88	25.45	24.32
Low closing	28.19	29.17	25.45	22.89	22.23
<b>Market capitalization</b>	<b>\$ 282,259</b>	<b>\$ 305,176</b>	<b>\$ 303,681</b>	<b>\$ 264,992</b>	<b>\$ 239,643</b>
<b>Average balance sheet</b>					
Total loans and leases	\$ 934,818	\$ 931,915	\$ 927,790	\$ 918,129	\$ 914,717
Total assets	2,322,678	2,325,878	2,301,687	2,271,104	2,269,293
Total deposits	1,300,659	1,297,268	1,293,572	1,271,711	1,256,838
Long-term debt	229,037	229,603	227,644	227,309	224,019
Common shareholders' equity	241,313	242,713	250,838	249,214	245,756
Total shareholders' equity	265,181	265,480	273,162	273,238	270,977
<b>Asset quality</b>					
Allowance for credit losses (4)	\$ 10,837	\$ 11,042	\$ 11,170	\$ 11,455	\$ 11,632
Nonperforming loans, leases and foreclosed properties (5)	6,181	6,694	6,758	6,869	7,127
Allowance for loan and lease losses as a percentage of total loans and leases outstanding (5)	1.08%	1.11%	1.12%	1.16%	1.20%
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases (5)	170	161	161	163	160
Net charge-offs (6, 7)	\$ 996	\$ 911	\$ 1,237	\$ 900	\$ 908
Annualized net charge-offs as a percentage of average loans and leases outstanding (5, 6, 7)	0.43%	0.40%	0.53%	0.39%	0.40%
<b>Capital ratios at period end (8)</b>					
Common equity tier 1 capital	11.4%	11.3%	11.5%	11.9%	11.5%
Tier 1 capital	13.0	13.0	13.0	13.4	13.2
Total capital	14.8	14.8	14.8	15.1	15.0
Tier 1 leverage	8.4	8.4	8.6	8.9	8.8
Supplementary leverage ratio	6.7	6.8	n/a	n/a	n/a
Tangible equity (3)	8.7	8.7	8.9	9.1	9.2
Tangible common equity (3)	7.7	7.6	7.9	8.1	8.0

(1) Net income for the fourth quarter of 2017 included an estimated charge of \$2.9 billion related to the Tax Act effects which consisted of \$946 million in noninterest income and \$1.9 billion in income tax expense.

(2) Calculated as total net income for four consecutive quarters divided by annualized average assets for four consecutive quarters.

(3) Tangible equity ratios and tangible book value per share of common stock are non-GAAP financial measures. For more information on these ratios, see Supplemental Financial Data on page 6, and for corresponding reconciliations to GAAP financial measures, see Non-GAAP Reconciliations on page 53.

(4) Includes the allowance for loan and lease losses and the reserve for unfunded lending commitments.

- (5) Balances and ratios do not include loans accounted for under the fair value option. For additional exclusions from nonperforming loans, leases and foreclosed properties, see Consumer Portfolio Credit Risk Management – Nonperforming Consumer Loans, Leases and Foreclosed Properties Activity on page 37 and corresponding Table 28 and Commercial Portfolio Credit Risk Management – Nonperforming Commercial Loans, Leases and Foreclosed Properties Activity on page 41 and corresponding Table 35.
- (6) Net charge-offs exclude \$36 million, \$35 million, \$46 million, \$73 million and \$55 million of write-offs in the purchased credit-impaired (PCI) loan portfolio in the second and first quarters of 2018, and in the fourth, third, and second quarters of 2017, respectively. For more information, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35.
- (7) Includes net charge-offs of \$31 million on non-U.S. credit card loans in the second quarter of 2017. The Corporation sold its non-U.S. consumer credit card business in the second quarter of 2017.
- (8) Basel 3 transition provisions for regulatory capital adjustments and deductions were fully phased-in as of January 1, 2018. Prior periods are presented on a fully phased-in basis. For more information, including which approach is used to assess capital adequacy, see Capital Management on page 22.
- n/a = not applicable

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**Table 6 Selected Year-to-Date Financial Data**

	Six Months Ended June 30	
	2018	2017
(In millions, except per share information)		
<b>Income statement</b>		
Net interest income	\$ 23,258	\$ 22,044
Noninterest income	22,476	23,033
Total revenue, net of interest expense	45,734	45,077
Provision for credit losses	1,661	1,561
Noninterest expense	27,181	28,075
Income before income taxes	16,892	15,441
Income tax expense	3,190	4,998
Net income	13,702	10,443
Net income applicable to common shareholders	12,956	9,580
Average common shares issued and outstanding	10,251.7	10,056.1
Average diluted common shares issued and outstanding	10,389.9	10,876.7
<b>Performance ratios</b>		
Return on average assets	1.19%	0.94%
Return on average common shareholders' equity	10.80	7.91
Return on average tangible common shareholders' equity (1)	15.21	11.15
Return on average shareholders' equity	10.41	7.82
Return on average tangible shareholders' equity (1)	14.16	10.61
Total ending equity to total ending assets	11.53	12.00
Total average equity to total average assets	11.42	11.97
Dividend payout	18.94	15.71
<b>Per common share data</b>		
Earnings	\$ 1.26	\$ 0.95
Diluted earnings	1.25	0.89
Dividends paid	0.24	0.15
Book value	24.07	24.85
Tangible book value (1)	17.07	17.75
<b>Market price per share of common stock</b>		
Closing	\$ 28.19	\$ 24.26
High closing	32.84	25.50
Low closing	28.19	22.05
<b>Market capitalization</b>	<b>\$ 282,259</b>	<b>\$ 239,643</b>

(1) Tangible equity ratios and tangible book value per share of common stock are non-GAAP financial measures. For more information on these ratios and for corresponding reconciliations to GAAP financial measures, see Non-GAAP Reconciliations on page 53.

**Table 7 Quarterly Average Balances and Interest Rates - FTE Basis**

(Dollars in millions)	Second Quarter 2018			Second Quarter 2017		
	Average Balance	Interest Income/Expense	Yield/Rate	Average Balance	Interest Income/Expense	Yield/Rate
<b>Earning assets</b>						
Interest-bearing deposits with the Federal Reserve, non-U.S. central banks and other banks	\$ 144,983	\$ 487	1.35%	\$ 129,201	\$ 261	0.81%
Time deposits placed and other short-term investments	10,015	48	1.91	11,448	58	2.03
Federal funds sold and securities borrowed or purchased under agreements to resell (1)	251,880	709	1.13	226,700	435	0.77
Trading account assets	132,799	1,232	3.72	135,931	1,199	3.54
Debt securities	429,191	2,885	2.64	431,132	2,632	2.44
Loans and leases (2):						
Residential mortgage	206,083	1,798	3.49	195,935	1,697	3.46
Home equity	54,863	640	4.68	63,332	664	4.20
U.S. credit card	93,531	2,298	9.86	89,464	2,128	9.54
Non-U.S. credit card (3)	—	—	—	6,494	147	9.08
Direct/Indirect and other consumer (4)	93,620	766	3.28	95,775	669	2.80
Total consumer	448,097	5,502	4.92	451,000	5,305	4.71
U.S. commercial	305,372	2,983	3.92	291,162	2,403	3.31
Non-U.S. commercial	99,255	816	3.30	92,708	615	2.66
Commercial real estate (5)	60,653	646	4.27	58,198	514	3.54
Commercial lease financing	21,441	168	3.14	21,649	156	2.89
Total commercial	486,721	4,613	3.80	463,717	3,688	3.19
Total loans and leases (3)	934,818	10,115	4.34	914,717	8,993	3.94
Other earning assets (1)	78,244	1,047	5.36	73,618	713	3.88
<b>Total earning assets (1,6)</b>	<b>1,981,930</b>	<b>16,523</b>	<b>3.34</b>	<b>1,922,747</b>	<b>14,291</b>	<b>2.98</b>
Cash and due from banks	25,329			27,659		
Other assets, less allowance for loan and lease losses	315,419			318,887		
<b>Total assets</b>	<b>\$ 2,322,678</b>			<b>\$ 2,269,293</b>		
<b>Interest-bearing liabilities</b>						
U.S. interest-bearing deposits:						
Savings	\$ 55,734	\$ 2	0.01%	\$ 54,494	\$ 2	0.01%
NOW and money market deposit accounts	664,002	536	0.32	619,593	105	0.07
Consumer CDs and IRAs	39,953	36	0.36	45,682	30	0.27
Negotiable CDs, public funds and other deposits	44,539	197	1.78	36,041	68	0.75
Total U.S. interest-bearing deposits	804,228	771	0.38	755,810	205	0.11
Non-U.S. interest-bearing deposits:						
Banks located in non-U.S. countries	2,329	11	1.89	3,058	6	0.77
Governments and official institutions	1,113	—	0.01	981	2	0.90
Time, savings and other	65,326	161	0.99	60,047	133	0.89
Total non-U.S. interest-bearing deposits	68,768	172	1.00	64,086	141	0.89
Total interest-bearing deposits	872,996	943	0.43	819,896	346	0.17
Federal funds purchased, securities loaned or sold under agreements to repurchase, short-term borrowings and other interest-bearing liabilities (1)	272,777	1,462	2.15	288,726	825	1.14
Trading account liabilities	52,228	348	2.67	45,156	307	2.73
Long-term debt	229,037	1,966	3.44	224,019	1,590	2.84
<b>Total interest-bearing liabilities (1,6)</b>	<b>1,427,038</b>	<b>4,719</b>	<b>1.33</b>	<b>1,377,797</b>	<b>3,068</b>	<b>0.89</b>
Noninterest-bearing sources:						
Noninterest-bearing deposits	427,663			436,942		
Other liabilities (1)	202,796			183,577		
Shareholders' equity	265,181			270,977		
<b>Total liabilities and shareholders' equity</b>	<b>\$ 2,322,678</b>			<b>\$ 2,269,293</b>		
Net interest spread			2.01%			2.09%
Impact of noninterest-bearing sources			0.37			0.25
<b>Net interest income/yield on earning assets</b>		<b>\$ 11,804</b>	<b>2.38%</b>		<b>\$ 11,223</b>	<b>2.34%</b>

(1) Certain prior-period amounts have been reclassified to conform to current period presentation.

(2) Nonperforming loans are included in the respective average loan balances. Income on these nonperforming loans is generally recognized on a cost recovery basis. PCI loans are recorded at fair value upon acquisition and accrete interest income over the estimated life of the loan.

(3) Includes assets of the Corporation's non-U.S. consumer credit card business, which was sold during the second quarter of 2017.

(4) Includes non-U.S. consumer loans of \$2.9 billion in both the second quarter of 2018 and 2017.

(5) Includes U.S. commercial real estate loans of \$56.4 billion and \$55.0 billion, and non-U.S. commercial real estate loans of \$4.2 billion and \$3.2 billion in the second quarter of 2018 and 2017, respectively.

(6) Interest income includes the impact of interest rate risk management contracts, which decreased interest income on the underlying assets by \$49 million and \$24 million in the second quarter of 2018 and 2017. Interest expense includes the impact of interest rate risk management contracts, which increased (decreased) interest expense on the underlying liabilities by \$33 million and \$(326) million in the second quarter of 2018 and 2017. For more information, see Interest Rate Risk Management for the Banking Book on page 50.



**Table 8 Year-to-Date Average Balances and Interest Rates - FTE Basis**

	Average Balance	Interest Income/ Expense	Yield/ Rate	Average Balance	Interest Income/ Expense	Yield/ Rate
	Six Months Ended June 30					
	2018			2017		
(Dollars in millions)						
<b>Earning assets</b>						
Interest-bearing deposits with the Federal Reserve, non-U.S. central banks and other banks	\$ 142,628	\$ 909	1.29 %	\$ 126,576	\$ 463	0.74 %
Time deposits placed and other short-term investments	10,398	109	2.12	11,472	105	1.84
Federal funds sold and securities borrowed or purchased under agreements to resell (1)	250,110	1,331	1.07	221,579	791	0.72
Trading account assets	131,966	2,379	3.63	130,824	2,310	3.56
Debt securities	431,133	5,715	2.61	430,685	5,205	2.41
Loans and leases (2):						
Residential mortgage	205,460	3,580	3.49	194,787	3,358	3.45
Home equity	55,902	1,283	4.62	64,414	1,303	4.07
U.S. credit card	93,975	4,611	9.89	89,545	4,239	9.55
Non-U.S. credit card (3)	—	—	—	7,923	358	9.12
Direct/indirect and other consumer (4)	94,451	1,494	3.19	95,807	1,304	2.74
Total consumer	449,788	10,968	4.90	452,476	10,562	4.69
U.S. commercial	302,626	5,700	3.80	289,325	4,625	3.22
Non-U.S. commercial	99,379	1,554	3.15	92,764	1,210	2.63
Commercial real estate (5)	59,946	1,233	4.15	57,982	993	3.45
Commercial lease financing	21,636	343	3.17	21,885	387	3.54
Total commercial	483,587	8,830	3.68	461,956	7,215	3.15
Total loans and leases (3)	933,375	19,798	4.27	914,432	17,777	3.91
Other earning assets (1)	81,277	2,031	5.03	73,568	1,473	4.03
<b>Total earning assets (1,6)</b>	<b>1,980,887</b>	<b>32,272</b>	<b>3.28</b>	<b>1,909,136</b>	<b>28,124</b>	<b>2.97</b>
Cash and due from banks	25,800			27,429		
Other assets, less allowance for loan and lease losses	317,582			314,010		
<b>Total assets</b>	<b>\$ 2,324,269</b>			<b>\$ 2,250,575</b>		
<b>Interest-bearing liabilities</b>						
U.S. interest-bearing deposits:						
Savings	\$ 55,243	\$ 3	0.01 %	\$ 53,350	\$ 3	0.01 %
NOW and money market deposit accounts	661,531	942	0.29	618,676	179	0.06
Consumer CDs and IRAs	40,629	69	0.34	46,194	61	0.27
Negotiable CDs, public funds and other deposits	42,600	354	1.68	34,874	120	0.69
Total U.S. interest-bearing deposits	800,003	1,368	0.34	753,094	363	0.10
Non-U.S. interest-bearing deposits:						
Banks located in non-U.S. countries	2,287	20	1.79	2,838	11	0.76
Governments and official institutions	1,133	—	0.01	997	4	0.85
Time, savings and other	66,325	315	0.95	59,237	250	0.85
Total non-U.S. interest-bearing deposits	69,745	335	0.97	63,072	265	0.85
Total interest-bearing deposits	869,748	1,703	0.39	816,166	628	0.16
Federal funds purchased, securities loaned or sold under agreements to repurchase, short-term borrowings and other interest-bearing liabilities (1)	276,269	2,597	1.90	278,458	1,398	1.01
Trading account liabilities	53,787	705	2.64	41,962	571	2.74
Long-term debt	229,318	3,705	3.25	222,751	3,049	2.75
<b>Total interest-bearing liabilities (1,6)</b>	<b>1,429,122</b>	<b>8,710</b>	<b>1.23</b>	<b>1,359,337</b>	<b>5,646</b>	<b>0.84</b>
Noninterest-bearing sources:						
Noninterest-bearing deposits	429,225			440,569		
Other liabilities (1)	200,592			181,322		
Shareholders' equity	265,330			269,347		
<b>Total liabilities and shareholders' equity</b>	<b>\$ 2,324,269</b>			<b>\$ 2,250,575</b>		
Net interest spread			2.05 %			2.13 %
Impact of noninterest-bearing sources			0.33			0.24
<b>Net interest income/yield on earning assets</b>		<b>\$ 23,562</b>	<b>2.38 %</b>		<b>\$ 22,478</b>	<b>2.37 %</b>

(1) Certain prior-period amounts have been reclassified to conform to current period presentation.

(2) Nonperforming loans are included in the respective average loan balances. Income on these nonperforming loans is generally recognized on a cost recovery basis. PCI loans were recorded at fair value upon acquisition and accrete interest income over the estimated life of the loan.

(3) The six months ended June 30, 2017 includes assets of the Corporation's non-U.S. consumer credit card business, which was sold during the second quarter of 2017.

(4) Includes non-U.S. consumer loans of \$2.9 billion in both the six months ended June 30, 2018 and 2017.

(5) Includes U.S. commercial real estate loans of \$55.9 billion and \$54.8 billion, and non-U.S. commercial real estate loans of \$4.1 billion and \$3.2 billion for the six months ended June 30, 2018 and 2017, respectively.

(6) Interest income includes the impact of interest rate risk management contracts, which decreased interest income on the underlying assets by \$56 million and \$41 million for the six months ended June 30, 2018 and 2017. Interest expense includes the impact of interest rate risk management contracts, which decreased interest expense on the underlying liabilities by \$171 million and \$750 million for the six months ended June 30, 2018 and 2017. For additional information, see Interest Rate Risk Management for the Banking Book on page 50.



## Business Segment Operations

### Segment Description and Basis of Presentation

We report our results of operations through the following four business segments: *Consumer Banking*, *GWIM*, *Global Banking* and *Global Markets*, with the remaining operations recorded in *All Other*. We periodically review capital allocated to our businesses and allocate capital annually during the strategic and capital planning processes. We utilize a methodology that considers the effect of regulatory capital requirements in addition to internal risk-based capital models. Our internal risk-based capital models use a risk-adjusted methodology incorporating each segment's credit,

market, interest rate, business and operational risk components. For more information on the nature of these risks, see *Managing Risk* on page 22. The capital allocated to the business segments

is referred to as allocated capital. Allocated equity in the reporting units is comprised of allocated capital plus capital for the portion of goodwill and intangibles specifically assigned to the reporting unit. For more information, see *Note 8 – Goodwill and Intangible Assets* to the Consolidated Financial Statements.

For more information on the basis of presentation for business segments and reconciliations to consolidated total revenue, net income and period-end total assets, see *Note 17 – Business Segment Information* to the Consolidated Financial Statements.

### Consumer Banking

(Dollars in millions)	Deposits		Consumer Lending		Total Consumer Banking		% Change
	Three Months Ended June 30						
	2018	2017	2018	2017	2018	2017	
Net interest income (FTE basis)	\$ 3,919	\$ 3,302	\$ 2,701	\$ 2,659	\$ 6,620	\$ 5,961	11 %
Noninterest income:							
Card income	3	1	1,339	1,247	1,342	1,248	8
Service charges	1,071	1,061	1	—	1,072	1,061	1
All other income	102	96	75	143	177	239	(26)
Total noninterest income	1,176	1,158	1,415	1,390	2,591	2,548	2
Total revenue, net of interest expense (FTE basis)	5,095	4,460	4,116	4,049	9,211	8,509	8
Provision for credit losses	46	45	898	789	944	834	13
Noninterest expense	2,639	2,561	1,758	1,850	4,397	4,411	—
Income before income taxes (FTE basis)	2,410	1,854	1,460	1,410	3,870	3,264	19
Income tax expense (FTE basis)	615	700	372	533	987	1,233	(20)
<b>Net income</b>	<b>\$ 1,795</b>	<b>\$ 1,154</b>	<b>\$ 1,088</b>	<b>\$ 877</b>	<b>\$ 2,883</b>	<b>\$ 2,031</b>	<b>42</b>
Effective tax rate (FTE basis) (1)					25.5 %	37.8 %	
Net interest yield (FTE basis)	2.29 %	2.03 %	3.92 %	4.15 %	3.68	3.48	
Return on average allocated capital	60	39	17	14	31	22	
Efficiency ratio (FTE basis)	51.80	57.39	42.73	45.72	47.75	51.84	

### Balance Sheet

Average	Three Months Ended June 30						% Change
	2018	2017	2018	2017	2018	2017	
Total loans and leases	\$ 5,191	\$ 5,016	\$ 275,498	\$ 256,521	\$ 280,689	\$ 261,537	7 %
Total earning assets (2)	686,331	651,678	276,436	257,130	720,878	686,064	5
Total assets (2)	714,494	678,817	287,377	268,680	759,982	724,753	5
Total deposits	682,202	646,474	5,610	6,313	687,812	652,787	5
Allocated capital	12,000	12,000	25,000	25,000	37,000	37,000	—

(1) Estimated at the segment level only.

(2) In segments and businesses where the total of liabilities and equity exceeds assets, we allocate assets from *All Other* to match the segments' and businesses' liabilities and allocated shareholders' equity. As a result, total earning assets and total assets of the businesses may not equal total *Consumer Banking*.



(Dollars in millions)	Deposits		Consumer Lending		Total Consumer Banking		% Change
	Six Months Ended June 30						
	2018	2017	2018	2017	2018	2017	
Net interest income (FTE basis)	\$ 7,660	\$ 6,365	\$ 5,470	\$ 5,376	\$ 13,130	\$ 11,741	12 %
Noninterest income:							
Card income	5	4	2,616	2,469	2,621	2,473	6
Service charges	2,115	2,111	1	1	2,116	2,112	—
All other income	210	195	166	271	376	466	(19)
Total noninterest income	2,330	2,310	2,783	2,741	5,113	5,051	1
Total revenue, net of interest expense (FTE basis)	9,990	8,675	8,253	8,117	18,243	16,792	9
Provision for credit losses	87	100	1,792	1,572	1,879	1,672	12
Noninterest expense	5,290	5,086	3,587	3,734	8,877	8,820	1
Income before income taxes (FTE basis)	4,613	3,489	2,874	2,811	7,487	6,300	19
Income tax expense (FTE basis)	1,176	1,316	733	1,061	1,909	2,377	(20)
<b>Net income</b>	<b>\$ 3,437</b>	<b>\$ 2,173</b>	<b>\$ 2,141</b>	<b>\$ 1,750</b>	<b>\$ 5,578</b>	<b>\$ 3,923</b>	<b>42</b>
Effective tax rate (FTE basis) (1)					25.5 %	37.7 %	
Net interest yield (FTE basis)	2.27 %	2.00 %	4.00 %	4.24 %	3.71	3.49	
Return on average allocated capital	58	37	17	14	30	21	
Efficiency ratio (FTE basis)	52.95	58.63	43.47	46.00	48.66	52.53	

#### Balance Sheet

Average	Six Months Ended June 30						% Change		
	2018		2017		2018			2017	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017		June 30 2018	December 31 2017
Total loans and leases	\$ 5,180	\$ 4,998	\$ 274,946	\$ 254,753	\$ 280,126	\$ 259,751	8 %		
Total earning assets (2)	680,020	643,237	275,597	255,607	714,352	677,512	5		
Total assets (2)	707,992	670,340	286,625	267,239	753,352	716,247	5		
Total deposits	675,630	637,953	5,489	6,285	681,119	644,238	6		
Allocated capital	12,000	12,000	25,000	25,000	37,000	37,000	—		

See page 11 for footnotes.

*Consumer Banking*, which is comprised of Deposits and Consumer Lending, offers a diversified range of credit, banking and investment products and services to consumers and small businesses. Deposits and Consumer Lending include the net impact of migrating customers and their related deposit, brokerage asset and loan balances between Deposits, Consumer Lending and *GWIM*, as well as other client-managed business. For more information about *Consumer Banking*, including our Deposits and Consumer Lending businesses, see Business Segment Operations in the MD&A of the Corporation's 2017 Annual Report on Form 10-K

## Consumer Banking Results

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

Net income for *Consumer Banking* increased \$852 million to \$2.9 billion primarily driven by higher pretax income and lower tax expense from the impact of the reduction in the federal income tax rate. The increase in pretax income was driven by an increase in revenue, partially offset by higher provision for credit losses. Net interest income increased \$659 million to \$6.6 billion primarily due to the beneficial impact of an increase in investable assets as a result of higher deposits and interest rates, as well as pricing discipline and loan growth. Noninterest income increased \$43 million to \$2.6 billion as higher card income and service charges more than offset lower mortgage banking income.

The provision for credit losses increased \$110 million to \$944 million due to portfolio seasoning and loan growth in the U.S. credit card portfolio. Noninterest expense decreased \$14 million to \$4.4 billion driven by operating efficiencies. This was largely offset by investments in digital capabilities and business growth, including increased primary sales professionals, combined with investments in new financial centers and renovations, as well as higher personnel expense.

The return on average allocated capital was 31 percent, up from 22 percent, driven by higher net income. For additional information on capital allocations, see Business Segment Operations on page 11.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

Net income for *Consumer Banking* increased \$1.7 billion to \$5.6 billion primarily driven by the same factors as described in the three-month discussion. The increase in pretax income was driven by an increase in revenue, partially offset by higher provision for credit losses and an increase in noninterest expense. Net interest income increased \$1.4 billion to \$13.1 billion, and noninterest income increased \$62 million to \$5.1 billion, both of which were primarily due to the same factors as described in the three-month discussion.

The provision for credit losses increased \$207 million to \$1.9 billion due to the same factors as described in the three-month discussion. Noninterest expense increased \$57 million to \$8.9

billion driven by investments in digital capabilities and business growth, including increased primary sales professionals, combined with investments in new financial centers and renovations, as well as higher personnel expense. These increases were largely offset by operating efficiencies and lower litigation expense.

The return on average allocated capital was 30 percent, up from 21 percent, driven by higher net income. For additional information on capital allocations, see Business Segment Operations on page 11.

## Deposits

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

Net income for Deposits increased \$641 million to \$1.8 billion driven by higher revenue and lower income taxes, partially offset by higher noninterest expense. Net interest income increased \$617 million to \$3.9 billion primarily due to the beneficial impact of an increase in investable assets as a result of higher deposits, and pricing discipline. Noninterest income increased \$18 million to \$1.2 billion driven by higher service charges.

The provision for credit losses remained relatively unchanged at \$46 million. Noninterest expense increased \$78 million to \$2.6 billion primarily driven by investments in digital capabilities and

business growth, including increased primary sales professionals, combined with investments in new financial centers and renovations, as well as higher personnel expense.

Average deposits increased \$35.7 billion to \$682.2 billion driven by strong organic growth. Growth in checking, money market savings and traditional savings of \$40.6 billion was partially offset by a decline in time deposits of \$5.0 billion.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

Net income for Deposits increased \$1.3 billion to \$3.4 billion. Net interest income increased \$1.3 billion to \$7.7 billion and noninterest income increased \$20 million to \$2.3 billion. These increases were primarily driven by the same factors as described in the three-month discussion.

The provision for credit losses decreased \$13 million to \$87 million. Noninterest expense increased \$204 million to \$5.3 billion primarily driven by the same factors as described in the three-month discussion.

Average deposits increased \$37.7 billion to \$675.6 billion primarily driven by the same factor as described in the three-month discussion.

## Key Statistics – Deposits

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Total deposit spreads (excludes noninterest costs) (1)	2.10%	1.89%	2.05%	1.78%
Period End				
Client brokerage assets (in millions)			\$ 191,472	\$ 159,131
Active digital banking users (units in thousands) (2)			35,722	33,971
Active mobile banking users (units in thousands)			25,335	22,898
Financial centers			4,411	4,542
ATMs			16,050	15,972

(1) Includes deposits held in Consumer Lending.

(2) Digital users represents mobile and/or online users across consumer businesses.

Client brokerage assets increased \$32.3 billion driven by strong client flows and market performance. Active mobile banking users increased 2.4 million reflecting continuing changes in our customers' banking preferences. The number of financial centers declined by a net 131 reflecting changes in customer preferences to self-service options as we continue to optimize our consumer banking network and improve our cost-to-serve.

## Consumer Lending

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

Net income for Consumer Lending increased \$211 million to \$1.1 billion driven by lower tax expense, lower noninterest expense and higher revenue, partially offset by higher provision for credit losses. Net interest income increased \$42 million to \$2.7 billion primarily driven by the impact of an increase in loan balances. Noninterest income increased \$25 million to \$1.4 billion driven by higher card income, partially offset by lower mortgage banking income.

The provision for credit losses increased \$109 million to \$898 million due to portfolio seasoning and loan growth in the U.S. credit

card portfolio. Noninterest expense decreased \$92 million to \$1.8 billion primarily driven by operating efficiencies.

Average loans increased \$19.0 billion to \$275.5 billion driven by increases in residential mortgages and U.S credit card loans, partially offset by lower home equity loan balances.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

Net income for Consumer Lending increased \$391 million to \$2.1 billion driven by the same factors as described in the three-month discussion. Net interest income increased \$94 million to \$5.5 billion and noninterest income increased \$42 million to \$2.8 billion, both of which were driven by the same factors as described in the three-month discussion.

The provision for credit losses increased \$220 million to \$1.8 billion and noninterest expense decreased \$147 million to \$3.6 billion, both of which were primarily driven by the same factors as described in the three-month discussion.

Average loans increased \$20.2 billion to \$274.9 billion driven by the same factors as described in the three-month discussion, as well as higher consumer vehicle loans.

At June 30, 2018, total owned loans in the core portfolio held in Consumer Lending were \$121.9 billion, an increase of \$13.7 billion from June 30, 2017, primarily driven by higher residential mortgage balances, based on a decision to retain certain loans on the balance sheet, partially offset by a decline in home equity balances. For more information on the core portfolio, see Consumer Portfolio Credit Risk Management on page 29.

### Key Statistics – Consumer Lending

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
<b>Total U.S. credit card (1)</b>				
Gross interest yield	9.86%	9.54%	9.90%	9.55%
Risk-adjusted margin	8.07	8.40	8.19	8.65
New accounts (in thousands)	1,186	1,302	2,380	2,486
Purchase volumes	\$ 66,821	\$ 61,665	\$ 128,168	\$ 116,986
<b>Debit card purchase volumes</b>	<b>\$ 80,697</b>	<b>\$ 75,349</b>	<b>\$ 156,749</b>	<b>\$ 145,960</b>

(1) In addition to the U.S. credit card portfolio in *Consumer Banking*, the remaining U.S. credit card portfolio is in *GWIM*.

During the three and six months ended June 30, 2018, the total U.S. credit card risk-adjusted margin decreased 33 bps and 46 bps compared to the same periods in 2017, primarily driven by increased net charge-offs and higher credit card rewards costs.

Total U.S. credit card purchase volumes increased \$5.2 billion to \$66.8 billion, and \$11.2 billion to \$128.2 billion, and debit card purchase volumes increased \$5.3 billion to \$80.7 billion, and \$10.8 billion to \$156.7 billion, reflecting higher levels of consumer spending.

### Key Statistics – Loan Production (1)

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
<b>Total (2):</b>				
First mortgage	\$ 11,672	\$ 13,251	\$ 21,096	\$ 24,693
Home equity	4,081	4,685	7,830	8,738
<i>Consumer Banking:</i>				
First mortgage	\$ 7,881	\$ 9,006	\$ 13,845	\$ 16,635
Home equity	3,644	4,215	6,989	7,882

(1) The loan production amounts represent the unpaid principal balance of loans and, in the case of home equity, the principal amount of the total line of credit.

(2) In addition to loan production in *Consumer Banking*, there is also first mortgage and home equity loan production in *GWIM*.

First mortgage loan originations in *Consumer Banking* and for the total Corporation decreased \$1.1 billion and \$1.6 billion in the three months ended June 30, 2018 compared to the same period in 2017 primarily driven by a higher interest rate environment driving lower first-lien mortgage refinances. First mortgage loan originations in *Consumer Banking* and for the total Corporation decreased \$2.8 billion and \$3.6 billion in the six months ended June 30, 2018 primarily driven by the same factor as described in the three-month discussion.

Home equity production in *Consumer Banking* and for the total Corporation decreased \$571 million and \$604 million for the three months ended June 30, 2018 compared to the same period in 2017 driven by a smaller market. Home equity production in *Consumer Banking* and for the total Corporation decreased \$893 million and \$908 million for the six months ended June 30, 2018 primarily driven by the same factor as described in the three-month discussion.

	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
(Dollars in millions)						
Net interest income (FTE basis)	\$ 1,543	\$ 1,597	(3%)	\$ 3,137	\$ 3,157	(1%)
Noninterest income:						
Investment and brokerage services	2,937	2,829	4	5,977	5,620	6
All other income	229	269	(15)	451	510	(12)
Total noninterest income	3,166	3,098	2	6,428	6,130	5
Total revenue, net of interest expense (FTE basis)	4,709	4,695	—	9,565	9,287	3
Provision for credit losses	12	11	9	50	34	47
Noninterest expense	3,399	3,392	—	6,827	6,721	2
Income before income taxes (FTE basis)	1,298	1,292	—	2,688	2,532	6
Income tax expense (FTE basis)	330	488	(32)	685	955	(28)
<b>Net income</b>	<b>\$ 968</b>	<b>\$ 804</b>	<b>20</b>	<b>\$ 2,003</b>	<b>\$ 1,577</b>	<b>27</b>
Effective tax rate (FTE basis)	25.4%	37.8%		25.5%	37.7%	
Net interest yield (FTE basis)	2.43	2.41		2.44	2.34	
Return on average allocated capital	27	23		28	23	
Efficiency ratio (FTE basis)	72.17	72.24		71.37	72.37	

**Balance Sheet**

Average	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Total loans and leases	\$ 160,833	\$ 150,812	7%	\$ 159,969	\$ 149,615	7%
Total earning assets	255,145	265,845	(4)	258,939	271,884	(5)
Total assets	272,317	281,167	(3)	275,996	287,266	(4)
Total deposits	236,214	245,329	(4)	239,627	251,324	(5)
Allocated capital	14,500	14,000	4	14,500	14,000	4

Period end	June 30	December 31	% Change
	2018	2017	
Total loans and leases	\$ 162,034	\$ 159,378	2%
Total earning assets	253,910	267,026	(5)
Total assets	270,913	284,321	(5)
Total deposits	233,925	246,994	(5)

GWIM consists of two primary businesses: Merrill Lynch Global Wealth Management (MLGWM) and U.S. Trust, Bank of America Private Wealth Management (U.S. Trust). For more information about GWIM, see Business Segment Operations in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

**Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017**

Net income for GWIM increased \$164 million to \$1.0 billion primarily due to lower tax expense from the impact of the reduction in the federal income tax rate. The operating margin was 28 percent for both periods.

Net interest income decreased \$54 million to \$1.5 billion primarily due to lower average deposit balances and loan spreads, partially offset by higher loan balances. Noninterest income, which primarily includes investment and brokerage services income, increased \$68 million to \$3.2 billion. The increase was driven by the impact of AUM flows and higher market valuations, partially offset by the impact of changing market dynamics on transactional revenue and AUM pricing. Noninterest expense of \$3.4 billion increased modestly, as higher revenue-related incentive expense and investment in sales professionals was largely offset by continued expense discipline.

Return on average allocated capital was 27 percent, up from 23 percent, primarily due to higher net income, somewhat offset by an increase in allocated capital.

MLGWM revenue of \$3.9 billion remained relatively unchanged. U.S. Trust revenue of \$848 million increased four percent reflecting higher net interest income and asset management fees driven by higher market valuations and positive net flows.

**Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017**

Net income for GWIM increased \$426 million to \$2.0 billion due to higher revenue and lower tax expense, partially offset by an increase in noninterest expense. The decrease in tax expense was driven by the impact of the reduction in the federal tax rate. The operating margin was 28 percent compared to 27 percent.

Net interest income decreased \$20 million to \$3.1 billion due to the same factors as described in the three-month discussion. Noninterest income, which primarily includes investment and brokerage services income, increased \$298 million to \$6.4 billion due to the same factors as described in the three-month discussion. Noninterest expense increased \$106 million to \$6.8 billion primarily due to higher revenue-related incentive expense and investment in sales professionals, partially offset by expense discipline.

The return on average allocated capital was 28 percent, up from 23 percent, as higher net income was partially offset by an increased capital allocation. For more information on capital allocated to the business segments, see Business Segment Operations on page 11.

Revenue from MLGWM of \$7.9 billion increased three percent due to higher asset management fees driven by higher AUM flows and market valuations, partially offset by lower AUM pricing, transactional revenue and net interest income. U.S. Trust revenue of \$1.7 billion increased five percent due to the same factors as described in the three-month discussion.

## Key Indicators and Metrics

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(Dollars in millions, except as noted)				
<b>Revenue by Business</b>				
Merrill Lynch Global Wealth Management	\$ 3,860	\$ 3,874	\$ 7,856	\$ 7,656
U.S. Trust	848	819	1,708	1,628
Other	1	2	1	3
<b>Total revenue, net of interest expense (FTE basis)</b>	<b>\$ 4,709</b>	<b>\$ 4,695</b>	<b>\$ 9,565</b>	<b>\$ 9,287</b>
<b>Client Balances by Business, at period end</b>				
Merrill Lynch Global Wealth Management			\$ 2,311,598	\$ 2,196,238
U.S. Trust			442,608	421,180
<b>Total client balances</b>			<b>\$ 2,754,206</b>	<b>\$ 2,617,418</b>
<b>Client Balances by Type, at period end</b>				
Assets under management			\$ 1,101,001	\$ 990,709
Brokerage and other assets			1,254,135	1,233,313
Deposits			233,925	237,131
Loans and leases (1)			165,145	156,265
<b>Total client balances</b>			<b>\$ 2,754,206</b>	<b>\$ 2,617,418</b>
<b>Assets Under Management Rollforward</b>				
Assets under management, beginning of period	\$ 1,084,717	\$ 946,778	\$ 1,080,747	\$ 886,148
Net client flows	10,775	27,516	35,015	56,730
Market valuation/other	5,509	16,415	(14,761)	47,831
<b>Total assets under management, end of period</b>	<b>\$ 1,101,001</b>	<b>\$ 990,709</b>	<b>\$ 1,101,001</b>	<b>\$ 990,709</b>
<b>Associates, at period end (2)</b>				
Number of financial advisors			17,442	17,017
Total wealth advisors, including financial advisors			19,350	18,881
Total primary sales professionals, including financial advisors and wealth advisors			20,447	19,863
<b>Merrill Lynch Global Wealth Management Metric</b>				
Financial advisor productivity (3) (in thousands)	\$ 1,017	\$ 1,040	\$ 1,027	\$ 1,016
<b>U.S. Trust Metric, at period end</b>				
Primary sales professionals			1,722	1,665

(1) Includes margin receivables which are classified in customer and other receivables on the Consolidated Balance Sheet.

(2) Includes financial advisors in the *Consumer Banking* segment of 2,622 and 2,206 at June 30, 2018 and 2017.

(3) Financial advisor productivity is defined as annualized MLGWM total revenue, excluding the allocation of certain asset and liability management (ALM) activities, divided by the total average number of financial advisors (excluding financial advisors in the *Consumer Banking* segment).

## Client Balances

Client balances increased \$136.8 billion, or five percent, to \$2.8 trillion at June 30, 2018 compared to June 30, 2017. The increase in client balances was due to higher market valuations and positive net flows. Positive net client flows in AUM decreased from the same period a year ago due to a smaller shift from brokerage assets to AUM.

## Global Banking

(Dollars in millions)	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Net interest income (FTE basis)	\$ 2,711	\$ 2,541	7%	\$ 5,351	\$ 5,143	4%
Noninterest income:						
Service charges	769	809	(5)	1,532	1,575	(3)
Investment banking fees	743	929	(20)	1,487	1,855	(20)
All other income	699	760	(8)	1,486	1,421	5
Total noninterest income	2,211	2,498	(11)	4,505	4,851	(7)
Total revenue, net of interest expense (FTE basis)	4,922	5,039	(2)	9,856	9,994	(1)
Provision for credit losses	(23)	15	n/m	(7)	32	n/m
Noninterest expense	2,154	2,154	—	4,349	4,317	1
Income before income taxes (FTE basis)	2,791	2,870	(3)	5,514	5,645	(2)
Income tax expense (FTE basis)	727	1,084	(33)	1,434	2,130	(33)
<b>Net income</b>	<b>\$ 2,064</b>	<b>\$ 1,786</b>	<b>16</b>	<b>\$ 4,080</b>	<b>\$ 3,515</b>	<b>16</b>
Effective tax rate (FTE basis)	26.0%	37.8%		26.0%	37.7%	
Net interest yield (FTE basis)	2.98	2.85		2.97	2.89	
Return on average allocated capital	20	18		20	18	
Efficiency ratio (FTE basis)	43.78	42.72		44.13	43.19	

### Balance Sheet

Average	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Total loans and leases	\$ 355,088	\$ 345,063	3%	\$ 353,398	\$ 343,966	3%
Total earning assets	364,587	357,407	2	363,212	358,500	1
Total assets	423,256	413,950	2	421,933	414,924	2
Total deposits	323,215	300,483	8	323,807	302,827	7
Allocated capital	41,000	40,000	3	41,000	40,000	3
<b>Period end</b>				<b>June 30 2018</b>	<b>December 31 2017</b>	<b>% Change</b>
Total loans and leases				\$ 355,473	\$ 350,668	1%
Total earning assets				364,428	365,560	—
Total assets				424,971	424,533	—
Total deposits				326,029	329,273	(1)

n/m = not meaningful

*Global Banking*, which includes Global Corporate Banking, Global Commercial Banking, Business Banking and Global Investment Banking, provides a wide range of lending-related products and services, integrated working capital management and treasury solutions, and underwriting and advisory services through our network of offices and client relationship teams. For more information about *Global Banking*, see Business Segment Operations in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

Net income for *Global Banking* increased \$278 million to \$2.1 billion primarily driven by lower tax expense from the impact of the reduction in the federal income tax rate, partially offset by modestly lower pretax income as discussed below.

Pretax results were driven by lower revenue and lower provision for credit losses with noninterest expense remaining flat. Revenue decreased \$117 million to \$4.9 billion driven by lower noninterest income, partially offset by higher net interest income. Net interest income increased \$170 million to \$2.7 billion primarily due to the impact of higher interest rates, as well as deposit and loan growth. Noninterest income decreased \$287 million to \$2.2 billion primarily due to lower investment banking fees and the impact of tax reform on certain tax-advantaged investments, partially offset by higher leasing-related revenues.

Noninterest expense was unchanged at \$2.2 billion as slightly lower personnel expense was offset by higher operating expense.

The return on average allocated capital was 20 percent, up from 18 percent, as higher net income was partially offset by an increased capital allocation. For more information on capital allocated to the business segments, see Business Segment Operations on page 11.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

Net income for *Global Banking* increased \$565 million to \$4.1 billion primarily driven by lower tax expense from the impact of the reduction in the federal income tax rate, partially offset by lower pretax income.

Pretax results were driven by lower revenue, higher noninterest expense and lower provision for credit losses. Revenue decreased \$138 million to \$9.9 billion driven by lower noninterest income, partially offset by higher net interest income. Net interest income increased \$208 million to \$5.4 billion primarily due to the impact of higher interest rates on increased deposits. Noninterest income decreased \$346 million to \$4.5 billion primarily due to lower investment banking fees and the impact of tax reform on certain tax-advantaged investments, partially offset by higher leasing-related revenues.

Noninterest expense increased \$32 million to \$4.3 billion primarily due to higher personnel and operating expense.

The return on average allocated capital was 20 percent, up from 18 percent, as higher net income was partially offset by an increased capital allocation. For more information on capital allocated to the business segments, see Business Segment Operations on page 11.

### Global Corporate, Global Commercial and Business Banking

The table below and following discussion present a summary of the results, which exclude certain investment banking activities in *Global Banking*.

#### Global Corporate, Global Commercial and Business Banking

	Global Corporate Banking		Global Commercial Banking		Business Banking		Total	
	Three Months Ended June 30							
	2018	2017	2018	2017	2018	2017	2018	2017
(Dollars in millions)								
<b>Revenue (FTE basis)</b>								
Business Lending	\$ 1,093	\$ 1,093	\$ 974	\$ 1,052	\$ 99	\$ 99	\$ 2,166	\$ 2,244
Global Transaction Services	912	833	811	752	237	211	1,960	1,796
<b>Total revenue, net of interest expense</b>	<b>\$ 2,005</b>	<b>\$ 1,926</b>	<b>\$ 1,785</b>	<b>\$ 1,804</b>	<b>\$ 336</b>	<b>\$ 310</b>	<b>\$ 4,126</b>	<b>\$ 4,040</b>

#### Balance Sheet

##### Average

	Global Corporate Banking		Global Commercial Banking		Business Banking		Total	
	Six Months Ended June 30							
	2018	2017	2018	2017	2018	2017	2018	2017
Total loans and leases	\$ 163,632	\$ 156,614	\$ 174,666	\$ 170,589	\$ 16,785	\$ 17,844	\$ 355,083	\$ 345,047
Total deposits	157,224	143,844	129,480	120,921	36,539	35,720	323,243	300,485

##### Revenue (FTE basis)

	Global Corporate Banking		Global Commercial Banking		Business Banking		Total	
	Six Months Ended June 30							
	2018	2017	2018	2017	2018	2017	2018	2017
Business Lending	\$ 2,143	\$ 2,195	\$ 1,949	\$ 2,096	\$ 198	\$ 200	\$ 4,290	\$ 4,491
Global Transaction Services	1,794	1,630	1,627	1,459	469	408	3,890	3,497
<b>Total revenue, net of interest expense</b>	<b>\$ 3,937</b>	<b>\$ 3,825</b>	<b>\$ 3,576</b>	<b>\$ 3,555</b>	<b>\$ 667</b>	<b>\$ 608</b>	<b>\$ 8,180</b>	<b>\$ 7,988</b>

#### Balance Sheet

##### Average

	Global Corporate Banking		Global Commercial Banking		Business Banking		Total	
	Six Months Ended June 30							
	2018	2017	2018	2017	2018	2017	2018	2017
Total loans and leases	\$ 162,857	\$ 155,989	\$ 173,520	\$ 170,161	\$ 17,021	\$ 17,815	\$ 353,398	\$ 343,965
Total deposits	156,438	145,134	130,911	121,907	36,475	35,790	323,824	302,831

##### Period end

	Global Corporate Banking		Global Commercial Banking		Business Banking		Total	
	Six Months Ended June 30							
	2018	2017	2018	2017	2018	2017	2018	2017
Total loans and leases	\$ 163,524	\$ 155,513	\$ 175,405	\$ 171,204	\$ 16,549	\$ 17,737	\$ 355,478	\$ 344,454
Total deposits	160,993	145,707	128,079	121,644	36,982	35,853	326,054	303,204

Business Lending revenue decreased \$78 million and \$201 million for the three and six months ended June 30, 2018 compared to the same periods in 2017. The decrease for both periods were primarily driven by the impact of tax reform on certain tax-advantaged investment.

Global Transaction Services revenue increased \$164 million and \$393 million for the three and six months ended June 30, 2018 driven by higher short-term rates and increased deposit balances.

Average loans and leases increased three percent for both the three and six months ended June 30, 2018 compared to the same periods in 2017 driven by growth in the commercial and industrial, and commercial real estate portfolios. Average deposits increased eight percent for the three months ended June 30, 2018 and seven percent for the six months ended June 30, 2018. The increase for both periods was due to growth in international and domestic interest-bearing balances.

### Global Investment Banking

Client teams and product specialists underwrite and distribute debt, equity and loan products, and provide advisory services and tailored risk management solutions. The economics of certain investment banking and underwriting activities are shared primarily between *Global Banking* and *Global Markets* under an internal revenue-sharing arrangement. *Global Banking* originates certain deal-related transactions with our corporate and commercial clients that are executed and distributed by *Global Markets*. To provide a complete discussion of our consolidated investment banking fees, the following table presents total Corporation investment banking fees and the portion attributable to *Global Banking*.

## Investment Banking Fees

(Dollars in millions)	Global Banking				Total Corporation			
	Three Months Ended June 30				Six Months Ended June 30			
	2018	2017	2018	2017	2018	2017	2018	2017
<b>Products</b>								
Advisory	\$ 269	\$ 465	\$ 303	\$ 483	\$ 545	\$ 856	\$ 599	\$ 888
Debt issuance	367	361	874	901	723	773	1,701	1,827
Equity issuance	107	103	290	231	219	226	604	543
<b>Gross investment banking fees</b>	<b>743</b>	<b>929</b>	<b>1,467</b>	<b>1,615</b>	<b>1,487</b>	<b>1,855</b>	<b>2,904</b>	<b>3,258</b>
Self-led deals	(15)	(47)	(45)	(83)	(49)	(71)	(129)	(142)
<b>Total investment banking fees</b>	<b>\$ 728</b>	<b>\$ 882</b>	<b>\$ 1,422</b>	<b>\$ 1,532</b>	<b>\$ 1,438</b>	<b>\$ 1,784</b>	<b>\$ 2,775</b>	<b>\$ 3,116</b>

Total Corporation investment banking fees, excluding self-led deals, of \$1.4 billion and \$2.8 billion, which are primarily included within *Global Banking* and *Global Markets*, decreased seven percent and eleven percent for the three and six months ended June 30, 2018 compared to the same periods in 2017 primarily due to declines in advisory fees and debt issuances, partially offset by an increase in equity issuances.

## Global Markets

(Dollars in millions)	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Net interest income (FTE basis)	\$ 801	\$ 864	(7)%	\$ 1,671	\$ 1,913	(13)%
Noninterest income:						
Investment and brokerage services	430	521	(17)	918	1,052	(13)
Investment banking fees	652	590	11	1,261	1,255	—
Trading account profits	2,184	1,743	25	4,887	3,920	25
All other income	154	229	(33)	270	514	(47)
<b>Total noninterest income</b>	<b>3,420</b>	<b>3,083</b>	<b>11</b>	<b>7,336</b>	<b>6,741</b>	<b>9</b>
<b>Total revenue, net of interest expense (FTE basis)</b>	<b>4,221</b>	<b>3,947</b>	<b>7</b>	<b>9,007</b>	<b>8,654</b>	<b>4</b>
Provision for credit losses	(1)	25	n/m	(4)	8	n/m
Noninterest expense	2,715	2,650	2	5,533	5,406	2
Income before income taxes (FTE basis)	1,507	1,272	18	3,478	3,240	7
Income tax expense (FTE basis)	391	442	(12)	904	1,113	(19)
<b>Net income</b>	<b>\$ 1,116</b>	<b>\$ 830</b>	<b>34</b>	<b>\$ 2,574</b>	<b>\$ 2,127</b>	<b>21</b>
Effective tax rate (FTE basis)	25.9%	34.7%		26.0%	34.4%	
Return on average allocated capital	13	10		15	12	
Efficiency ratio (FTE basis)	64.33	67.12		61.43	62.46	

### Balance Sheet

Average	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Trading-related assets:						
Trading account securities	\$ 209,271	\$ 221,569	(6)%	\$ 209,772	\$ 212,767	(1)%
Reverse repurchases	132,257	101,551	30	128,125	99,206	29
Securities borrowed	83,282	88,041	(5)	82,831	84,695	(2)
Derivative assets	48,316	41,402	17	47,447	40,877	16
<b>Total trading-related assets</b>	<b>473,126</b>	<b>452,563</b>	<b>5</b>	<b>468,175</b>	<b>437,545</b>	<b>7</b>
Total loans and leases	75,053	69,638	8	74,412	69,850	7
Total earning assets	490,482	456,588	7	488,307	443,321	10
Total assets	678,500	645,227	5	678,434	626,224	8
Total deposits	30,736	31,919	(4)	31,524	32,535	(3)
Allocated capital	35,000	35,000	—	35,000	35,000	—
<b>Period end</b>						
Total trading-related assets	\$ 441,657	\$ 419,375	5%			
Total loans and leases	73,496	76,778	(4)			
Total earning assets	454,706	449,314	1			
Total assets	637,110	629,013	1			
Total deposits	31,450	34,029	(8)			

n/m = not meaningful





Global Markets offers sales and trading services and research services to institutional clients across fixed-income, credit, currency, commodity and equity businesses. Global Markets product coverage includes securities and derivative products in both the primary and secondary markets. For more information about Global Markets, see Business Segment Operations in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

Net income for Global Markets increased \$286 million to \$1.1 billion driven by higher revenue and lower tax expense from the impact of the reduction in the federal income tax rate, partially offset by higher noninterest expense. Net DVA losses were \$179 million compared to losses of \$159 million. Excluding net DVA, net income increased \$323 million to \$1.3 billion primarily driven by higher revenue and the impact of the Tax Act, partially offset by higher noninterest expense.

Sales and trading revenue, excluding net DVA, increased \$227 million primarily due to higher Equities revenue driven by increased client financing activity. Noninterest expense increased \$65 million to \$2.7 billion primarily due to higher revenue-related expense and continued investments in technology.

Average assets increased \$33.3 billion to \$678.5 billion primarily driven by growth in client financing activities in the Equities business and increased levels of inventory across the fixed-income, currencies and commodities (FICC) business to facilitate client demand.

The return on average allocated capital was 13 percent, up from 10 percent, reflecting higher net income.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

Net income for Global Markets increased \$447 million to \$2.6 billion driven by higher revenue and lower tax expense from the impact of the reduction in the federal income tax rate. Net DVA losses were \$115 million compared to losses of \$289 million. Excluding net DVA, net income increased \$355 million to \$2.7 billion primarily driven by higher revenue and the impact of the Tax Act, partially offset by higher noninterest expense.

Sales and trading revenue, excluding net DVA, increased \$251 million due to higher Equities revenue partially offset by lower FICC revenue. Noninterest expense increased \$127 million to \$5.5 billion primarily due to continued investments in technology.

Average assets increased \$52.2 billion to \$678.4 billion primarily driven by the same factors as described in the three-month discussion. Total period-end assets increased \$8.1 billion to \$637.1 billion due to increased levels of inventory across the FICC business to facilitate client demand.

The return on average allocated capital was 15 percent, up from 12 percent, reflecting higher net income.

### Sales and Trading Revenue

For a description of sales and trading revenue, see Business Segment Operations in the MD&A of the Corporation's 2017 Annual Report on Form 10-K. The following table and related discussion present sales and trading revenue, substantially all of which is in Global Markets, with the remainder in Global Banking. In addition, the following table and related discussion present sales and trading revenue, excluding net DVA, which is a non-GAAP financial measure. For more information on net DVA, see Supplemental Financial Data on page 6.

### Sales and Trading Revenue (1, 2)

(Dollars in millions)

#### Sales and trading revenue

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Fixed-income, currencies and commodities	\$ 2,106	\$ 2,106	\$ 4,720	\$ 4,916
Equities	1,311	1,104	2,814	2,193
<b>Total sales and trading revenue</b>	<b>\$ 3,417</b>	<b>\$ 3,210</b>	<b>\$ 7,534</b>	<b>\$ 7,109</b>

#### Sales and trading revenue, excluding net DVA (3)

Fixed-income, currencies and commodities	\$ 2,290	\$ 2,254	\$ 4,826	\$ 5,184
Equities	1,306	1,115	2,823	2,214
<b>Total sales and trading revenue, excluding net DVA</b>	<b>\$ 3,596</b>	<b>\$ 3,369</b>	<b>\$ 7,649</b>	<b>\$ 7,398</b>

(1) Includes FTE adjustments of \$80 million and \$148 million for the three and six months ended June 30, 2018 compared to \$51 million and \$100 million for the same periods in 2017. For more information on sales and trading revenue, see Note 3 – Derivatives to the Consolidated Financial Statements.

(2) Includes Global Banking sales and trading revenue of \$75 million and \$241 million for the three and six months ended June 30, 2018 compared to \$56 million and \$114 million for the same periods in 2017.

(3) FICC and Equities sales and trading revenue, excluding net DVA, is a non-GAAP financial measure. FICC net DVA losses were \$184 million and \$106 million for the three and six months ended June 30, 2018 compared to losses of \$148 million and \$268 million for the same periods in 2017. Equities net DVA gains were \$5 million and losses were \$9 million for the three and six months ended June 30, 2018 compared to losses of \$11 million and \$21 million for the same periods in 2017.

The following explanations for period-over-period changes in sales and trading, FICC and Equities revenue exclude net DVA, but would be the same whether net DVA was included or excluded.

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

FICC revenue increased \$36 million primarily due to improved performance in macro-related products, partially offset by weakness in credit products. Equities revenue increased \$191 million driven by increased client activity in financing and derivatives.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

FICC revenue decreased \$358 million primarily due to lower activity and a less favorable market in credit-related products. The decline in FICC revenue was also impacted by higher funding costs, which were driven by increases in market interest rates. Equities revenue increased \$609 million driven by increased client activity in financing and derivatives and a strong trading performance in derivatives in the more volatile market environment.

## All Other

(Dollars in millions)	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Net interest income (FTE basis)	\$ 129	\$ 260	(50)%	\$ 273	\$ 524	(48)%
Noninterest income (loss)	(429)	616	n/m	(906)	260	n/m
Total revenue, net of interest expense (FTE basis)	(300)	876	(134)	(633)	784	n/m
Provision for credit losses	(105)	(159)	(34)	(257)	(185)	39
Noninterest expense	619	1,375	(55)	1,595	2,811	(43)
Loss before income taxes (FTE basis)	(814)	(340)	139	(1,971)	(1,842)	7
Income tax expense (benefit) (FTE basis)	(567)	5	n/m	(1,438)	(1,143)	26
<b>Net loss</b>	<b>\$ (247)</b>	<b>\$ (345)</b>	<b>(28)</b>	<b>\$ (533)</b>	<b>\$ (699)</b>	<b>(24)</b>

### Balance Sheet

Average	Three Months Ended June 30			Six Months Ended June 30		
	2018	2017	% Change	2018	2017	% Change
Total loans and leases	\$ 63,155	\$ 87,667	(28)%	\$ 65,470	\$ 91,250	(28)%
Total assets (1)	188,623	204,196	(8)	194,554	205,914	(6)
Total deposits	22,682	26,320	(14)	22,896	25,811	(11)

Period end	June 30	December 31	% Change
	2018	2017	
Total loans and leases	\$ 61,256	\$ 69,452	(12)%
Total assets (1)	190,489	194,042	(2)
Total deposits	22,757	22,719	—

(1) In segments where the total of liabilities and equity exceeds assets, which are generally deposit-taking segments, we allocate assets from *All Other* to those segments to match liabilities (i.e., deposits) and allocated shareholders' equity. Average allocated assets were \$519.6 billion and \$517.1 billion for the three and six months ended June 30, 2018 compared to \$521.8 billion and \$521.9 billion for the same periods in 2017, and period-end allocated assets were \$522.2 billion and \$520.4 billion at June 30, 2018 and December 31, 2017.  
n/m = not meaningful

*All Other* consists of ALM activities, equity investments, non-core mortgage loans and servicing activities, the net impact of periodic revisions to the MSR valuation model for core and non-core MSRs and the related economic hedge results, liquidating businesses and residual expense allocations. For more information about *All Other*, see Business Segment Operations in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

The Corporation classifies consumer real estate loans as core or non-core based on loan and customer characteristics. For more information on the core and non-core portfolios, see Consumer Portfolio Credit Risk Management on page 29. Residential mortgage loans that are held for ALM purposes, including interest rate or liquidity risk management, are classified as core and are presented on the balance sheet of *All Other*. During the six months ended June 30, 2018, residential mortgage loans held for ALM activities decreased \$2.4 billion to \$26.1 billion at June 30, 2018 primarily as a result of payoffs and paydowns. Non-core residential mortgage and home equity loans, which are principally run-off portfolios, are also held in *All Other*. During the six months ended June 30, 2018, total non-core loans decreased \$5.8 billion to \$35.5 billion at June 30, 2018 due primarily to payoffs and paydowns, as well as loan sales of \$2.1 billion.

### Three Months Ended June 30, 2018 Compared to Three Months Ended June 30, 2017

The net loss for *All Other* improved \$98 million to a loss of \$247 million driven by an income tax benefit in the current period, partially offset by a higher pretax loss.

Revenue decreased \$1.2 billion to a \$300 million loss primarily due to a prior-year \$793 million pretax gain recognized in connection with the sale of the non-U.S. consumer credit card business and, in the current-year period, a negative impact from a \$729 million charge related to the redemption of certain trust

preferred securities, partially offset by a \$572 million gain from the sale of primarily non-core mortgage loans.

The benefit in provision for credit losses declined \$54 million to \$105 million due to a slowing pace of portfolio improvement in consumer real estate.

Noninterest expense decreased \$756 million to \$619 million due to lower non-core mortgage costs and reduced operational costs from the sale of the non-U.S. consumer credit card business. Also, the prior-year period included a \$295 million impairment charge related to certain data centers.

The income tax benefit was \$567 million compared to income tax expense of \$5 million. The prior year included tax expense of \$690 million related to the sale of the non-U.S. consumer credit card business. Both periods included income tax benefit adjustments to eliminate the FTE treatment of certain tax credits recorded in *Global Banking*.

### Six Months Ended June 30, 2018 Compared to Six Months Ended June 30, 2017

The net loss for *All Other* improved \$166 million to a loss of \$533 million, reflecting a higher income tax benefit, partially offset by a higher pretax loss.

Revenue decreased \$1.4 billion to \$633 million primarily driven by the same factors as described in the three-month discussion. Gains on sales of loans, including the sale of non-core mortgage loans, nonperforming and other delinquent loans, were \$636 million compared to \$44 million.

The benefit in provision for credit losses improved \$72 million to \$257 million primarily driven by the impact of the sale of the non-U.S. consumer credit card business during the second quarter of 2017.

Noninterest expense decreased \$1.2 billion to \$1.6 billion due to the same factors as described in the three-month discussion.

The income tax benefit was \$1.4 billion compared to a benefit of \$1.1 billion in the same period in 2017. The prior-year period included \$690 million in tax expense as described in the three-month discussion. Both periods included income tax benefit adjustments to eliminate the FTE treatment of certain tax credits recorded in *Global Banking*.

## Off-Balance Sheet Arrangements and Contractual Obligations

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. For more information on obligations and commitments, see *Note 10 – Commitments and Contingencies* to the Consolidated Financial Statements herein as well as *Off-Balance Sheet Arrangements and Contractual Obligations* in the MD&A, *Note 11 – Long-term Debt* and *Note 12 – Commitments and Contingencies* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

## Representations and Warranties

For information on representations and warranties, see *Note 7 – Representations and Warranties Obligations and Corporate Guarantees* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K and *Representations and Warranties* in *Note 10 – Commitments and Contingencies* to the Consolidated Financial Statements herein. For more information related to the sensitivity of the assumptions used to estimate our reserve for representations and warranties, see *Complex Accounting Estimates – Representations and Warranties Liability* in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

## Other Mortgage-related Matters

For more information on other mortgage-related matters, see *Off-Balance Sheet Arrangements and Contractual Obligations – Other Mortgage-related Matters* in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

## Managing Risk

Risk is inherent in all our business activities. The seven key types of risk faced by the Corporation are strategic, credit, market, liquidity, compliance, operational and reputational risks. Sound risk management enables us to serve our customers and deliver for our shareholders. If not managed well, risks can result in financial loss, regulatory sanctions and penalties, and damage to our reputation, each of which may adversely impact our ability to execute our business strategies. The Corporation takes a comprehensive approach to risk management with a defined Risk Framework and an articulated Risk Appetite Statement which are approved annually by the Enterprise Risk Committee and the Board.

Our Risk Framework is the foundation for comprehensive management of the risks facing the Corporation. The Risk Framework sets forth clear roles, responsibilities and accountability for the management of risk and provides a blueprint for how the Board, through delegation of authority to committees and executive officers, establishes risk appetite and associated limits for our activities.

Our Risk Appetite Statement is intended to ensure that the Corporation maintains an acceptable risk profile by providing a common framework and a comparable set of measures for senior management and the Board to clearly indicate the level of risk the

Corporation is willing to accept. Risk appetite is set at least annually and is aligned with the Corporation's strategic, capital and financial operating plans. Our line of business strategies and risk appetite are also similarly aligned.

For more information on our risk management activities, including our Risk Framework, and the key types of risk faced by the Corporation, see the *Managing Risk through Reputational Risk* sections in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

## Capital Management

The Corporation manages its capital position so its capital is more than adequate to support its business activities and to maintain capital, risk and risk appetite commensurate with one another. Additionally, we seek to maintain safety and soundness at all times, even under adverse scenarios, take advantage of organic growth opportunities, meet obligations to creditors and counterparties, maintain ready access to financial markets, continue to serve as a credit intermediary, remain a source of strength for our subsidiaries, and satisfy current and future regulatory capital requirements. Capital management is integrated into our risk and governance processes, as capital is a key consideration in the development of our strategic plan, risk appetite and risk limits.

We periodically review capital allocated to our businesses and allocate capital annually during the strategic and capital planning processes. For more information, see *Business Segment Operations* on page 11.

## CCAR and Capital Planning

The Federal Reserve requires BHCs to submit a capital plan and requests for capital actions on an annual basis, consistent with the rules governing the CCAR capital plan.

On June 28, 2018, following the Federal Reserve's non-objection to our 2018 CCAR capital plan, the Board authorized the repurchase of approximately \$20.6 billion in common stock from July 1, 2018 through June 30, 2019, which includes approximately \$600 million in repurchases to offset shares awarded under equity-based compensation plans during the same period.

The repurchase program, which covers both common stock and warrants, will be subject to various factors, including the Corporation's capital position, liquidity, financial performance and alternative uses of capital, stock trading price and general market conditions, and may be suspended at any time. The repurchases may be effected through open market purchases or privately negotiated transactions, including repurchase plans that satisfy the conditions of Rule 10b5-1 of the Securities Exchange Act of 1934, as amended. As a "well-capitalized" BHC, we may notify the Federal Reserve of our intention to make additional capital distributions not to exceed 0.25 percent of Tier 1 capital, and which were not contemplated in our capital plan, subject to the Federal Reserve's non-objection.

## Regulatory Capital

As a financial services holding company, we are subject to regulatory capital rules issued by U.S. banking regulators including Basel 3. The Corporation and its primary affiliated banking entity, BANA, are Basel 3 Advanced approaches institutions and are required to report regulatory risk-based capital ratios and risk-weighted assets under both the Standardized and Advanced approaches. The approach that yields the lower ratio is used to assess capital adequacy including under the Prompt Corrective Action (PCA) framework. As of June 30, 2018, Common equity tier 1 (CET1) and Tier 1 capital ratios were lower under the Standardized approach whereas Advanced approaches yielded a

lower Total capital ratio. For more information on Basel 3, see Capital Management in the MD&A of the Corporation's 2017 Annual Report on Form 10-K

### Minimum Capital Requirements

Minimum capital requirements and related buffers are being phased in from January 1, 2014 through January 1, 2019. The PCA framework establishes categories of capitalization including well capitalized, based on the Basel 3 regulatory ratio requirements. U.S. banking regulators are required to take certain mandatory actions depending on the category of capitalization, with no mandatory actions required for well-capitalized banking organizations.

We are subject to a capital conservation buffer, a countercyclical capital buffer and a global systemically important bank (G-SIB) surcharge that are being phased in over a three-year period ending January 1, 2019. Once fully phased-in, the Corporation's risk-based capital ratio requirements will include a capital conservation buffer greater than 2.5 percent, plus any applicable countercyclical capital buffer and a G-SIB surcharge in order to avoid restrictions on capital distributions and discretionary bonus payments. The buffers and surcharge must be comprised solely of CET1 capital. Under the phase-in provisions, we are

required to maintain a capital conservation buffer greater than 1.875 percent plus a G-SIB surcharge of 1.875 percent in 2018. The countercyclical capital buffer is currently set at zero. We estimate that our fully phased-in G-SIB surcharge will be 2.5 percent. The G-SIB surcharge may differ from this estimate over time.

Effective January 1, 2018, the Corporation is required to maintain a minimum supplementary leverage ratio (SLR) of 3.0 percent plus a leverage buffer of 2.0 percent in order to avoid certain restrictions on capital distributions and discretionary bonus payments. Our insured depository institution subsidiaries are required to maintain a minimum 6.0 percent SLR to be considered well capitalized under the PCA framework. For more information on the Corporation's capital ratios and regulatory requirements, see Table 9.

### Capital Composition and Ratios

Table 9 presents Bank of America Corporation's capital ratios and related information in accordance with Basel 3 Standardized and Advanced approaches as measured at June 30, 2018 and December 31, 2017. As of June 30, 2018 and December 31, 2017, the Corporation met the definition of well capitalized under current regulatory requirements.

**Table 9 Bank of America Corporation Regulatory Capital under Basel 3 (1)**

	Standardized Approach	Advanced Approaches	Current Regulatory Minimum (2)		2019 Regulatory Minimum (3)	
			June 30, 2018			
(Dollars in millions, except as noted)						
<b>Risk-based capital metrics:</b>						
Common equity tier 1 capital	\$ 164,872	\$ 164,872				
Tier 1 capital	187,506	187,506				
Total capital (4)	220,230	211,973				
Risk-weighted assets (in billions)	1,444	1,437				
Common equity tier 1 capital ratio	11.4%	11.5%	8.25%		9.5%	
Tier 1 capital ratio	13.0	13.0	9.75		11.0	
Total capital ratio	15.3	14.8	11.75		13.0	
<b>Leverage-based metrics:</b>						
Adjusted quarterly average assets (in billions) (5)	\$ 2,245	\$ 2,245				
Tier 1 leverage ratio	8.4%	8.4%	4.0		4.0	
SLR leverage exposure (in billions)		\$ 2,803				
SLR		6.7%	5.0		5.0	
December 31, 2017						
<b>Risk-based capital metrics:</b>						
Common equity tier 1 capital	\$ 168,461	\$ 168,461				
Tier 1 capital	190,189	190,189				
Total capital (4)	224,209	215,311				
Risk-weighted assets (in billions)	1,443	1,459				
Common equity tier 1 capital ratio	11.7%	11.5%	7.25%		9.5%	
Tier 1 capital ratio	13.2	13.0	8.75		11.0	
Total capital ratio	15.5	14.8	10.75		13.0	
<b>Leverage-based metrics:</b>						
Adjusted quarterly average assets (in billions) (5)	\$ 2,223	\$ 2,223				
Tier 1 leverage ratio	8.6%	8.6%	4.0		4.0	

(1) Basel 3 transition provisions for regulatory capital adjustments and deductions were fully phased-in as of January 1, 2018. Prior periods are presented on a fully phased-in basis.

(2) The June 30, 2018 and December 31, 2017 amounts include a transition capital conservation buffer of 1.875 percent and 1.25 percent and a transition G-SIB surcharge of 1.875 percent and 1.5 percent. The countercyclical capital buffer for both periods is zero.

(3) The 2019 regulatory minimums include a capital conservation buffer of 2.5 percent and G-SIB surcharge of 2.5 percent. The countercyclical capital buffer is zero. We will be subject to regulatory minimums on January 1, 2019. The SLR minimum includes a leverage buffer of 2.0 percent and was applicable beginning on January 1, 2018.

(4) Total capital under the Advanced approaches differs from the Standardized approach due to differences in the amount permitted in Tier 2 capital related to the qualifying allowance for credit losses.

(5) Reflects adjusted average total assets for the three months ended June 30, 2018 and December 31, 2017.

CET1 capital was \$164.9 billion at June 30, 2018, a decrease of \$3.6 billion from December 31, 2017, driven by common stock repurchases, market value declines included in accumulated other comprehensive income (OCI) and dividends, partially offset by earnings. During the six months ended June 30, 2018, Total capital under the Advanced approaches decreased \$3.3 billion driven by

the same factors as CET1. Standardized risk-weighted assets, which yielded the lower CET1 ratio for June 30, 2018, remained relatively unchanged from December 31, 2017.

Table 10 shows the capital composition at June 30, 2018 and December 31, 2017.

**Table 10 Capital Composition under Basel 3 (1)**

	June 30 2018	December 31 2017
(Dollars in millions)		
Total common shareholders' equity	\$ 241,035	\$ 244,823
Goodwill, net of related deferred tax liabilities	(68,574)	(68,576)
Deferred tax assets arising from net operating loss and tax credit carryforwards	(6,393)	(6,555)
Intangibles, other than mortgage servicing rights and goodwill, net of related deferred tax liabilities	(1,519)	(1,743)
Other	323	512
<b>Common equity tier 1 capital</b>	<b>164,872</b>	<b>168,461</b>
Qualifying preferred stock, net of issuance cost	23,180	22,323
Other	(546)	(595)
<b>Tier 1 capital</b>	<b>187,506</b>	<b>190,189</b>
Tier 2 capital instruments	22,019	22,938
Eligible credit reserves included in Tier 2 capital	2,580	2,272
Other	(132)	(88)
<b>Total capital under the Advanced approaches</b>	<b>\$ 211,973</b>	<b>\$ 215,311</b>

(1) Basel 3 transition provisions for regulatory capital adjustments and deductions were fully phased-in as of January 1, 2018. Prior periods are presented on a fully phased-in basis.

Table 11 shows the components of risk-weighted assets as measured under Basel 3 at June 30, 2018 and December 31, 2017.

**Table 11 Risk-weighted Assets under Basel 3 (1)**

	Standardized Approach		Advanced Approaches	
	June 30, 2018		December 31, 2017	
	\$	\$	\$	\$
(Dollars in billions)				
Credit risk	1,390	851	1,384	867
Market risk	54	53	59	58
Operational risk	n/a	500	n/a	500
Risks related to credit valuation adjustments	n/a	33	n/a	34
<b>Total risk-weighted assets</b>	<b>\$ 1,444</b>	<b>\$ 1,437</b>	<b>\$ 1,443</b>	<b>\$ 1,459</b>

(1) Basel 3 transition provisions for regulatory capital adjustments and deductions were fully phased-in as of January 1, 2018. Prior periods are presented on a fully phased-in basis.

n/a = not applicable

### Bank of America, N.A. Regulatory Capital

Table 12 presents regulatory capital information for BANA in accordance with Basel 3 Standardized and Advanced approaches as measured at June 30, 2018 and December 31, 2017. BANA met the definition of well capitalized under the PCA framework for both periods.

**Table 12 Bank of America, N.A. Regulatory Capital under Basel 3**

	Standardized Approach		Advanced Approaches		Minimum Required (1)
	Ratio	Amount	Ratio	Amount	
	June 30, 2018				
(Dollars in millions)					
Common equity tier 1 capital	12.2%	\$ 147,327	14.8%	\$ 147,327	6.5%
Tier 1 capital	12.2	147,327	14.8	147,327	8.0
Total capital	13.3	159,636	15.2	151,705	10.0
Tier 1 leverage	8.7	147,327	8.7	147,327	5.0
SLR			7.0	147,327	6.0
			December 31, 2017		
Common equity tier 1 capital	12.5%	\$ 150,552	14.9%	\$ 150,552	6.5%
Tier 1 capital	12.5	150,552	14.9	150,552	8.0
Total capital	13.6	163,243	15.4	154,675	10.0
Tier 1 leverage	9.0	150,552	9.0	150,552	5.0

(1) Percent required to meet guidelines to be considered well capitalized under the PCA framework.

## Regulatory Developments

The following supplements the disclosure in Capital Management – Regulatory Developments in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

### Minimum Total Loss-Absorbing Capacity

The Federal Reserve's final rule, which is effective January 1, 2019, includes minimum external total loss-absorbing capacity (TLAC) and long-term debt requirements to improve the resolvability and resiliency of large, interconnected BHCs. As of June 30, 2018, the Corporation's TLAC and long-term debt exceeded our estimated 2019 minimum requirements.

### Stress Buffer Requirements

On April 10, 2018, the Federal Reserve announced a proposal to integrate the annual quantitative assessment of the CCAR program with the buffer requirements in the Basel 3 capital rule by introducing stress buffer requirements as a replacement of the CCAR quantitative objection. Under the Standardized approach, the proposal replaces the existing static 2.5 percent capital conservation buffer with a stress capital buffer, calculated as the decrease in the CET1 capital ratio in the supervisory severely adverse scenario of the modified CCAR stress test plus four quarters of planned common stock dividend payments, floored at 2.5 percent. The static 2.5 percent capital conservation buffer would be retained under the Advanced approaches. The proposal also introduces a stress leverage buffer requirement which would be calculated as the decrease in the Tier 1 leverage ratio in the supervisory severely adverse scenario of the modified CCAR stress test plus four quarters of planned common stock dividends, with no floor. The SLR would not incorporate a stress buffer requirement. The proposal also updates the capital distribution assumptions used in the CCAR stress test to better align with a firm's expected actions in stress, notably removing the assumption that a BHC will carry out all of its planned capital actions under stress. If finalized, the proposal would be effective December 31, 2018, with the first stress buffer requirements generally becoming effective on October 1, 2019.

### Enhanced Supplementary Leverage Ratio Requirements

On April 11, 2018, the Federal Reserve and OCC announced a proposal to modify the enhanced SLR standards applicable to U.S. G-SIBs and their insured depository institution subsidiaries. The proposal replaces the existing 2.0 percent leverage buffer with a leverage buffer tailored to each G-SIB, set at 50 percent of the applicable G-SIB surcharge. This proposal also replaces the current 6.0 percent threshold at which a G-SIB's insured depository institution subsidiaries are considered well capitalized under the PCA framework with a threshold set at 3.0 percent plus 50 percent of the G-SIB surcharge applicable to the subsidiary's G-SIB holding company. Correspondingly, the proposal updates the external TLAC leverage buffer for each G-SIB to 50 percent of the applicable G-SIB surcharge and revises the leverage component of the minimum long-term debt requirements to be 2.5 percent plus 50 percent of the applicable G-SIB surcharge.

### Revisions to Basel 3 to Address Current Expected Credit Loss Accounting

On April 13, 2018, the U.S. banking regulators announced a proposal to address the regulatory capital impact of using the current expected credit loss methodology to measure credit reserves under a new accounting standard which is effective on January 1, 2020. For more information on this standard, see *Note*

1 – *Summary of Significant Accounting Principles* to the Consolidated Financial Statements. The proposal provides an option to phase-in the impact to regulatory capital over a three-year period on a straight-line basis. It also updates the existing regulatory capital framework by creating a new defined term, allowance for credit losses, which would include credit losses on all financial instruments measured at amortized cost with the exception of purchased credit-impaired assets. The proposal continues to allow a limited amount of credit losses to be recognized in Tier 2 capital and maintains the existing limits under the Standardized and Advanced approaches.

### Single-Counterparty Credit Limits

On June 14, 2018, the Federal Reserve published a final rule establishing single-counterparty credit limits (SCCL) for BHCs with total consolidated assets of \$250 billion or more. The SCCL rule is designed to ensure that the maximum possible loss that a BHC could incur due to the default of a single counterparty or a group of connected counterparties would not endanger the BHC's survival, thereby reducing the probability of future financial crises. Beginning January 1, 2020, G-SIBs must calculate SCCL on a daily basis by dividing the aggregate net credit exposure to a given counterparty by the G-SIB's Tier 1 capital, ensuring that exposures to other G-SIBs and nonbank financial institutions regulated by the Federal Reserve do not breach 15 percent of Tier 1 capital and exposures to most other counterparties do not breach 25 percent of Tier 1 capital. Certain exposures, including exposures to the U.S. government, U.S. government-sponsored entities and qualifying central counterparties, are exempt from the credit limits.

### Broker-dealer Regulatory Capital and Securities Regulation

The Corporation's principal U.S. broker-dealer subsidiaries are Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) and Merrill Lynch Professional Clearing Corp (MLPCC). MLPCC is a fully-guaranteed subsidiary of MLPF&S and provides clearing and settlement services. Both entities are subject to the net capital requirements of Securities and Exchange Commission Rule 15c3-1. Both entities are also registered as futures commission merchants and are subject to the Commodity Futures Trading Commission Regulation 1.17.

MLPF&S has elected to compute the minimum capital requirement in accordance with the Alternative Net Capital Requirement as permitted by SEC Rule 15c3-1. At June 30, 2018, MLPF&S's regulatory net capital as defined by Rule 15c3-1 was \$13.5 billion and exceeded the minimum requirement of \$1.8 billion by \$11.7 billion. MLPCC's net capital of \$4.5 billion exceeded the minimum requirement of \$546 million by \$3.9 billion.

In accordance with the Alternative Net Capital Requirements, MLPF&S is required to maintain tentative net capital in excess of \$1.0 billion, net capital in excess of \$500 million and notify the SEC in the event its tentative net capital is less than \$5.0 billion. At June 30, 2018, MLPF&S had tentative net capital and net capital in excess of the minimum and notification requirements.

Merrill Lynch International (MLI), a U.K. investment firm, is regulated by the Prudential Regulation Authority and the Financial Conduct Authority, and is subject to certain regulatory capital requirements. At June 30, 2018, MLI's capital resources were \$35.0 billion, which exceeded the minimum Pillar 1 requirement of \$14.7 billion.

## Liquidity Risk

### Liquidity and Liquidity Risk Management

Our primary liquidity risk management objective is to meet expected or unexpected cash flow and collateral needs while continuing to support our businesses and customers under a range of economic conditions. To achieve that objective, we analyze and monitor our liquidity risk under expected and stressed conditions, maintain liquidity and access to diverse funding sources, including our stable deposit base, and seek to align liquidity-related incentives and risks.

We define liquidity as readily available assets, limited to cash and high-quality, liquid, unencumbered securities that we can use to meet our contractual and contingent financial obligations as those obligations arise. We manage our liquidity position through line of business and ALM activities, as well as through our legal entity funding strategy, on both a forward and current (including intraday) basis under both expected and stressed conditions. We believe that a centralized approach to funding and liquidity management enhances our ability to monitor liquidity requirements, maximizes access to funding sources, minimizes borrowing costs and facilitates timely responses to liquidity events. For more information regarding global funding and liquidity risk management, as well as our liquidity sources, liquidity arrangements, contingency planning and credit ratings discussed below, see Liquidity Risk in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

#### NB Holdings Corporation

We have intercompany arrangements with certain key subsidiaries under which we transferred certain of our parent company assets, and agreed to transfer certain additional parent company assets not needed to satisfy anticipated near-term expenditures, to NB Holdings Corporation, a wholly-owned holding company subsidiary (NB Holdings). The parent company is expected to continue to have access to the same flow of dividends, interest and other amounts of cash necessary to service its debt, pay dividends and perform other obligations as it would have had if it had not entered into these arrangements and transferred any assets. These arrangements support our preferred single point of entry resolution strategy, under which only the parent company would be resolved under the U.S. Bankruptcy Code.

#### Global Liquidity Sources and Other Unencumbered Assets

Table 13 presents our average global liquidity sources (GLS) for the three months ended June 30, 2018 and December 31, 2017.

**Table 13 Average Global Liquidity Sources**

	Three Months Ended	
	June 30 2018	December 31 2017
(Dollars in billions)		
Parent company and NB Holdings	\$ 74	\$ 79
Bank subsidiaries	393	394
Other regulated entities	45	49
<b>Total Average Global Liquidity Sources</b>	<b>\$ 512</b>	<b>\$ 522</b>

We maintain liquidity available to the Corporation, including the parent company and selected subsidiaries, in the form of cash and high-quality, liquid, unencumbered securities. Typically, parent

company and NB Holdings liquidity is in the form of cash deposited with BANA.

Our bank subsidiaries' liquidity is primarily driven by deposit and lending activity, as well as securities valuation and net debt activity. Liquidity at bank subsidiaries excludes the cash deposited by the parent company and NB Holdings. Our bank subsidiaries can also generate incremental liquidity by pledging a range of unencumbered loans and securities to certain FHLBs and the Federal Reserve Discount Window. The cash we could have obtained by borrowing against this pool of specifically-identified eligible assets was \$311 billion and \$308 billion at June 30, 2018 and December 31, 2017. We have established operational procedures to enable us to borrow against these assets, including regularly monitoring our total pool of eligible loans and securities collateral. Eligibility is defined in guidelines from the FHLBs and the Federal Reserve and is subject to change at their discretion. Due to regulatory restrictions, liquidity generated by the bank subsidiaries can generally be used only to fund obligations within the bank subsidiaries, and transfers to the parent company or nonbank subsidiaries may be subject to prior regulatory approval.

Liquidity held in other regulated entities, comprised primarily of broker-dealer subsidiaries, is primarily available to meet the obligations of that entity and transfers to the parent company or to any other subsidiary may be subject to prior regulatory approval due to regulatory restrictions and minimum requirements. Our other regulated entities also hold unencumbered investment-grade securities and equities that we believe could be used to generate additional liquidity.

Table 14 presents the composition of average GLS for the three months ended June 30, 2018 and December 31, 2017.

**Table 14 Average Global Liquidity Sources Composition**

	Three Months Ended	
	June 30 2018	December 31 2017
(Dollars in billions)		
Cash on deposit	\$ 130	\$ 118
U.S. Treasury securities	60	62
U.S. agency securities and mortgage-backed securities	312	330
Non-U.S. government securities	10	12
<b>Total Average Global Liquidity Sources</b>	<b>\$ 512</b>	<b>\$ 522</b>

Our GLS are substantially the same in composition to what qualifies as High Quality Liquid Assets (HQLA) under the final U.S. Liquidity Coverage Ratio (LCR) rules. However, HQLA for purposes of calculating LCR is not reported at market value, but at a lower value that incorporates regulatory deductions and the exclusion of excess liquidity held at certain subsidiaries. The LCR is calculated as the amount of a financial institution's unencumbered HQLA relative to the estimated net cash outflows the institution could encounter over a 30-day period of significant liquidity stress, expressed as a percentage. Our average consolidated HQLA, on a net basis, was \$434 billion and \$439 billion for the three months ended June 30, 2018 and December 31, 2017. For the same periods, the average consolidated LCR was 122 percent and 125 percent. Our LCR will fluctuate due to normal business flows from customer activity.



### Liquidity Stress Analysis and Time-to-required Funding

We utilize liquidity stress analysis to assist us in determining the appropriate amounts of liquidity to maintain at the parent company and our subsidiaries to meet contractual and contingent cash outflows under a range of scenarios. For more information on our liquidity stress analysis, see Liquidity Risk – Liquidity Stress Analysis and Time-to-required Funding in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

We use a variety of metrics to determine the appropriate amounts of liquidity to maintain at the parent company and our subsidiaries. One metric we use to evaluate the appropriate level of liquidity at the parent company and NB Holdings is "time-to-required funding" (TTF). This debt coverage measure indicates the number of months the parent company can continue to meet its unsecured contractual obligations as they come due using only the parent company and NB Holdings' liquidity sources without issuing any new debt or accessing any additional liquidity sources. We define unsecured contractual obligations for purposes of this metric as maturities of senior or subordinated debt issued or guaranteed by Bank of America Corporation. These include certain unsecured debt instruments, primarily structured liabilities, which we may be required to settle for cash prior to maturity. TTF was 60 months at June 30, 2018 compared to 49 months at December 31, 2017. The increase in TTF was driven by lower contractual debt maturities.

### Diversified Funding Sources

We fund our assets primarily with a mix of deposits, and secured and unsecured liabilities through a centralized, globally coordinated funding approach diversified across products,

programs, markets, currencies and investor groups. We fund a substantial portion of our lending activities through our deposits, which were \$1.31 trillion at both June 30, 2018 and December 31, 2017.

Our trading activities in other regulated entities are primarily funded on a secured basis through securities lending and repurchase agreements and these amounts will vary based on customer activity and market conditions.

During the six months ended June 30, 2018, we issued \$42.5 billion of long-term debt consisting of \$23.3 billion for Bank of America Corporation, substantially all of which was TLAC compliant, \$12.5 billion for Bank of America, N.A. and \$6.7 billion of other debt.

On April 30, 2018, we announced that we submitted redemption notices for 11 series of trust preferred securities with a total carrying value of \$3.1 billion, resulting in the redemption of such trust preferred securities along with the applicable trust common securities (held by the Corporation or its affiliates) on June 6, 2018. Upon redemption of the trust preferred securities and the extinguishment of the related junior subordinated notes issued by the Corporation, we recorded a charge to other income of \$729 million.

Table 15 presents the carrying value of aggregate annual contractual maturities of long-term debt at June 30, 2018. During the six months ended June 30, 2018, we had total long-term debt contractual and non-contractual maturities of \$36.5 billion consisting of \$23.5 billion for Bank of America Corporation, \$5.9 billion for Bank of America, N.A. and \$7.1 billion of other debt.

**Table 15 Long-term Debt by Maturity**

(Dollars in millions)	Remainder of 2018	2019	2020	2021	2022	Thereafter	Total
<b>Bank of America Corporation</b>							
Senior notes	\$ 2,592	\$ 14,941	\$ 10,394	\$ 15,946	\$ 14,959	\$ 83,394	\$ 142,226
Senior structured notes	881	1,400	886	460	1,946	8,222	13,795
Subordinated notes	1,529	1,521	—	360	458	19,946	23,814
Junior subordinated notes	—	—	—	—	—	742	742
<b>Total Bank of America Corporation</b>	<b>5,002</b>	<b>17,862</b>	<b>11,280</b>	<b>16,766</b>	<b>17,363</b>	<b>112,304</b>	<b>180,577</b>
<b>Bank of America, N.A.</b>							
Senior notes	2,221	—	—	—	—	20	2,241
Subordinated notes	—	1	—	—	—	1,602	1,603
Advances from Federal Home Loan Banks	3,002	11,762	10	2	3	106	14,885
Securitizations and other Bank VIEs (1)	—	3,200	3,098	2,773	—	4	9,075
Other	36	170	9	—	1	76	292
<b>Total Bank of America, N.A.</b>	<b>5,259</b>	<b>15,133</b>	<b>3,117</b>	<b>2,775</b>	<b>4</b>	<b>1,808</b>	<b>28,096</b>
<b>Other debt</b>							
Structured liabilities	2,905	3,207	2,004	903	642	7,462	17,123
Nonbank VIEs (1)	15	47	—	—	—	728	790
Other	—	—	—	—	—	9	9
<b>Total other debt</b>	<b>2,920</b>	<b>3,254</b>	<b>2,004</b>	<b>903</b>	<b>642</b>	<b>8,199</b>	<b>17,922</b>
<b>Total long-term debt</b>	<b>\$ 13,181</b>	<b>\$ 36,249</b>	<b>\$ 16,401</b>	<b>\$ 20,444</b>	<b>\$ 18,009</b>	<b>\$ 122,311</b>	<b>\$ 226,595</b>

(1) Represents the total long-term debt included in the liabilities of consolidated variable interest entities (VIEs) on the Consolidated Balance Sheet.

Table 16 presents our long-term debt by major currency at June 30, 2018 and December 31, 2017.

**Table 16 Long-term Debt by Major Currency**

(Dollars in millions)	June 30 2018	December 31 2017
U.S. dollar	\$ 174,430	\$ 175,623
Euro	36,440	35,481
British pound	5,604	7,016
Canadian dollar	2,994	1,966
Australian dollar	2,943	3,046
Japanese yen	2,933	2,993
Other	1,251	1,277
<b>Total long-term debt</b>	<b>\$ 226,595</b>	<b>\$ 227,402</b>

Total long-term debt decreased \$807 million during the six months ended June 30, 2018, due to maturities, including the redemption of the trust preferred securities, changes in the fair value of hedged debt and revaluation of non-U.S. debt, partially offset by issuances. We may, from time to time, purchase outstanding debt instruments in various transactions, depending on market conditions, liquidity and other factors. In addition, our other regulated entities may make markets in our debt instruments to provide liquidity for investors. For information on funding and liquidity risk management, see Liquidity Risk – Liquidity Stress Analysis and Time-to-required Funding on page 27, and for more information regarding long-term debt funding, see *Note 11 – Long-term Debt* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

We use derivative transactions to manage the duration, interest rate and currency risks of our borrowings, considering the characteristics of the assets they are funding. For more information on our ALM activities, see Interest Rate Risk Management for the Banking Book on page 50.

We may also issue unsecured debt in the form of structured notes for client purposes, certain of which qualify as TLAC eligible debt. During the six months ended June 30, 2018, we issued \$3.3 billion of structured notes, which are debt obligations that pay investors returns linked to other debt or equity securities, indices, currencies or commodities. We typically hedge the returns we are obligated to pay on these liabilities with derivatives and/or investments in the underlying instruments, so that from a funding

perspective, the cost is similar to our other unsecured long-term debt. We could be required to settle certain structured note obligations for cash or other securities prior to maturity under certain circumstances, which we consider for liquidity planning purposes. We believe, however, that a portion of such borrowings will remain outstanding beyond the earliest put or redemption date.

Substantially all of our senior and subordinated debt obligations contain no provisions that could trigger a requirement for an early repayment, require additional collateral support, result in changes to terms, accelerate maturity or create additional financial obligations upon an adverse change in our credit ratings, financial ratios, earnings, cash flows or stock price.

#### Credit Ratings

Credit ratings and outlooks are opinions expressed by rating agencies on our creditworthiness and that of our obligations or securities, including long-term debt, short-term borrowings, preferred stock and other securities, including asset securitizations. Table 17 presents the Corporation's current long-term/short-term senior debt ratings and outlooks expressed by the rating agencies.

On June 21, 2018, Fitch Ratings (Fitch) upgraded the Corporation's long-term senior debt rating to A+ from A as part of the agency's latest review of 12 Global Trading & Investment Banks, citing our sustained and improved risk-adjusted earnings, lower risk appetite relative to peers, overall franchise strength and solid liquidity position. The Corporation's short-term debt rating of F1 was affirmed. Additionally, Fitch upgraded the long- and short-term debt ratings of the Corporation's rated U.S. subsidiaries, including BANA and MLPF&S, and upgraded the long-term debt ratings of our rated international subsidiaries, including MLI. The outlook at Fitch remains stable for all long-term debt ratings.

The ratings from Standard & Poor's Global Ratings and Moody's Investors Service have not changed from those disclosed in the Corporation's 2017 Annual Report on Form 10-K.

For more information on the additional collateral and termination payments that could be required in connection with certain over-the-counter (OTC) derivative contracts and other trading agreements as a result of a credit rating downgrade, see *Note 3 – Derivatives* to the Consolidated Financial Statements herein and Item 1A. Risk Factors of the Corporation's 2017 Annual Report on Form 10-K

**Table 17 Senior Debt Ratings**

	Moody's Investors Service			Standard & Poor's Global Ratings			Fitch Ratings		
	Long-term	Short-term	Outlook	Long-term	Short-term	Outlook	Long-term	Short-term	Outlook
Bank of America Corporation	A3	P-2	Stable	A-	A-2	Stable	A+	F1	Stable
Bank of America, N.A.	Aa3	P-1	Stable	A+	A-1	Stable	AA-	F1+	Stable
Merrill Lynch, Pierce, Fenner & Smith Incorporated	NR	NR	NR	A+	A-1	Stable	AA-	F1+	Stable
Merrill Lynch International	NR	NR	NR	A+	A-1	Stable	A+	F1	Stable

NR = not rated

## Credit Risk Management

For information on our credit risk management activities, see Consumer Portfolio Credit Risk Management below, Commercial Portfolio Credit Risk Management on page 38, Non-U.S. Portfolio on page 44, Provision for Credit Losses on page 45, Allowance for Credit Losses on page 45, and Note 5 – Outstanding Loans and Leases and Note 6 – Allowance for Credit Losses to the Consolidated Financial Statements.

### 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, and establishing 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 and are a component of our consumer credit risk management process. These models are used in part to assist in making both new and ongoing credit decisions, as well as portfolio management strategies, including authorizations and line management, collection practices and strategies, and determination of the allowance for loan and lease losses and allocated capital for credit risk.

### Consumer Credit Portfolio

Improvement in home prices continued during the three and six months ended June 30, 2018 resulting in improved credit quality and lower credit losses in the home equity portfolio, partially offset by seasoning and loan growth in the U.S. credit card portfolio compared to the same periods in 2017.

Improved credit quality and continued loan balance run-off in the consumer real estate portfolio, partially offset by seasoning

within the U.S. credit card portfolio, drove a \$243 million decrease in the consumer allowance for loan and lease losses during the six months ended June 30, 2018 to \$5.1 billion at June 30, 2018. For additional information, see Allowance for Credit Losses on page 45.

For more information on our accounting policies regarding delinquencies, nonperforming status, charge-offs and troubled debt restructurings (TDRs) for the consumer portfolio, see Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

Table 18 presents our outstanding consumer loans and leases, consumer nonperforming loans and accruing consumer loans past due 90 days or more. Nonperforming loans do not include past due consumer credit card loans, other unsecured loans and in general, consumer loans not secured by real estate (bankruptcy loans are included) as these loans are typically charged off no later than the end of the month in which the loan becomes 180 days past due. Real estate-secured past due consumer loans that are insured by the Federal Housing Administration (FHA) or individually insured under long-term standby agreements with Fannie Mae and Freddie Mac (collectively, the fully-insured loan portfolio) are reported as accruing as opposed to nonperforming since the principal repayment is insured. Fully-insured loans included in accruing past due 90 days or more are primarily from our repurchases of delinquent FHA loans pursuant to our servicing agreements with the Government National Mortgage Association (GNMA). Additionally, nonperforming loans and accruing balances past due 90 days or more do not include the PCI loan portfolio or loans accounted for under the fair value option even though the customer may be contractually past due.

For more information on PCI loans, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35 and Note 5 – Outstanding Loans and Leases to the Consolidated Financial Statements.

**Table 18** Consumer Credit Quality

	Outstandings		Nonperforming		Accruing Past Due 90 Days or More	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)						
Residential mortgage (1)	\$ 207,564	\$ 203,811	\$ 2,140	\$ 2,476	\$ 2,483	\$ 3,230
Home equity	53,587	57,744	2,452	2,644	—	—
U.S. credit card	94,790	96,285	n/a	n/a	865	900
Direct/Indirect consumer (2)	92,621	96,342	47	46	35	40
Other consumer (3)	167	166	—	—	—	—
<b>Consumer loans excluding loans accounted for under the fair value option</b>	<b>\$ 448,729</b>	<b>\$ 454,348</b>	<b>\$ 4,639</b>	<b>\$ 5,166</b>	<b>\$ 3,383</b>	<b>\$ 4,170</b>
Loans accounted for under the fair value option (4)	848	928				
<b>Total consumer loans and leases</b>	<b>\$ 449,577</b>	<b>\$ 455,276</b>				
Percentage of outstanding consumer loans and leases (5)	n/a	n/a	1.03%	1.14%	0.75%	0.92%
Percentage of outstanding consumer loans and leases, excluding PCI and fully-insured loan portfolios (5)	n/a	n/a	1.11	1.23	0.22	0.22

(1) Residential mortgage loans accruing past due 90 days or more are fully-insured loans. At June 30, 2018 and December 31, 2017, residential mortgage includes \$1.7 billion and \$2.2 billion of loans on which interest had been curtailed by the FHA, and therefore were no longer accruing interest, although principal was still insured, and \$742 million and \$1.0 billion of loans on which interest was still accruing.

(2) Outstandings include auto and specialty lending loans and leases of \$50.2 billion and \$52.4 billion, unsecured consumer lending loans of \$410 million and \$469 million, U.S. securities-based lending loans of \$38.4 billion and \$39.8 billion, non-U.S. consumer loans of \$2.8 billion and \$3.0 billion and other consumer loans of \$769 million and \$684 million at June 30, 2018 and December 31, 2017.

(3) Substantially all of other consumer at June 30, 2018 and December 31, 2017 is consumer overdrafts.

(4) Consumer loans accounted for under the fair value option include residential mortgage loans of \$489 million and \$567 million and home equity loans of \$359 million and \$361 million at June 30, 2018 and December 31, 2017. For more information on the fair value option, see Note 15 – Fair Value Option to the Consolidated Financial Statements.

(5) Excludes consumer loans accounted for under the fair value option. At June 30, 2018 and December 31, 2017, \$21 million and \$26 million of loans accounted for under the fair value option were past due 90 days or more and not accruing interest.

n/a = not applicable

Table 19 presents net charge-offs and related ratios for consumer loans and leases.

**Table 19 Consumer Net Charge-offs and Related Ratios**

(Dollars in millions)	Net Charge-offs (1)				Net Charge-off Ratios (1, 2)			
	Three Months Ended June 30		Six Months Ended June 30		Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017	2018	2017	2018	2017
Residential mortgage	\$ 7	\$ (19)	\$ 1	\$ (2)	0.01%	(0.04)%	—%	—%
Home equity	—	50	33	114	—	0.32	0.12	0.36
U.S. credit card	739	640	1,440	1,246	3.17	2.87	3.09	2.81
Non-U.S. credit card (3)	—	31	—	75	—	1.89	—	1.90
Direct/Indirect consumer	41	33	100	81	0.18	0.14	0.21	0.17
Other consumer	43	16	86	64	n/m	n/m	n/m	n/m
<b>Total</b>	<b>\$ 830</b>	<b>\$ 751</b>	<b>\$ 1,660</b>	<b>\$ 1,578</b>	<b>0.74</b>	<b>0.67</b>	<b>0.75</b>	<b>0.71</b>

(1) Net charge-offs exclude write-offs in the PCI loan portfolio. For more information, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35.

(2) Net charge-off ratios are calculated as annualized net charge-offs divided by average outstanding loans and leases excluding loans accounted for under the fair value option.

(3) Represents net charge-offs related to the non-U.S. credit card loan portfolio, which was sold during the second quarter of 2017.

n/m = not meaningful

Net charge-offs, as shown in Tables 19 and 20, exclude write-offs in the PCI loan portfolio of \$14 million and \$31 million in residential mortgage and \$22 million and \$40 million in home equity for the three and six months ended June 30, 2018 compared to \$41 million and \$50 million in residential mortgage and \$14 million and \$38 million in home equity for the same periods in 2017. Net charge-off ratios including the PCI write-offs were 0.04 percent and 0.03 percent for residential mortgage and 0.17 percent and 0.27 percent for home equity for the three and six months ended June 30, 2018 compared to 0.04 percent and 0.05 percent for residential mortgage and 0.41 percent and 0.48 percent for home equity for the same periods in 2017. For additional information on PCI write-offs, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35.

Table 20 presents outstandings, nonperforming balances, net charge-offs, allowance for loan and lease losses and provision for loan and lease losses for the core and non-core portfolios within the consumer real estate portfolio. We categorize consumer real

estate loans as core and non-core based on loan and customer characteristics such as origination date, product type, loan-to-value (LTV), Fair Isaac Corporation (FICO) score and delinquency status consistent with our current consumer and mortgage servicing strategy. Generally, loans that were originated after January 1, 2010, qualified under government-sponsored enterprise underwriting guidelines, or otherwise met our underwriting guidelines in place in 2015 are characterized as core loans. All other loans are generally characterized as non-core loans and represent run-off portfolios. Core loans as reported in Table 20 include loans held in the *Consumer Banking* and *GWIM* segments, as well as loans held for ALM activities in *All Other*. For more information, see Note 5 – *Outstanding Loans and Leases* to the Consolidated Financial Statements.

As shown in Table 20, outstanding core consumer real estate loans increased \$5.3 billion during the six months ended June 30, 2018 driven by an increase of \$8.0 billion in residential mortgage, partially offset by a \$2.7 billion decrease in home equity.

**Table 20 Consumer Real Estate Portfolio (1)**

(Dollars in millions)	Outstandings		Nonperforming		Net Charge-offs (2)			
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	Three Months Ended June 30		Six Months Ended June 30	
					2018	2017	2018	2017
<b>Core portfolio</b>								
Residential mortgage	\$ 184,662	\$ 176,618	\$ 1,052	\$ 1,087	\$ 4	\$ (2)	\$ 13	\$ 2
Home equity	41,525	44,245	1,077	1,079	14	28	37	59
<b>Total core portfolio</b>	<b>226,187</b>	<b>220,863</b>	<b>2,129</b>	<b>2,166</b>	<b>18</b>	<b>26</b>	<b>50</b>	<b>61</b>
<b>Non-core portfolio</b>								
Residential mortgage	22,902	27,193	1,088	1,389	3	(17)	(12)	(4)
Home equity	12,062	13,499	1,375	1,565	(14)	22	(4)	55
<b>Total non-core portfolio</b>	<b>34,964</b>	<b>40,692</b>	<b>2,463</b>	<b>2,954</b>	<b>(11)</b>	<b>5</b>	<b>(16)</b>	<b>51</b>
<b>Consumer real estate portfolio</b>								
Residential mortgage	207,564	203,811	2,140	2,476	7	(19)	1	(2)
Home equity	53,587	57,744	2,452	2,644	—	50	33	114
<b>Total consumer real estate portfolio</b>	<b>\$ 261,151</b>	<b>\$ 261,555</b>	<b>\$ 4,592</b>	<b>\$ 5,120</b>	<b>\$ 7</b>	<b>\$ 31</b>	<b>\$ 34</b>	<b>\$ 112</b>

	Allowance for Loan and Lease Losses		Provision for Loan and Lease Losses			
	June 30 2018	December 31 2017	Three Months Ended June 30		Six Months Ended June 30	
			2018	2017	2018	2017
<b>Core portfolio</b>						
Residential mortgage	\$ 213	\$ 218	\$ 1	\$ (10)	\$ 9	\$ (11)
Home equity	306	367	(23)	2	(24)	(9)
<b>Total core portfolio</b>	<b>519</b>	<b>585</b>	<b>(22)</b>	<b>(8)</b>	<b>(15)</b>	<b>(20)</b>
<b>Non-core portfolio</b>						
Residential mortgage	340	483	(39)	(85)	(125)	(52)
Home equity	507	652	(60)	(77)	(109)	(169)
<b>Total non-core portfolio</b>	<b>847</b>	<b>1,135</b>	<b>(99)</b>	<b>(162)</b>	<b>(234)</b>	<b>(221)</b>
<b>Consumer real estate portfolio</b>						
Residential mortgage	553	701	(38)	(95)	(116)	(63)
Home equity	813	1,019	(83)	(75)	(133)	(178)
<b>Total consumer real estate portfolio</b>	<b>\$ 1,366</b>	<b>\$ 1,720</b>	<b>\$ (121)</b>	<b>\$ (170)</b>	<b>\$ (249)</b>	<b>\$ (241)</b>

(1) Outstandings and nonperforming loans exclude loans accounted for under the fair value option. Consumer loans accounted for under the fair value option included residential mortgage loans of \$489 million and \$567 million and home equity loans of \$359 million and \$361 million at June 30, 2018 and December 31, 2017. For more information, see Note 15 – Fair Value Option to the Consolidated Financial Statements.

(2) Net charge-offs exclude write-offs in the PCI loan portfolio. For more information, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35.

We believe that the presentation of information adjusted to exclude the impact of the PCI loan portfolio, the fully-insured loan portfolio and loans accounted for under the fair value option is more representative of the ongoing operations and credit quality of the business. As a result, in the following tables and discussions of the residential mortgage and home equity portfolios, we exclude loans accounted for under the fair value option and provide information that excludes the impact of the PCI loan portfolio and the fully-insured loan portfolio in certain credit quality statistics. We separately disclose information on the PCI loan portfolio on page 35.

### Residential Mortgage

The residential mortgage portfolio made up the largest percentage of our consumer loan portfolio at 46 percent of consumer loans and leases at June 30, 2018. At June 30, 2018, 41 percent of the residential mortgage portfolio was in *Consumer Banking* and 36 percent was in *GWIM*. The remaining portion was in *All Other*

and was comprised of originated loans, purchased loans used in our overall ALM activities, delinquent FHA loans repurchased pursuant to our servicing agreements with GNMA as well as loans repurchased related to our representations and warranties.

Outstanding balances in the residential mortgage portfolio increased \$3.8 billion during the six months ended June 30, 2018 as retention of new originations was partially offset by loan sales of \$2.6 billion and run-off.

At June 30, 2018 and December 31, 2017, the residential mortgage portfolio included \$21.5 billion and \$23.7 billion of outstanding fully-insured loans. At June 30, 2018 and December 31, 2017, \$15.5 billion and \$17.4 billion had FHA insurance with the remainder protected by long-term standby agreements. At June 30, 2018 and December 31, 2017, \$4.3 billion and \$5.2 billion of the FHA-insured loan population were repurchases of delinquent FHA loans pursuant to our servicing agreements with GNMA.

Table 21 presents certain residential mortgage key credit statistics on both a reported basis and excluding the PCI loan portfolio and the fully-insured loan portfolio. Additionally, in the "Reported Basis" columns in the following table, accruing balances past due and nonperforming loans do not include the

PCI loan portfolio, in accordance with our accounting policies, even though the customer may be contractually past due. As such, the following discussion presents the residential mortgage portfolio excluding the PCI loan portfolio and the fully-insured loan portfolio. For more information on the PCI loan portfolio, see page 35.

**Table 21 Residential Mortgage – Key Credit Statistics**

	Reported Basis (1)		Excluding Purchased Credit-impaired and Fully-insured Loans (1)	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)				
Outstandings	\$ 207,564	\$ 203,811	\$ 178,813	\$ 172,069
Accruing past due 30 days or more	4,717	5,987	1,262	1,521
Accruing past due 90 days or more	2,483	3,230	—	—
Nonperforming loans	2,140	2,476	2,140	2,476
<b>Percent of portfolio</b>				
Refreshed LTV greater than 90 but less than or equal to 100	2%	3%	2%	2%
Refreshed LTV greater than 100	2	2	1	1
Refreshed FICO below 620	5	6	2	3
2006 and 2007 vintages (2)	8	10	7	8

	Reported Basis				Excluding Purchased Credit-impaired and Fully-insured Loans			
	Three Months Ended June 30		Six Months Ended June 30		Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017	2018	2017	2018	2017
Net charge-off ratio (3)	0.01%	(0.04)%	—%	—%	0.01%	(0.05)%	—%	—%

(1) Outstandings, accruing past due, nonperforming loans and percentages of portfolio exclude loans accounted for under the fair value option.

(2) These vintages of loans accounted for \$649 million, or 30 percent, and \$825 million or 33 percent, of nonperforming residential mortgage loans at June 30, 2018 and December 31, 2017.

(3) Net charge-off ratios are calculated as annualized net charge-offs divided by average outstanding loans excluding loans accounted for under the fair value option.

Nonperforming residential mortgage loans decreased \$336 million during the six months ended June 30, 2018 driven by sales of \$339 million. Of the nonperforming residential mortgage loans at June 30, 2018, \$792 million, or 37 percent, were current on contractual payments. Loans accruing past due 30 days or more decreased \$259 million due to seasonal declines.

Net charge-offs increased \$26 million to \$7 million and increased \$3 million to \$1 million for the three and six months ended June 30, 2018 compared to the same periods in 2017 primarily due to lower recoveries. During the three months ended June 30, 2018, we sold primarily non-core residential mortgage loans with a carrying value of \$1.2 billion, previously transferred to held for sale, and recognized a gain of \$572 million that was recorded in other income. The sale of these loans in part drove the lower recoveries during the three months ended June 30, 2018.

Loans with a refreshed LTV greater than 100 percent represented one percent of the residential mortgage loan portfolio at both June 30, 2018 and December 31, 2017. Of the loans with a refreshed LTV greater than 100 percent, 99 percent were performing at June 30, 2018 compared to 98 percent at December 31, 2017. Loans with a refreshed LTV greater than 100 percent reflect loans where the outstanding carrying value of the loan is greater than the most recent valuation of the property securing the loan. The majority of these loans have a refreshed LTV greater than 100 percent due to home price deterioration since 2006, partially offset by subsequent appreciation.

Of the \$178.8 billion in total residential mortgage loans outstanding at June 30, 2018, as shown in Table 22, 31 percent were originated as interest-only loans. The outstanding balance of interest-only residential mortgage loans that have entered the amortization period was \$10.2 billion, or 18 percent, at June 30, 2018. Residential mortgage loans that have entered the amortization period generally have experienced a higher rate of early stage delinquencies and nonperforming status compared to the residential mortgage portfolio as a whole. At June 30, 2018, \$280 million, or three percent, of outstanding interest-only residential mortgages that had entered the amortization period were accruing past due 30 days or more compared to \$1.3 billion, or one percent, for the entire residential mortgage portfolio. In addition, at June 30, 2018, \$438 million, or four percent, of outstanding interest-only residential mortgage loans that had entered the amortization period were nonperforming, of which \$166 million were contractually current, compared to \$2.1 billion, or one percent, for the entire residential mortgage portfolio, of which \$792 million were contractually current. Loans that have yet to enter the amortization period in our interest-only residential mortgage portfolio are primarily well-collateralized loans to our wealth management clients and have an interest-only period of three to ten years. More than 90 percent of these loans that have yet to enter the amortization period will not be required to make a fully-amortizing payment until 2020 or later.

Table 22 presents outstandings, nonperforming loans and net charge-offs by certain state concentrations for the residential mortgage portfolio. The Los Angeles-Long Beach-Santa Ana Metropolitan Statistical Area (MSA) within California represented 16 percent of outstandings at both June 30, 2018 and December 31, 2017. In the New York area, the New York-Northern New Jersey-Long Island MSA made up 13 percent of outstandings at both June 30, 2018 and December 31, 2017.

**Table 22 Residential Mortgage State Concentrations**

(Dollars in millions)	Outstandings (1)		Nonperforming (1)		Net Charge-offs (2)			
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	Three Months Ended June 30		Six Months Ended June 30	
					2018	2017	2018	2017
California	\$ 71,577	\$ 68,455	\$ 366	\$ 433	\$ (7)	\$ (21)	\$ (17)	\$ (25)
New York (3)	18,249	17,239	220	227	2	1	6	(1)
Florida (3)	11,147	10,880	270	280	—	(3)	(5)	(2)
Texas	7,527	7,237	122	126	2	—	3	1
New Jersey (3)	6,466	6,099	107	130	3	1	5	2
Other	63,847	62,159	1,055	1,280	7	3	9	23
<b>Residential mortgage loans (4)</b>	<b>\$ 178,813</b>	<b>\$ 172,069</b>	<b>\$ 2,140</b>	<b>\$ 2,476</b>	<b>\$ 7</b>	<b>\$ (19)</b>	<b>\$ 1</b>	<b>\$ (2)</b>
Fully-insured loan portfolio	21,544	23,741						
Purchased credit-impaired residential mortgage loan portfolio (5)	7,207	8,001						
<b>Total residential mortgage loan portfolio</b>	<b>\$ 207,564</b>	<b>\$ 203,811</b>						

(1) Outstandings and nonperforming loans exclude loans accounted for under the fair value option.

(2) Net charge-offs exclude \$14 million and \$31 million of write-offs in the residential mortgage PCI loan portfolio for the three and six months ended June 30, 2018 compared to \$41 million and \$50 million for the same periods in 2017. For more information on PCI write-offs, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35.

(3) In these states, foreclosure requires a court order following a legal proceeding (judicial states).

(4) Amounts exclude the PCI residential mortgage and fully-insured loan portfolios.

(5) At both June 30, 2018 and December 31, 2017, 47 percent of PCI residential mortgage loans were in California. There were no other significant single state concentrations.

### Home Equity

At June 30, 2018, the home equity portfolio made up 12 percent of the consumer portfolio and is comprised of home equity lines of credit (HELOCs), home equity loans and reverse mortgages.

At June 30, 2018, our HELOC portfolio had an outstanding balance of \$47.5 billion, or 89 percent of the total home equity portfolio, compared to \$51.2 billion, or 89 percent, at December 31, 2017. HELOCs generally have an initial draw period of 10 years, and after the initial draw period ends, the loans generally convert to 15-year amortizing loans.

At June 30, 2018, our home equity loan portfolio had an outstanding balance of \$3.8 billion, or seven percent of the total home equity portfolio, compared to \$4.4 billion, or seven percent, at December 31, 2017. Home equity loans are almost all fixed-rate loans with amortizing payment terms of 10 to 30 years, and of the \$3.8 billion at June 30, 2018, 58 percent have 25- to 30-year terms. At June 30, 2018, our reverse mortgage portfolio had an outstanding balance of \$2.3 billion, or four percent of the total home equity portfolio, compared to \$2.1 billion, or four percent, at December 31, 2017. We no longer originate reverse mortgages.

At June 30, 2018, 70 percent of the home equity portfolio was in *Consumer Banking*, 23 percent was in *All Other* and the remainder of the portfolio was primarily in *GWIM*. Outstanding balances in the home equity portfolio decreased \$4.2 billion during the six months ended June 30, 2018 primarily due to paydowns and charge-offs outpacing new originations and draws on existing lines. Of the total home equity portfolio at June 30, 2018 and December 31, 2017, \$18.0 billion and \$18.7 billion, or 34 percent and 32 percent, were in first-lien positions (35 percent and 34 percent excluding the PCI home equity portfolio). At June 30, 2018, outstanding balances in the home equity portfolio that were in a second-lien or more junior-lien position and where we also held the first-lien loan totaled \$8.5 billion, or 17 percent of our total home equity portfolio excluding the PCI loan portfolio.

Unused HELOCs totaled \$43.4 billion at June 30, 2018 compared to \$44.2 billion at December 31, 2017. The decrease was primarily due to accounts reaching the end of their draw period, which automatically eliminates open line exposure, and customers choosing to close accounts. Both of these more than offset the impact of new production. The HELOC utilization rate was 52 percent and 54 percent at June 30, 2018 and December 31, 2017.

Table 23 presents certain home equity portfolio key credit statistics on both a reported basis and excluding the PCI loan portfolio. Additionally, in the "Reported Basis" columns in the following table, accruing balances past due 30 days or more and nonperforming loans do not include the PCI loan portfolio, in accordance with our accounting policies, even though the customer may be contractually past due. As such, the following discussion presents the home equity portfolio excluding the PCI loan portfolio. For more information on the PCI loan portfolio, see page 35.

**Table 23** Home Equity – Key Credit Statistics

	Reported Basis (1)		Excluding Purchased Credit-impaired Loans (1)	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)				
Outstandings	\$ 53,587	\$ 57,744	\$ 51,209	\$ 55,028
Accruing past due 30 days or more (2)	427	502	427	502
Nonperforming loans (2)	2,452	2,644	2,452	2,644
<b>Percent of portfolio</b>				
Refreshed CLTV greater than 90 but less than or equal to 100	3%	3%	3%	3%
Refreshed CLTV greater than 100	4	5	4	4
Refreshed FICO below 620	6	6	6	6
2006 and 2007 vintages (3)	27	29	24	27

	Reported Basis				Excluding Purchased Credit-impaired Loans			
	Three Months Ended June 30		Six Months Ended June 30		Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017	2018	2017	2018	2017
Net charge-off ratio (4)	—%	0.32%	0.12%	0.36%	—%	0.34%	0.13%	0.38%

(1) Outstandings, accruing past due, nonperforming loans and percentages of the portfolio exclude loans accounted for under the fair value option.

(2) Accruing past due 30 days or more includes \$50 million and \$67 million and nonperforming loans includes \$298 million and \$344 million of loans where we serviced the underlying first lien at June 30, 2018 and December 31, 2017.

(3) These vintages of loans have higher refreshed combined loan-to-value (CLTV) ratios and accounted for 53 percent and 52 percent of nonperforming home equity loans at June 30, 2018 and December 31, 2017, and \$8 million and \$37 million of net charge-offs for the three and six months ended June 30, 2018, and \$46 million and \$103 million for the same periods in 2017.

(4) Net charge-off ratios are calculated as annualized net charge-offs divided by average outstanding loans excluding loans accounted for under the fair value option.

Nonperforming outstanding balances in the home equity portfolio decreased \$192 million during the six months ended June 30, 2018 as outflows, including \$47 million of sales, outpaced new inflows. Of the nonperforming home equity portfolio at June 30, 2018, \$1.3 billion, or 55 percent, were current on contractual payments. Nonperforming loans that are contractually current primarily consist of collateral-dependent TDRs, including those that have been discharged in Chapter 7 bankruptcy, junior-lien loans where the underlying first lien is 90 days or more past due, as well as loans that have not yet demonstrated a sustained period of payment performance following a TDR. In addition, \$653 million, or 27 percent, of nonperforming home equity loans were 180 days or more past due and had been written down to the estimated fair value of the collateral, less costs to sell. Accruing loans that were 30 days or more past due decreased \$75 million during the six months ended June 30, 2018.

In some cases, the junior-lien home equity outstanding balance that we hold is performing, but the underlying first lien is not. For outstanding balances in the home equity portfolio on which we service the first-lien loan, we are able to track whether the first-lien loan is in default. For loans where the first lien is serviced by a third party, we utilize credit bureau data to estimate the delinquency status of the first lien. For certain loans, we utilize a third-party vendor to combine credit bureau and public record data to better link a junior-lien loan with the underlying first-lien loan. At June 30, 2018, we estimate that \$728 million of current and \$112 million of 30 to 89 days past due junior-lien loans were behind a delinquent first-lien loan. We service the first-lien loans on \$144 million of these combined amounts, with the remaining \$696 million serviced by third parties. Of the \$840 million of current to 89 days past due junior-lien loans, based on available credit bureau data and our own internal servicing data, we estimate that approximately \$266 million had first-lien loans that were 90 days or more past due.

Net charge-offs decreased \$50 million to \$0 and \$81 million to \$33 million for the three and six months ended June 30, 2018 compared to the same periods in 2017 driven by favorable portfolio trends due in part to improvement in home prices and the U.S. economy.

Outstanding balances with a refreshed CLTV greater than 100 percent comprised four percent of the home equity portfolio at both June 30, 2018 and December 31, 2017. Outstanding balances with a refreshed CLTV greater than 100 percent reflect loans where our loan and available line of credit combined with any outstanding senior liens against the property are equal to or greater than the most recent valuation of the property securing the loan. Depending on the value of the property, there may be collateral in excess of the first lien that is available to reduce the severity of loss on the second lien. Of those outstanding balances with a refreshed CLTV greater than 100 percent, 95 percent of the customers were current on their home equity loan and 91 percent of second-lien loans with a refreshed CLTV greater than 100 percent were current on both their second-lien and underlying first-lien loans at June 30, 2018.

Of the \$51.2 billion in total home equity portfolio outstandings at June 30, 2018, as shown in Table 24, 23 percent require interest-only payments. The outstanding balance of HELOCs that have reached the end of their draw period and have entered the amortization period was \$18.0 billion at June 30, 2018. The HELOCs that have entered the amortization period have experienced a higher percentage of early stage delinquencies and nonperforming status when compared to the HELOC portfolio as a whole. At June 30, 2018, \$315 million, or two percent, of outstanding HELOCs that had entered the amortization period were accruing past due 30 days or more. In addition, at June 30, 2018, \$2.1 billion, or 11 percent, of outstanding HELOCs that had entered the amortization period were nonperforming, of which \$1.2 billion were contractually current. Loans in our HELOC portfolio



generally have an initial draw period of 10 years and three percent of these loans will enter the amortization period during the remainder of 2018 and will be required to make fully-amortizing payments. We communicate to contractually current customers more than a year prior to the end of their draw period to inform them of the potential change to the payment structure before entering the amortization period, and provide payment options to customers prior to the end of the draw period.

Although we do not actively track how many of our home equity customers pay only the minimum amount due on their home equity loans and lines, we can infer some of this information through a review of our HELOC portfolio that we service and that is still in its revolving period (i.e., customers may draw on and repay their line of credit, but are generally only required to pay interest on a monthly basis). During the three months ended June 30, 2018, 27 percent of these customers with an outstanding balance did not pay any principal on their HELOCs.

Table 24 presents outstandings, nonperforming balances and net charge-offs by certain state concentrations for the home equity portfolio. In the New York area, the New York-Northern New Jersey-Long Island MSA made up 13 percent of the outstanding home equity portfolio at both June 30, 2018 and December 31, 2017. For the three and six months ended June 30, 2018, loans within this MSA contributed \$5 million and \$16 million of net charge-offs within the home equity portfolio compared to \$15 million and \$28 million for the same periods in 2017. The Los Angeles-Long Beach-Santa Ana MSA within California made up 11 percent of the outstanding home equity portfolio at both June 30, 2018 and December 31, 2017. For the three and six months ended June 30, 2018, loans within this MSA contributed net recoveries of \$6 million and \$11 million within the home equity portfolio compared to net recoveries of \$5 million and \$8 million for the same periods in 2017.

**Table 24 Home Equity State Concentrations**

(Dollars in millions)	Outstandings (1)		Nonperforming (1)		Net Charge-offs (2)			
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	Three Months Ended June 30		Six Months Ended June 30	
					2018	2017	2018	2017
California	\$ 14,120	\$ 15,145	\$ 703	\$ 766	\$ (14)	\$ (8)	\$ (21)	\$ (15)
Florida (3)	5,805	6,308	405	411	3	10	13	21
New Jersey (3)	4,172	4,546	183	191	5	11	14	21
New York (3)	3,896	4,195	243	252	2	9	8	17
Massachusetts	2,564	2,751	84	92	1	1	3	2
Other	20,652	22,083	834	932	3	27	16	68
<b>Home equity loans (4)</b>	<b>\$ 51,209</b>	<b>\$ 55,028</b>	<b>\$ 2,452</b>	<b>\$ 2,644</b>	<b>\$ —</b>	<b>\$ 50</b>	<b>\$ 33</b>	<b>\$ 114</b>
<b>Purchased credit-impaired home equity portfolio (5)</b>	<b>2,378</b>	<b>2,716</b>						
<b>Total home equity loan portfolio</b>	<b>\$ 53,587</b>	<b>\$ 57,744</b>						

(1) Outstandings and nonperforming loans exclude loans accounted for under the fair value option.

(2) Net charge-offs exclude \$22 million and \$40 million of write-offs in the home equity PCI loan portfolio for the three and six months ended June 30, 2018 compared to \$14 million and \$38 million for the same periods in 2017. For more information on PCI write-offs, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio.

(3) In these states, foreclosure requires a court order following a legal proceeding (judicial states).

(4) Amount excludes the PCI home equity portfolio.

(5) For both June 30, 2018 and December 31, 2017, 28 percent of PCI home equity loans were in California. There were no other significant single state concentrations.

### Purchased Credit-impaired Loan 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 the accounting standards for PCI loans. For more information, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements of the

Corporation's 2017 Annual Report on Form 10-K and *Note 5 – Outstanding Loans and Leases* to the Consolidated Financial Statements herein.

Table 25 presents the unpaid principal balance, carrying value, related valuation allowance and the net carrying value as a percentage of the unpaid principal balance for the PCI loan portfolio.

**Table 25 Purchased Credit-impaired Loan Portfolio**

(Dollars in millions)	Unpaid Principal Balance	Gross Carrying Value	Related Valuation Allowance	Carrying Value Net of Valuation Allowance	Percent of Unpaid Principal Balance	
						June 30, 2018
Residential mortgage (1)	\$ 7,315	\$ 7,207	\$ 56	\$ 7,151	97.76 %	
Home equity	2,444	2,378	135	2,243	91.78	
<b>Total purchased credit-impaired loan portfolio</b>	<b>\$ 9,759</b>	<b>\$ 9,585</b>	<b>\$ 191</b>	<b>\$ 9,394</b>	<b>96.26</b>	
	December 31, 2017					
Residential mortgage (1)	\$ 8,117	\$ 8,001	\$ 117	\$ 7,884	97.13 %	
Home equity	2,787	2,716	172	2,544	91.28	
<b>Total purchased credit-impaired loan portfolio</b>	<b>\$ 10,904</b>	<b>\$ 10,717</b>	<b>\$ 289</b>	<b>\$ 10,428</b>	<b>95.63</b>	

(1) At June 30, 2018 and December 31, 2017, pay option loans had an unpaid principal balance of \$1.2 billion and \$1.4 billion and a carrying value of \$2 billion and \$1.4 billion. This includes \$1.1 billion and \$1.2 billion of loans that were credit-impaired upon acquisition and \$102 million and \$141 million of loans that were 90 days or more past due at June 30, 2018 and December 31, 2017. The total unpaid principal balance of pay option loans with accumulated negative amortization was \$104 million and \$160 million, including \$5 million and \$9 million of negative amortization at June 30, 2018 and December 31, 2017.

The total PCI unpaid principal balance decreased \$1.1 billion, or 11 percent, during the six months ended June 30, 2018 primarily driven by payoffs, paydowns, write-offs and PCI loan sales with a carrying value of \$160 million compared to sales of \$204 million for the same period in 2017.

Of the unpaid principal balance of \$9.8 billion at June 30, 2018, \$8.8 billion, or 90 percent, was current based on the contractual terms, \$569 million, or six percent, was in early stage delinquency, and \$291 million was 180 days or more past due, including \$234 million of first-lien mortgages and \$57 million of home equity loans.

The PCI residential mortgage loan and home equity portfolios represented 75 percent and 25 percent of the total PCI loan portfolio at June 30, 2018. Those loans to borrowers with a refreshed FICO score below 620 represented 23 percent and 17 percent of the PCI residential mortgage loan and home equity portfolios at June 30, 2018. Residential mortgage and home equity loans with a refreshed LTV or CLTV greater than 90 percent, after consideration of purchase accounting adjustments and the related valuation allowance, represented 13 percent and 32 percent of their respective PCI loan portfolios and 14 percent and 35 percent based on the unpaid principal balance at June 30, 2018.

#### U.S. Credit Card

At June 30, 2018, 97 percent of the U.S. credit card portfolio was managed in *Consumer Banking* with the remainder in *GWIM*. Outstandings in the U.S. credit card portfolio decreased \$1.5 billion to \$94.8 billion during the six months ended June 30, 2018 due to paydowns and a seasonal decline in purchase volume, as well as a portfolio transfer of approximately \$600 million to held for sale in the first quarter. Net charge-offs increased \$99 million to \$739 million and \$194 million to \$1.4 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017 due to portfolio seasoning and loan growth. U.S. credit card loans 30 days or more past due and still accruing interest decreased \$152 million during the six months ended June 30, 2018 and loans 90 days or more past due and still accruing interest decreased \$35 million, driven by seasonal volume declines.

Unused lines of credit for U.S. credit card totaled \$335.7 billion and \$326.3 billion at June 30, 2018 and December 31, 2017. The increase was driven by a seasonal decrease in line utilization due to a decrease in transaction volume as well as account growth and lines of credit increases.

Table 26 presents certain state concentrations for the U.S. credit card portfolio.

**Table 26 U.S. Credit Card State Concentrations**

(Dollars in millions)	Outstandings		Accruing Past Due 90 Days or More		Net Charge-offs			
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	Three Months Ended June 30		Six Months Ended June 30	
					2018	2017	2018	2017
California	\$ 15,201	\$ 15,254	\$ 135	\$ 136	\$ 122	\$ 103	\$ 238	\$ 199
Florida	8,305	8,359	99	94	91	70	168	137
Texas	7,414	7,451	71	76	59	50	115	97
New York	5,872	5,977	83	91	72	51	142	96
Washington	4,310	4,350	20	20	17	14	32	28
Other	53,688	54,894	457	483	378	352	745	689
<b>Total U.S. credit card portfolio</b>	<b>\$ 94,790</b>	<b>\$ 96,285</b>	<b>\$ 865</b>	<b>\$ 900</b>	<b>\$ 739</b>	<b>\$ 640</b>	<b>\$ 1,440</b>	<b>\$ 1,246</b>

#### Direct/Indirect Consumer

At June 30, 2018, 55 percent of the direct/indirect portfolio was included in *Consumer Banking* (consumer auto and specialty lending – automotive, marine, aircraft, recreational vehicle loans and consumer personal loans) and 45 percent was included in *GWIM* (principally securities-based lending loans).

Outstandings in the direct/indirect portfolio decreased \$3.7 billion to \$92.6 billion during the six months ended June 30, 2018

primarily due to declines in our auto portfolio as paydowns outpaced originations and in securities-based lending due to lower draws and utilizations. Net charge-offs increased \$8 million to \$41 million and \$19 million to \$100 million for the three and six months ended June 30, 2018 compared to the same periods in 2017 due largely to portfolio seasoning.

Table 27 presents certain state concentrations for the direct/indirect consumer loan portfolio.

**Table 27 Direct/Indirect State Concentrations**

(Dollars in millions)	Outstandings		Accruing Past Due 90 Days or More		Net Charge-offs			
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	Three Months Ended June 30		Six Months Ended June 30	
					2018	2017	2018	2017
California	\$ 12,110	\$ 12,897	\$ 4	\$ 3	\$ 5	\$ 3	\$ 11	\$ 7
Florida	10,502	11,184	5	5	9	7	19	16
Texas	10,190	10,676	5	5	7	6	16	17
New York	6,498	6,557	4	2	2	—	5	1
Georgia	3,387	3,511	2	4	3	3	8	7
Other	49,934	51,517	15	21	15	14	41	33
<b>Total direct/indirect loan portfolio</b>	<b>\$ 92,621</b>	<b>\$ 96,342</b>	<b>\$ 35</b>	<b>\$ 40</b>	<b>\$ 41</b>	<b>\$ 33</b>	<b>\$ 100</b>	<b>\$ 81</b>

### Nonperforming Consumer Loans, Leases and Foreclosed Properties Activity

Table 28 presents nonperforming consumer loans, leases and foreclosed properties activity for the three and six months ended June 30, 2018 and 2017. For more information on nonperforming loans, see Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K and Note 5 – Outstanding Loans and Leases to the Consolidated Financial Statements herein. During the six months ended June 30, 2018, nonperforming consumer loans declined \$527 million to \$4.6 billion primarily driven by loan sales of \$386 million.

At June 30, 2018, \$1.4 billion, or 31 percent, of nonperforming loans were 180 days or more past due and had been written down to their estimated property value less costs to sell. In addition, at June 30, 2018, \$2.2 billion, or 47 percent, of nonperforming consumer loans were modified and are now current after successful trial periods, or are current loans classified as nonperforming loans in accordance with applicable policies.

Foreclosed properties increased \$27 million to \$263 million during the six months ended June 30, 2018 as additions outpaced

liquidations. PCI loans are excluded from nonperforming loans as these loans were written down to fair value at the acquisition date; however, once we acquire the underlying real estate upon foreclosure of the delinquent PCI loan, it is included in foreclosed properties. Certain delinquent government-guaranteed loans (principally FHA-insured loans) are excluded from our nonperforming loans and foreclosed properties activity as we expect we will be reimbursed once the property is conveyed to the guarantor for principal and, up to certain limits, costs incurred during the foreclosure process and interest accrued during the holding period.

We classify junior-lien home equity loans as nonperforming when the first-lien loan becomes 90 days past due even if the junior-lien loan is performing. At June 30, 2018 and December 31, 2017, \$266 million and \$330 million of such junior-lien home equity loans were included in nonperforming loans and leases.

Nonperforming loans also include certain loans that have been modified in TDRs where economic concessions have been granted to borrowers experiencing financial difficulties. Nonperforming TDRs, excluding those modified loans in the PCI loan portfolio, are included in Table 28.

**Table 28 Nonperforming Consumer Loans, Leases and Foreclosed Properties Activity (1)**

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
<b>Nonperforming loans and leases, beginning of period</b>	\$ 4,906	\$ 5,546	\$ 5,166	\$ 6,004
Additions	599	682	1,411	1,500
Reductions:				
Paydowns and payoffs	(261)	(262)	(506)	(558)
Sales	(117)	(119)	(386)	(261)
Returns to performing status (2)	(336)	(368)	(700)	(754)
Charge-offs	(114)	(167)	(261)	(341)
Transfers to foreclosed properties	(38)	(53)	(83)	(110)
Transfers (to) from loans held-for-sale	—	23	(2)	(198)
Total net reductions to nonperforming loans and leases	(267)	(264)	(527)	(722)
<b>Total nonperforming loans and leases, June 30 (3)</b>	<b>4,639</b>	<b>5,282</b>	<b>4,639</b>	<b>5,282</b>
<b>Foreclosed properties, June 30 (4)</b>	<b>263</b>	<b>285</b>	<b>263</b>	<b>285</b>
<b>Nonperforming consumer loans, leases and foreclosed properties, June 30</b>	<b>\$ 4,902</b>	<b>\$ 5,567</b>	<b>\$ 4,902</b>	<b>\$ 5,567</b>
Nonperforming consumer loans and leases as a percentage of outstanding consumer loans and leases (5)	1.03 %	1.18 %		
Nonperforming consumer loans, leases and foreclosed properties as a percentage of outstanding consumer loans, leases and foreclosed properties (5)	1.09	1.24		

(1) Balances do not include nonperforming LHFS of \$0 and \$4 million and nonaccruing TDRs removed from the PCI loan portfolio prior to January 1, 2010 of \$17 million and \$22 million at June 30, 2018 and 2017 as well as loans accruing past due 90 days or more as presented in Table 18 and Note 5 – Outstanding Loans and Leases to the Consolidated Financial Statements.

(2) Consumer loans may be returned 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) At June 30, 2018, 31 percent of nonperforming loans were 180 days or more past due.

(4) Foreclosed property balances do not include properties insured by certain government-guaranteed loans, principally FHA-insured, of \$573 million and \$1.0 billion at June 30, 2018 and 2017.

(5) Outstanding consumer loans and leases exclude loans accounted for under the fair value option.

Table 29 presents TDRs for the consumer real estate portfolio. Performing TDR balances are excluded from nonperforming loans and leases in Table 28.

**Table 29 Consumer Real Estate Troubled Debt Restructurings**

(Dollars in millions)	June 30, 2018			December 31, 2017		
	Nonperforming	Performing	Total	Nonperforming	Performing	Total
Residential mortgage (1, 2, 3)	\$ 1,353	\$ 6,291	\$ 7,644	\$ 1,535	\$ 8,163	\$ 9,698
Home equity (4)	1,420	1,406	2,826	1,457	1,399	2,856
<b>Total consumer real estate troubled debt restructurings</b>	<b>\$ 2,773</b>	<b>\$ 7,697</b>	<b>\$ 10,470</b>	<b>\$ 2,992</b>	<b>\$ 9,562</b>	<b>\$ 12,554</b>

(1) At June 30, 2018 and December 31, 2017, residential mortgage TDRs deemed collateral dependent totaled \$1.8 billion and \$2.8 billion, and included \$1.1 billion and \$1.2 billion of loans classified as nonperforming and \$715 million and \$1.6 billion of loans classified as performing.

(2) Residential mortgage performing TDRs included \$3.2 billion and \$3.7 billion of loans that were fully-insured at June 30, 2018 and December 31, 2017.

(3) During the three months ended June 30, 2018, previously impaired residential mortgage loans with a carrying value of \$1.2 billion were sold, resulting in a gain of \$572 million recorded in other income.

(4) Home equity TDRs deemed collateral dependent totaled \$1.6 billion and included \$1.2 billion of loans classified as nonperforming at both June 30, 2018 and December 31, 2017, and \$381 million and \$388 million of loans classified as performing.

In addition to modifying consumer real estate loans, we work with customers who are experiencing financial difficulty by modifying credit card and other consumer loans. Credit card and other consumer loan modifications generally involve a reduction in the customer's interest rate on the account and placing the customer on a fixed payment plan not exceeding 60 months, all of which are considered TDRs (the renegotiated TDR portfolio).

Modifications of credit card and other consumer loans are made through renegotiation programs utilizing direct customer contact, but may also utilize external renegotiation programs. The renegotiated TDR portfolio is excluded in large part from Table 28 as substantially all of the loans remain on accrual status until either charged off or paid in full. At June 30, 2018 and December 31, 2017, our renegotiated TDR portfolio was \$517 million and \$490 million, of which \$448 million and \$426 million were current or less than 30 days past due under the modified terms. The increase in the renegotiated TDR portfolio was primarily driven by new renegotiated enrollments outpacing the run off of existing portfolios. For more information on the renegotiated TDR portfolio, see *Note 5 – Outstanding Loans and Leases* to the Consolidated Financial Statements.

### Commercial Portfolio Credit Risk Management

Commercial credit risk is evaluated and managed with the 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, customer relationship and loan size. We also review, measure and manage commercial real estate loans by geographic location and property type. In addition, within our non-U.S. portfolio, we evaluate exposures by region and by country. Tables 34, 37 and 41 summarize our concentrations. We also utilize syndications of exposure to third parties, loan sales, hedging and other risk

mitigation techniques to manage the size and risk profile of the commercial credit portfolio. For more information on our industry concentrations, see *Commercial Portfolio Credit Risk Management – Industry Concentrations* on page 42 and Table 37.

For more information on our accounting policies regarding nonperforming status, net charge-offs and delinquencies for the commercial portfolio, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K

### Commercial Credit Portfolio

During the six months ended June 30, 2018, credit quality among large corporate borrowers was strong, and there was continued improvement in the energy portfolio. Credit quality of commercial real estate borrowers in most sectors remained stable with conservative LTV ratios, stable market rents and vacancy rates that remain low.

Total commercial utilized credit exposure increased \$4.3 billion during the six months ended June 30, 2018 primarily driven by increases in derivative assets and loans and leases, partially offset by decreases in LHFS. The utilization rate for loans and leases, standby letters of credit (SBLCs) and financial guarantees, and commercial letters of credit, in the aggregate, was 59 percent at both June 30, 2018 and December 31, 2017.

Table 30 presents commercial credit exposure by type for utilized, unfunded and total binding committed credit exposure. Commercial utilized credit exposure includes SBLCs and financial guarantees and commercial letters of credit that have been issued and for which we are legally bound to advance funds under prescribed conditions during a specified time period, and excludes exposure related to trading account assets. Although funds have not yet been advanced, these exposure types are considered utilized for credit risk management purposes.

**Table 30 Commercial Credit Exposure by Type**

	Commercial Utilized (1)		Commercial Unfunded (2, 3, 4)		Total Commercial Committed	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)						
Loans and leases (5)	\$ 492,524	\$ 487,748	\$ 367,893	\$ 364,743	\$ 860,417	\$ 852,491
Derivative assets (6)	45,210	37,762	—	—	45,210	37,762
Standby letters of credit and financial guarantees	33,242	34,517	505	863	33,747	35,380
Debt securities and other investments	26,871	28,161	4,499	4,864	31,370	33,025
Loans held-for-sale	4,796	10,257	15,810	9,742	20,606	19,999
Commercial letters of credit	1,476	1,467	284	155	1,760	1,622
Other	939	888	—	—	939	888
<b>Total</b>	<b>\$ 605,058</b>	<b>\$ 600,800</b>	<b>\$ 388,991</b>	<b>\$ 380,367</b>	<b>\$ 994,049</b>	<b>\$ 981,167</b>

(1) Commercial utilized exposure includes loans of \$5.4 billion and \$4.8 billion and issued letters of credit with a notional amount of \$167 million and \$232 million accounted for under the fair value option at June 30, 2018 and December 31, 2017.

(2) Commercial unfunded exposure includes commitments accounted for under the fair value option with a notional amount of \$3.2 billion and \$4.6 billion at June 30, 2018 and December 31, 2017.

(3) Excludes unused business card lines, which are not legally binding.

(4) Includes the notional amount of unfunded legally binding lending commitments net of amounts distributed (i.e., syndicated or participated) to other financial institutions. The distributed amounts were \$10.7 billion and \$11.0 billion at June 30, 2018 and December 31, 2017.

(5) Includes credit risk exposure associated with assets under operating lease arrangements of \$6.3 billion at both June 30, 2018 and December 31, 2017.

(6) Derivative assets are carried at fair value, reflect the effects of legally enforceable master netting agreements and have been reduced by cash collateral of \$33.3 billion and \$34.6 billion at June 30, 2018 and December 31, 2017. Not reflected in utilized and committed exposure is additional non-cash derivative collateral held of \$36.1 billion and \$26.2 billion at June 30, 2018 and December 31, 2017, which consists primarily of other marketable securities.

Outstanding commercial loans and leases increased \$4.8 billion during the six months ended June 30, 2018 primarily due to growth in U.S. commercial loans. The allowance for loan and lease losses for the commercial portfolio decreased \$100 million to \$4.9 billion at June 30, 2018. For more information, see *Allowance for Credit Losses* on page 45. Table 31 presents our commercial loans and leases portfolio and related credit quality information at June 30, 2018 and December 31, 2017.

**Table 31 Commercial Credit Quality**

	Outstandings		Nonperforming		Accruing Past Due 90 Days or More	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)						
Commercial and industrial:						
U.S. commercial	\$ 289,741	\$ 284,836	\$ 881	\$ 814	\$ 221	\$ 144
Non-U.S. commercial	94,450	97,792	170	299	—	3
Total commercial and industrial	384,191	382,628	1,051	1,113	221	147
Commercial real estate (1)	61,073	58,298	117	112	—	4
Commercial lease financing	21,399	22,116	34	24	12	19
	466,663	463,042	1,202	1,249	233	170
U.S. small business commercial (2)	14,205	13,649	56	55	73	75
Commercial loans excluding loans accounted for under the fair value option	480,868	476,691	1,258	1,304	306	245
Loans accounted for under the fair value option (3)	5,379	4,782	25	43	—	—
<b>Total commercial loans and leases</b>	<b>\$ 486,247</b>	<b>\$ 481,473</b>	<b>\$ 1,283</b>	<b>\$ 1,347</b>	<b>\$ 306</b>	<b>\$ 245</b>

(1) Includes U.S. commercial real estate of \$57.1 billion and \$54.8 billion and non-U.S. commercial real estate of \$4.0 billion and \$3.5 billion at June 30, 2018 and December 31, 2017.

(2) Includes card-related products.

(3) Commercial loans accounted for under the fair value option include U.S. commercial of \$3.5 billion and \$2.6 billion and non-U.S. commercial of \$1.9 billion and \$2.2 billion at June 30, 2018 and December 31, 2017. For more information on the fair value option, see Note 15 – Fair Value Option to the Consolidated Financial Statements.

Table 32 presents net charge-offs and related ratios for our commercial loans and leases for the three and six months ended June 30, 2018 and 2017.

**Table 32 Commercial Net Charge-offs and Related Ratios**

	Net Charge-offs				Net Charge-off Ratios (1)			
	Three Months Ended June 30		Six Months Ended June 30		Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017	2018	2017	2018	2017
(Dollars in millions)								
Commercial and industrial:								
U.S. commercial	\$ 78	\$ 52	\$ 102	\$ 96	0.11%	0.08%	0.07%	0.07%
Non-U.S. commercial	19	46	23	61	0.08	0.21	0.05	0.14
Total commercial and industrial	97	98	125	157	0.10	0.11	0.07	0.09
Commercial real estate	4	5	1	1	0.03	0.03	—	—
Commercial lease financing	1	1	—	1	0.01	0.01	—	0.01
	102	104	126	159	0.09	0.09	0.05	0.07
U.S. small business commercial	64	53	121	105	1.82	1.60	1.75	1.60
<b>Total commercial</b>	<b>\$ 166</b>	<b>\$ 157</b>	<b>\$ 247</b>	<b>\$ 264</b>	<b>0.14</b>	<b>0.14</b>	<b>0.10</b>	<b>0.12</b>

(1) Net charge-off ratios are calculated as annualized net charge-offs divided by average outstanding loans and leases excluding loans accounted for under the fair value option.

Table 33 presents commercial reservable criticized utilized exposure by loan type. Criticized exposure corresponds to the Special Mention, Substandard and Doubtful asset categories as defined by regulatory authorities. Total commercial reservable criticized utilized exposure decreased \$1.2 billion, or nine percent, during the six months ended June 30, 2018 driven by broad-based improvements including the energy sector. At June 30, 2018 and December 31, 2017, 87 percent and 84 percent of commercial reservable criticized utilized exposure was secured.

**Table 33 Commercial Reservable Criticized Utilized Exposure (1, 2)**

	June 30, 2018		December 31, 2017	
(Dollars in millions)				
Commercial and industrial:				
U.S. commercial	\$ 8,837	2.78%	\$ 9,891	3.15%
Non-U.S. commercial	1,887	1.88	1,766	1.70
Total commercial and industrial	10,724	2.57	11,657	2.79
Commercial real estate	451	0.72	566	0.95
Commercial lease financing	421	1.97	581	2.63
	11,596	2.31	12,804	2.57
U.S. small business commercial	761	5.36	759	5.56
<b>Total commercial reservable criticized utilized exposure (1)</b>	<b>\$ 12,357</b>	<b>2.40</b>	<b>\$ 13,563</b>	<b>2.65</b>

(1) Total commercial reservable criticized utilized exposure includes loans and leases of \$11.5 billion and \$12.5 billion and commercial letters of credit of \$831 million and \$1.1 billion at June 30, 2018 and December 31, 2017.

(2) Percentages are calculated as commercial reservable criticized utilized exposure divided by total commercial reservable utilized exposure for each exposure category.

### Commercial and Industrial

Commercial and industrial loans include U.S. commercial and non-U.S. commercial portfolios.

#### U.S. Commercial

At June 30, 2018, 69 percent of the U.S. commercial loan portfolio, excluding small business, was managed in *Global Banking*, 17 percent in *Global Markets*, 12 percent in *GWIM* (generally business-purpose loans for high net worth clients) and the remainder primarily in *Consumer Banking*. U.S. commercial loans increased \$4.9 billion, or two percent, during the six months ended June 30, 2018 due to growth across most of the commercial businesses. Reservable criticized balances decreased \$1.1 billion, or 11 percent, driven by broad-based improvements including the energy sector.

#### Non-U.S. Commercial

At June 30, 2018, 81 percent of the non-U.S. commercial loan portfolio was managed in *Global Banking* and 19 percent in *Global Markets*. Outstanding loans decreased \$3.3 billion during the six months ended June 30, 2018 driven by paydowns primarily in *Global Markets*. Nonperforming loans and leases decreased \$129 million, or 43 percent, due primarily to sales. For additional information on the non-U.S. commercial portfolio, see Non-U.S. Portfolio on page 44.

#### Commercial Real Estate

Commercial real estate primarily includes commercial loans and leases secured by non-owner-occupied real estate and is

dependent on the sale or lease of the real estate as the primary source of repayment. The portfolio remains diversified across property types and geographic regions. California represented the largest state concentration at 23 percent of the commercial real estate loans and leases portfolio at both June 30, 2018 and December 31, 2017. The commercial real estate portfolio is predominantly managed in *Global Banking* and consists of loans made primarily to public and private developers, and commercial real estate firms. Outstanding loans increased \$2.8 billion, or five percent, during the six months ended June 30, 2018 to \$61.1 billion due to new originations outpacing paydowns.

For the three and six months ended June 30, 2018 we continued to see low default rates and solid credit quality in both the residential and non-residential portfolios. We use a number of proactive risk mitigation initiatives to reduce adversely rated exposure in the commercial real estate portfolio, including transfers of deteriorating exposures to management by independent special asset officers and the pursuit of loan restructurings or asset sales to achieve the best results for our customers and the Corporation.

Nonperforming commercial real estate loans and foreclosed properties decreased \$26 million, or 16 percent, during the six months ended June 30, 2018 to \$138 million at June 30, 2018, and reservable criticized balances decreased \$115 million, or 20 percent, to \$451 million primarily due to loan paydowns.

Table 34 presents outstanding commercial real estate loans by geographic region, based on the geographic location of the collateral, and by property type.

**Table 34 Outstanding Commercial Real Estate Loans**

(Dollars in millions)	June 30 2018	December 31 2017
<b>By Geographic Region</b>		
California	\$ 14,129	\$ 13,607
Northeast	10,665	10,072
Southwest	7,332	6,970
Southeast	5,625	5,487
Midwest	3,929	3,769
Florida	3,724	3,170
Midsouth	3,291	2,962
Illinois	2,885	3,263
Northwest	2,439	2,657
Non-U.S.	3,999	3,538
Other (1)	3,055	2,803
<b>Total outstanding commercial real estate loans</b>	<b>\$ 61,073</b>	<b>\$ 58,298</b>
<b>By Property Type</b>		
<b>Non-residential</b>		
Office	\$ 18,024	\$ 16,718
Shopping centers / Retail	8,604	8,825
Multi-family rental	8,283	8,280
Hotels / Motels	7,020	6,344
Industrial / Warehouse	5,597	6,070
Unsecured	3,163	2,187
Multi-use	2,293	2,771
Land and land development	136	160
Other	6,320	5,485
<b>Total non-residential</b>	<b>59,440</b>	<b>56,840</b>
<b>Residential</b>	<b>1,633</b>	<b>1,458</b>
<b>Total outstanding commercial real estate loans</b>	<b>\$ 61,073</b>	<b>\$ 58,298</b>

(1) Includes unsecured loans to real estate investment trusts and national home builders whose portfolios of properties span multiple geographic regions and properties in the states of Colorado, Utah, Hawaii, Wyoming and Montana.

#### U.S. Small Business Commercial

The U.S. small business commercial loan portfolio is comprised of small business card loans and small business loans managed in *Consumer Banking*. Credit card-related products were 51 percent and 50 percent of the U.S. small business commercial portfolio at June 30, 2018 and December 31, 2017. Of the U.S. small business commercial net charge-offs, 92 percent and 94 percent were credit card-related products for the three and six months ended June 30, 2018 compared to 89 percent and 88 percent for the same periods in 2017.

## Nonperforming Commercial Loans, Leases and Foreclosed Properties Activity

Table 35 presents the nonperforming commercial loans, leases and foreclosed properties activity during the three and six months ended June 30, 2018 and 2017. Nonperforming loans do not include loans accounted for under the fair value option. During the six months ended June 30, 2018, nonperforming commercial loans and leases decreased \$46 million to \$1.3 billion. At June 30,

2018, 88 percent of commercial nonperforming loans, leases and foreclosed properties were secured and 47 percent were contractually current. Commercial nonperforming loans were carried at 86 percent of their unpaid principal balance before consideration of the allowance for loan and lease losses as the carrying value of these loans has been reduced to the estimated property value less costs to sell.

**Table 35 Nonperforming Commercial Loans, Leases and Foreclosed Properties Activity (1, 2)**

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
<b>Nonperforming loans and leases, beginning of period</b>	\$ 1,472	\$ 1,728	\$ 1,304	\$ 1,703
Additions	244	288	680	760
Reductions:				
Paydowns	(193)	(266)	(362)	(533)
Sales	(50)	(33)	(74)	(55)
Returns to performing status (3)	(91)	(86)	(118)	(140)
Charge-offs	(112)	(85)	(160)	(167)
Transfers to foreclosed properties	—	(5)	—	(27)
Transfers to loans held-for-sale	(12)	(21)	(12)	(21)
Total net reductions to nonperforming loans and leases	(214)	(208)	(46)	(183)
<b>Total nonperforming loans and leases, June 30</b>	<b>1,258</b>	<b>1,520</b>	<b>1,258</b>	<b>1,520</b>
<b>Foreclosed properties, June 30</b>	<b>21</b>	<b>40</b>	<b>21</b>	<b>40</b>
<b>Nonperforming commercial loans, leases and foreclosed properties, June 30</b>	<b>\$ 1,279</b>	<b>\$ 1,560</b>	<b>\$ 1,279</b>	<b>\$ 1,560</b>
Nonperforming commercial loans and leases as a percentage of outstanding commercial loans and leases (4)	0.26%	0.33%		
Nonperforming commercial loans, leases and foreclosed properties as a percentage of outstanding commercial loans, leases and foreclosed properties (4)	0.27	0.34		

(1) Balances do not include nonperforming LHFS of \$220 million and \$264 million at June 30, 2018 and 2017.

(2) Includes U.S. small business commercial activity. Small business card loans are excluded as they are not classified as nonperforming.

(3) Commercial loans and leases may be returned 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. TDRs are generally classified as performing after a sustained period of demonstrated payment performance.

(4) Outstanding commercial loans exclude loans accounted for under the fair value option.

Table 36 presents our commercial TDRs by product type and performing status. U.S. small business commercial TDRs are comprised of renegotiated small business card loans and small business loans. The renegotiated small business card loans are not classified as nonperforming as they are charged off no later than the end of the month in which the loan becomes 180 days past due. For more information on TDRs, see *Note 5 – Outstanding Loans and Leases* to the Consolidated Financial Statements.

**Table 36 Commercial Troubled Debt Restructurings**

(Dollars in millions)	June 30, 2018			December 31, 2017		
	Nonperforming	Performing	Total	Nonperforming	Performing	Total
Commercial and industrial:						
U.S. commercial	\$ 458	\$ 961	\$ 1,419	\$ 370	\$ 866	\$ 1,236
Non-U.S. commercial	136	233	369	11	219	230
Total commercial and industrial	594	1,194	1,788	381	1,085	1,466
Commercial real estate	17	7	24	38	9	47
Commercial lease financing	2	45	47	5	13	18
	613	1,246	1,859	424	1,107	1,531
U.S. small business commercial	4	17	21	4	15	19
<b>Total commercial troubled debt restructurings</b>	<b>\$ 617</b>	<b>\$ 1,263</b>	<b>\$ 1,880</b>	<b>\$ 428</b>	<b>\$ 1,122</b>	<b>\$ 1,550</b>

## Industry Concentrations

Table 37 presents commercial committed and utilized credit exposure by industry and the total net credit default protection purchased to cover the funded and unfunded portions of certain credit exposures. Our commercial credit exposure is diversified across a broad range of industries. Total commercial committed exposure increased \$12.9 billion, or one percent, during the six months ended June 30, 2018 to \$994.0 billion. The increase in commercial committed exposure was concentrated in the Asset Managers and Funds, Real Estate, Capital Goods, Materials, Commercial Services and Supplies, and Consumer Durables and Apparel industry sectors. Increases were partially offset by reduced exposure to the Food and Staples Retailing, Global Commercial Banks, Retailing, Media, and Government and Public Education industry sectors.

Industry limits are used internally to manage industry concentrations and are based on committed exposure that is 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 Management Risk Committee oversees industry limit governance.

Asset Managers and Funds, our largest industry concentration with committed exposure of \$103.1 billion, increased \$12.0 billion, or 13 percent, during the six months ended June 30, 2018.

The change reflects an increase in exposure to several counterparties.

Real Estate, our second largest industry concentration with committed exposure of \$89.4 billion, increased \$5.6 billion, or seven percent, during the six months ended June 30, 2018. For more information on the commercial real estate and related portfolios, see Commercial Portfolio Credit Risk Management – Commercial Real Estate on page 40.

Capital Goods, our third largest industry concentration with committed exposure of \$75.1 billion, increased \$4.7 billion, or seven percent, during the six months ended June 30, 2018. The increase in committed exposure occurred primarily as a result of increases in large conglomerates, as well as trading companies and distributors.

Our energy-related committed exposure decreased \$1.6 billion, or four percent, during the six months ended June 30, 2018 to \$35.2 billion. Energy sector net charge-offs were \$27 million for the six months ended June 30, 2018 compared to \$26 million for the same period in 2017. Energy sector reservable criticized exposure decreased \$605 million during the six months ended June 30, 2018 to \$1.0 billion due to improvement in credit quality of some borrowers coupled with exposure reductions. The energy allowance for credit losses decreased \$150 million during the six months ended June 30, 2018 to \$410 million.

**Table 37 Commercial Credit Exposure by Industry (1)**

	Commercial Utilized		Total Commercial Committed (2)	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)				
Asset managers and funds	\$ 67,210	\$ 59,190	\$ 103,136	\$ 91,092
Real estate (3)	64,899	61,940	89,400	83,773
Capital goods	39,876	36,705	75,092	70,417
Healthcare equipment and services	35,299	37,780	57,893	57,256
Government and public education	45,827	48,684	55,565	58,067
Finance companies	34,173	34,050	54,010	53,107
Materials	26,261	24,001	50,435	47,386
Retailing	25,689	26,117	45,591	48,796
Consumer services	26,285	27,191	43,913	43,605
Food, beverage and tobacco	24,226	23,252	43,803	42,815
Commercial services and supplies	22,265	22,100	36,834	35,496
Energy	16,181	16,345	35,163	36,765
Media	12,205	19,155	31,296	33,955
Transportation	21,425	21,704	30,054	29,946
Global commercial banks	26,464	29,491	28,465	31,764
Utilities	10,881	11,342	26,884	27,935
Individuals and trusts	18,507	18,549	24,487	25,097
Technology hardware and equipment	9,827	10,728	20,933	22,071
Vehicle dealers	16,400	16,896	19,732	20,361
Pharmaceuticals and biotechnology	7,595	5,653	19,448	18,623
Consumer durables and apparel	9,201	8,859	18,568	17,296
Software and services	7,686	8,562	17,494	18,202
Automobiles and components	7,192	5,988	14,338	13,318
Telecommunication services	7,386	6,389	13,206	13,108
Insurance	6,215	6,411	12,778	12,990
Food and staples retailing	5,222	4,955	11,259	15,589
Religious and social organizations	3,807	4,454	5,587	6,318
Financial markets infrastructure (clearinghouses)	1,372	688	3,164	2,403
Other	5,482	3,621	5,521	3,616
<b>Total commercial credit exposure by industry</b>	<b>\$ 605,058</b>	<b>\$ 600,800</b>	<b>\$ 994,049</b>	<b>\$ 981,167</b>
Net credit default protection purchased on total commitments (4)			\$ (2,506)	\$ (2,129)

(1) Includes U.S. small business commercial exposure.

(2) Includes the notional amount of unfunded legally binding lending commitments net of amounts distributed (i.e., syndicated or participated) to other financial institutions. The distributed amounts were \$10.7 billion and \$11.0 billion at June 30, 2018 and December 31, 2017.

(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 on the borrowers' or counterparties' primary business activity using operating cash flows and primary source of repayment as key factors.

(4) Represents net notional credit protection purchased. For more information, see Commercial Portfolio Credit Risk Management – Risk Mitigation.



## Risk Mitigation

We purchase credit protection to cover the funded portion as well as the unfunded portion of certain credit exposures. To lower the cost of obtaining our desired credit protection levels, we may add credit exposure within an industry, borrower or counterparty group by selling protection.

At June 30, 2018 and December 31, 2017, net notional credit default protection purchased in our credit derivatives portfolio to hedge our funded and unfunded exposures for which we elected the fair value option, as well as certain other credit exposures, was \$2.5 billion and \$2.1 billion. We recorded net gains of \$7 million and net losses of \$10 million for the three and six months ended June 30, 2018 compared to net losses of \$16 million and \$47 million for the same periods in 2017 on these positions. The gains and losses on these instruments were offset by gains and losses on the related exposures. The Value-at-Risk (VaR) results for these exposures are included in the fair value option portfolio information in Table 44. For more information, see Trading Risk Management on page 48.

Tables 38 and 39 present the maturity profiles and the credit exposure debt ratings of the net credit default protection portfolio at June 30, 2018 and December 31, 2017.

**Table 38 Net Credit Default Protection by Maturity**

	June 30 2018	December 31 2017
Less than or equal to one year	37%	42%
Greater than one year and less than or equal to five years	62	58
Greater than five years	1	—
<b>Total net credit default protection</b>	<b>100%</b>	<b>100%</b>

**Table 39 Net Credit Default Protection by Credit Exposure Debt Rating**

	Net Notional (1)		Percent of Total		Net Notional (1)	Percent of Total	
	June 30, 2018		December 31, 2017				
(Dollars in millions)							
<b>Ratings (2, 3)</b>							
A	\$	(575)	22.9%		\$	(280)	13.2%
BBB		(447)	17.8			(459)	21.6
BB		(928)	37.0			(893)	41.9
B		(394)	15.7			(403)	18.9
CCC and below		(144)	5.7			(84)	3.9
NR (4)		(18)	0.9			(10)	0.5
<b>Total net credit default protection</b>	<b>\$</b>	<b>(2,506)</b>	<b>100.0%</b>		<b>\$</b>	<b>(2,129)</b>	<b>100.0%</b>

(1) Represents net credit default protection purchased.

(2) Ratings are refreshed on a quarterly basis.

(3) Ratings of BBB- or higher are considered to meet the definition of investment grade.

(4) NR is comprised of index positions held and any names that have not been rated.

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 positions intended to profit from directional or relative value changes. We execute the majority of our credit derivative trades in the OTC market with large, multinational financial institutions, including broker-dealers and,

to a lesser degree, with a variety of other investors. Because these transactions are executed in the OTC 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 by the counterparty, where applicable, and/or allow us to take additional protective measures such as early termination of all trades.

Table 40 presents the total contract/notional amount of credit derivatives outstanding and includes both purchased and written credit derivatives. The credit risk amounts are measured as net asset exposure by counterparty, taking into consideration all contracts with the counterparty. For more information on our written credit derivatives, see Note 3 – Derivatives to the Consolidated Financial Statements.

The credit risk amounts discussed above and presented in Table 40 take into consideration the effects of legally enforceable master netting agreements while amounts disclosed in Note 3 – Derivatives to the Consolidated Financial Statements are shown on a gross basis. Credit risk reflects the 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 our overall exposure.

**Table 40 Credit Derivatives**

	Contract/ Notional		Credit Risk	
	June 30, 2018		December 31, 2017	
(Dollars in billions)				
<b>Purchased credit derivatives:</b>				
Credit default swaps	\$	431.6	\$	2.1
Total return swaps/options		75.3		0.5
<b>Total purchased credit derivatives</b>	<b>\$</b>	<b>506.9</b>	<b>\$</b>	<b>2.6</b>
<b>Written credit derivatives:</b>				
Credit default swaps	\$	407.6		n/a
Total return swaps/options		75.3		n/a
<b>Total written credit derivatives</b>	<b>\$</b>	<b>482.9</b>		<b>n/a</b>
<b>Purchased credit derivatives:</b>				
Credit default swaps	\$	470.9	\$	2.4
Total return swaps/options		54.1		0.3
<b>Total purchased credit derivatives</b>	<b>\$</b>	<b>525.0</b>	<b>\$</b>	<b>2.7</b>
<b>Written credit derivatives:</b>				
Credit default swaps	\$	448.2		n/a
Total return swaps/options		55.2		n/a
<b>Total written credit derivatives</b>	<b>\$</b>	<b>503.4</b>		<b>n/a</b>

n/a = not applicable

We record counterparty credit risk valuation adjustments on certain derivative assets, including our credit default protection purchased, in order to properly reflect the credit risk of the counterparty. For more information, see Note 3 – Derivatives to the Consolidated Financial Statements herein and Note 2 – Derivatives to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

## Non-U.S. Portfolio

Our non-U.S. credit and trading portfolios are 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 non-U.S. risk and exposures. In addition to the direct risk of doing business in a country, we also are exposed to indirect country risks (e.g., related to the collateral received on secured financing transactions or related to client clearing activities). These indirect exposures are managed in the normal course of business through credit, market and operational risk governance, rather than through country risk governance.

Table 41 presents our 20 largest non-U.S. country exposures at June 30, 2018. These exposures accounted for 88 percent and 86 percent of our total non-U.S. exposure at June 30, 2018 and December 31, 2017. Net country exposure for these 20 countries increased \$20.7 billion in the six months ended June 30, 2018, primarily driven by increases in the U.K., Japan and France.

Non-U.S. exposure is presented on an internal risk management basis and includes sovereign and non-sovereign credit exposure, securities and other investments issued by or domiciled in countries other than the U.S.

Funded loans and loan equivalents include loans, leases, and other extensions of credit and funds, including letters of credit and due from placements. Unfunded commitments are the undrawn portion of legally binding commitments related to loans and loan equivalents. Net counterparty exposure includes the fair value of derivatives, including the counterparty risk associated with credit default swaps, and secured financing transactions. Securities and other investments are carried at fair value and long securities exposures are netted against short exposures with the same underlying issuer to, but not below, zero. Net country exposure represents country exposure less hedges and credit default protection purchased, net of credit default protection sold. For more information on our non-U.S. credit and trading portfolios, see Non-U.S. Portfolio in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

**Table 41**  
**Top 20 Non-U.S. Countries Exposure**

(Dollars in millions)	Funded Loans and Loan Equivalents	Unfunded Loan Commitments	Net Counterparty Exposure	Securities/ Other Investments	Country Exposure at June 30 2018	Hedges and Credit Default Protection	Net Country Exposure at June 30 2018	Increase (Decrease) from December 31 2017
United Kingdom	\$ 27,911	\$ 15,780	\$ 5,366	\$ 991	\$ 50,048	\$ (4,123)	\$ 45,925	\$ 8,330
Germany	17,979	6,469	1,825	733	27,006	(3,482)	23,524	2,021
Canada	7,378	7,214	1,983	3,062	19,637	(538)	19,099	376
Japan	12,179	2,229	1,426	1,182	17,016	(1,475)	15,541	6,451
China	13,306	307	972	838	15,423	(477)	14,946	(979)
France	5,704	5,774	3,085	3,344	17,907	(3,815)	14,092	3,549
Brazil	7,046	1,118	492	2,128	10,784	(410)	10,374	(342)
Netherlands	6,713	2,586	556	1,359	11,214	(1,302)	9,912	1,445
India	6,631	326	324	2,666	9,947	(56)	9,891	(606)
Australia	5,063	3,622	604	1,093	10,382	(506)	9,876	(713)
Hong Kong	6,688	233	521	1,042	8,484	(39)	8,445	(233)
South Korea	5,459	591	653	1,867	8,570	(264)	8,306	405
Switzerland	4,438	3,058	250	121	7,867	(982)	6,885	1,088
Singapore	3,360	207	541	2,206	6,314	(74)	6,240	(23)
Mexico	3,185	1,898	202	1,165	6,450	(578)	5,872	385
Belgium	2,650	1,036	163	739	4,588	(639)	3,949	(16)
Italy	2,412	1,494	593	1,076	5,575	(1,711)	3,864	(382)
United Arab Emirates	2,687	488	139	63	3,377	(70)	3,307	(80)
Spain	2,351	1,037	209	768	4,365	(1,106)	3,259	151
Taiwan	1,635	33	398	567	2,633	(1)	2,632	(80)
<b>Total top 20 non-U.S. countries exposure</b>	<b>\$ 144,775</b>	<b>\$ 55,500</b>	<b>\$ 20,302</b>	<b>\$ 27,010</b>	<b>\$ 247,587</b>	<b>\$ (21,648)</b>	<b>\$ 225,939</b>	<b>\$ 20,747</b>

A number of economic conditions and geopolitical events have given rise to risk aversion in certain emerging markets. Our largest emerging market country exposure at June 30, 2018 was China, with net exposure of \$14.9 billion, concentrated in large state-owned companies, subsidiaries of multinational corporations and commercial banks.

The outlook for policy direction and therefore economic performance in the EU remains uncertain as a consequence of reduced political cohesion among EU countries. Additionally, we believe that the uncertainty in the U.K.'s ability to negotiate a favorable exit from the EU will further weigh on economic

performance. Our largest EU country exposure at June 30, 2018 was the U.K. with net exposure of \$45.9 billion, an \$8.3 billion increase from December 31, 2017. The increase was driven by corporate loan growth and increased placements with the central bank as part of liquidity management.

Markets have reacted negatively to the escalating tensions between the U.S. and several key trading partners. We are closely monitoring our exposures to tariff-sensitive industries and our international exposure, particularly to countries that account for a large percentage of U.S. trade.

## Provision for Credit Losses

The provision for credit losses increased \$101 million to \$827 million, and \$100 million to \$1.7 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017. The provision for credit losses was \$169 million and \$246 million lower than net charge-offs for the three and six months ended June 30, 2018, resulting in a decrease in the allowance for credit losses. This compared to a reduction of \$182 million and \$281 million in the allowance for credit losses for the three and six months ended June 30, 2017.

The provision for credit losses for the consumer portfolio increased \$151 million to \$757 million, and \$127 million to \$1.5 billion for the three and six months ended June 30, 2018 compared to the same periods in 2017. The increase for both periods was primarily driven by portfolio seasoning and loan growth in the U.S. credit card portfolio, partially offset by the impact of the sale of the non-U.S. consumer credit card business in the second quarter of 2017. Also contributing to the increase in the three-month period was a slowing pace of improvement in the consumer real estate portfolio. Included in the provision is a benefit of \$14 million and \$25 million related to the PCI loan portfolio for the three and six months ended June 30, 2018 compared to a benefit of \$24 million and an expense of \$44 million for the same periods in 2017.

The provision for credit losses for the commercial portfolio, including unfunded lending commitments, decreased \$50 million to \$70 million, and \$27 million to \$156 million for the three and six months ended June 30, 2018 compared to the same periods in 2017. The decrease for both periods was primarily driven by a reduction in energy exposures.

## Allowance for Credit Losses

### Allowance for Loan and Lease Losses

The allowance for loan and lease losses is comprised of two components. The first component covers nonperforming commercial loans and TDRs. The second component covers loans and leases on which there are incurred losses that are not yet individually identifiable, as well as incurred losses that may not be represented in the loss forecast models. We evaluate the adequacy of the allowance for loan and lease losses based on the total of these two components. The allowance for loan and lease losses excludes LHFS and loans accounted for under the fair value option as the fair value reflects a credit risk component. For more information on the allowance for loan and lease losses, see Allowance for Credit Losses in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

During the three and six months ended June 30, 2018, the factors that impacted the allowance for loan and lease losses included improvements in the credit quality of the consumer real estate portfolios driven by continuing improvements in the U.S. economy and strong labor markets, proactive credit risk management initiatives and the impact of high credit quality

originations. Evidencing the improvements in the U.S. economy and strong labor markets are low levels of unemployment and increases in home prices. In addition to these improvements, in the consumer portfolio, nonperforming consumer loans decreased \$527 million in the six months ended June 30, 2018 as returns to performing status, paydowns, loan sales and charge-offs continued to outpace new nonaccrual loans. During the six months ended June 30, 2018, the allowance for loan and lease losses in the commercial portfolio reflected decreased energy reserves primarily driven by reductions in energy exposures including reservable criticized utilized exposures.

The allowance for loan and lease losses for the consumer portfolio, as presented in Table 43, was \$5.1 billion at June 30, 2018, a decrease of \$243 million from December 31, 2017. The decrease was primarily in the consumer real estate portfolio, partially offset by an increase in the U.S. credit card portfolio. The reduction in the allowance for the consumer real estate portfolio was due to improved home prices, lower nonperforming loans and a decrease in loan balances in our non-core portfolio. The increase in the allowance for the U.S. credit card portfolio was driven by portfolio seasoning.

The allowance for loan and lease losses for the commercial portfolio, as presented in Table 43, was \$4.9 billion at June 30, 2018, a decrease of \$100 million from December 31, 2017 driven by decreased energy reserves due to reductions in the higher risk energy sub-sectors. Commercial reservable criticized utilized exposure decreased to \$12.4 billion at June 30, 2018 from \$13.6 billion (to 2.40 percent from 2.65 percent of total commercial reservable utilized exposure) at December 31, 2017, driven by broad-based improvements including the energy sector. Nonperforming commercial loans remained relatively unchanged at \$1.3 billion at both June 30, 2018 and December 31, 2017 (0.26 percent and 0.27 percent of outstanding commercial loans excluding loans accounted for under the fair value option). See Tables 31, 32 and 33 for more details on key commercial credit statistics.

The allowance for loan and lease losses as a percentage of total loans and leases outstanding was 1.08 percent at June 30, 2018 compared to 1.12 percent at December 31, 2017.

### 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 such as letters of credit, financial guarantees, unfunded bankers' acceptances and binding loan commitments, excluding commitments accounted for under the fair value option. For more information on the reserve for unfunded lending commitments, see Allowance for Credit Losses in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

The reserve for unfunded lending commitments was \$787 million at June 30, 2018 compared to \$777 million at December 31, 2017.

Table 42 presents a rollforward of the allowance for credit losses, which includes the allowance for loan and lease losses and the reserve for unfunded lending commitments, for the three and six months ended June 30, 2018 and 2017.

**Table 42 Allowance for Credit Losses**

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(Dollars in millions)				
<b>Allowance for loan and lease losses, beginning of period</b>	\$ 10,260	\$ 11,112	\$ 10,393	\$ 11,237
<b>Loans and leases charged off</b>				
Residential mortgage	(36)	(45)	(92)	(106)
Home equity	(101)	(153)	(219)	(296)
U.S. credit card	(865)	(753)	(1,689)	(1,471)
Non-U.S. credit card (1)	—	(44)	—	(103)
Direct/Indirect consumer	(123)	(108)	(256)	(223)
Other consumer	(45)	(49)	(94)	(103)
<b>Total consumer charge-offs</b>	<b>(1,170)</b>	<b>(1,152)</b>	<b>(2,350)</b>	<b>(2,302)</b>
U.S. commercial (2)	(168)	(141)	(276)	(278)
Non-U.S. commercial	(29)	(46)	(36)	(66)
Commercial real estate	(7)	(8)	(7)	(8)
Commercial lease financing	(4)	(3)	(5)	(6)
<b>Total commercial charge-offs</b>	<b>(208)</b>	<b>(198)</b>	<b>(324)</b>	<b>(358)</b>
<b>Total loans and leases charged off</b>	<b>(1,378)</b>	<b>(1,350)</b>	<b>(2,674)</b>	<b>(2,660)</b>
<b>Recoveries of loans and leases previously charged off</b>				
Residential mortgage	29	64	91	108
Home equity	101	103	186	182
U.S. credit card	126	113	249	225
Non-U.S. credit card (1)	—	13	—	28
Direct/Indirect consumer	82	75	156	142
Other consumer	2	33	8	39
<b>Total consumer recoveries</b>	<b>340</b>	<b>401</b>	<b>690</b>	<b>724</b>
U.S. commercial (3)	26	36	53	77
Non-U.S. commercial	10	—	13	5
Commercial real estate	3	3	6	7
Commercial lease financing	3	2	5	5
<b>Total commercial recoveries</b>	<b>42</b>	<b>41</b>	<b>77</b>	<b>94</b>
<b>Total recoveries of loans and leases previously charged off</b>	<b>382</b>	<b>442</b>	<b>767</b>	<b>818</b>
<b>Net charge-offs</b>	<b>(996)</b>	<b>(908)</b>	<b>(1,907)</b>	<b>(1,842)</b>
Write-offs of PCI loans	(36)	(55)	(71)	(88)
Provision for loan and lease losses	822	726	1,651	1,566
Other (4)	—	—	(16)	2
<b>Allowance for loan and lease losses, June 30</b>	<b>10,050</b>	<b>10,875</b>	<b>10,050</b>	<b>10,875</b>
<b>Reserve for unfunded lending commitments, beginning of period</b>	<b>782</b>	<b>757</b>	<b>777</b>	<b>762</b>
Provision for unfunded lending commitments	5	—	10	(5)
<b>Reserve for unfunded lending commitments, June 30</b>	<b>787</b>	<b>757</b>	<b>787</b>	<b>757</b>
<b>Allowance for credit losses, June 30</b>	<b>\$ 10,837</b>	<b>\$ 11,632</b>	<b>\$ 10,837</b>	<b>\$ 11,632</b>

(1) Represents net charge-offs related to the non-U.S. credit card loan portfolio, which was sold in the second quarter of 2017.

(2) Includes U.S. small business commercial charge-offs of \$75 million and \$143 million for the three and six months ended June 30, 2018 compared to \$64 million and \$128 million for the same periods in 2017.

(3) Includes U.S. small business commercial recoveries of \$11 million and \$22 million for the three and six months ended June 30, 2018 compared to \$11 million and \$23 million for the same periods in 2017.

(4) Primarily represents the net impact of portfolio sales, consolidations and deconsolidations, foreign currency translation adjustments, transfers to held for sale and certain other reclassifications.

**Table 42 Allowance for Credit Losses (continued)**

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(Dollars in millions)				
<b>Loan and allowance ratios:</b>				
Loans and leases outstanding at June 30 (5)	\$ 929,597	\$ 909,341	\$ 929,597	\$ 909,341
Allowance for loan and lease losses as a percentage of total loans and leases outstanding at June 30 (5)	1.08%	1.20%	1.08%	1.20%
Consumer allowance for loan and lease losses as a percentage of total consumer loans and leases outstanding at June 30 (6)	1.15	1.28	1.15	1.28
Commercial allowance for loan and lease losses as a percentage of total commercial loans and leases outstanding at June 30 (7)	1.02	1.12	1.02	1.12
Average loans and leases outstanding (5)	\$ 928,620	\$ 907,421	\$ 927,465	\$ 907,005
Annualized net charge-offs as a percentage of average loans and leases outstanding (5, 8)	0.43%	0.40%	0.41%	0.41%
Annualized net charge-offs and PCI write-offs as a percentage of average loans and leases outstanding (5)	0.45	0.43	0.43	0.43
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases at June 30 (5, 9)	170	160	170	160
Ratio of the allowance for loan and lease losses at June 30 to annualized net charge-offs (8)	2.52	2.99	2.61	2.93
Ratio of the allowance for loan and lease losses at June 30 to annualized net charge-offs and PCI write-offs	2.43	2.82	2.52	2.79
Amounts included in allowance for loan and lease losses for loans and leases that are excluded from nonperforming loans and leases at June 30 (10)	\$ 4,007	\$ 3,782	\$ 4,007	\$ 3,782
Allowance for loan and lease losses as a percentage of total nonperforming loans and leases, excluding the allowance for loan and lease losses for loans and leases that are excluded from nonperforming loans and leases at June 30 (5, 10)	102%	104%	102%	104%

(5) Outstanding loan and lease balances and ratios do not include loans accounted for under the fair value option of \$6.2 billion and \$7.3 billion at June 30, 2018 and 2017. Average loans accounted for under the fair value option were \$6.2 billion and \$5.9 billion for the three and six months ended June 30, 2018 compared to \$7.3 billion and \$7.4 billion for the same periods in 2017.

(6) Excludes consumer loans accounted for under the fair value option of \$848 million and \$1.0 billion at June 30, 2018 and 2017.

(7) Excludes commercial loans accounted for under the fair value option of \$5.4 billion and \$6.3 billion at June 30, 2018 and 2017.

(8) Net charge-offs exclude \$36 million and \$71 million of write-offs in the PCI loan portfolio for the three and six months ended June 30, 2018 compared to \$55 million and \$88 million for the same periods in 2017. For more information on PCI write-offs, see Consumer Portfolio Credit Risk Management – Purchased Credit-impaired Loan Portfolio on page 35.

(9) For more information on our definition of nonperforming loans, see pages 37 and page 41.

(10) Primarily includes amounts allocated to U.S. credit card and unsecured consumer lending portfolios in Consumer Banking and PCI loans in All Other.

For reporting purposes, we allocate the allowance for credit losses across products as presented in Table 43.

**Table 43 Allocation of the Allowance for Credit Losses by Product Type**

	June 30, 2018			December 31, 2017		
	Amount	Percent of Total	Percent of Loans and Leases Outstanding (1)	Amount	Percent of Total	Percent of Loans and Leases Outstanding (1)
(Dollars in millions)						
<b>Allowance for loan and lease losses</b>						
Residential mortgage	\$ 553	5.50%	0.27%	\$ 701	6.74%	0.34%
Home equity	813	8.09	1.52	1,019	9.80	1.76
U.S. credit card	3,477	34.60	3.67	3,368	32.41	3.50
Direct/Indirect consumer	269	2.68	0.29	264	2.54	0.27
Other consumer	28	0.28	n/m	31	0.30	n/m
<b>Total consumer</b>	<b>5,140</b>	<b>51.15</b>	<b>1.15</b>	<b>5,383</b>	<b>51.79</b>	<b>1.18</b>
U.S. commercial (2)	3,045	30.30	1.00	3,113	29.95	1.04
Non-U.S. commercial	751	7.47	0.79	803	7.73	0.82
Commercial real estate	952	9.47	1.56	935	9.00	1.60
Commercial lease financing	162	1.61	0.76	159	1.53	0.72
<b>Total commercial</b>	<b>4,910</b>	<b>48.85</b>	<b>1.02</b>	<b>5,010</b>	<b>48.21</b>	<b>1.05</b>
<b>Allowance for loan and lease losses (3)</b>	<b>10,050</b>	<b>100.00%</b>	<b>1.08</b>	<b>10,393</b>	<b>100.00%</b>	<b>1.12</b>
<b>Reserve for unfunded lending commitments</b>	<b>787</b>			<b>777</b>		
<b>Allowance for credit losses</b>	<b>\$ 10,837</b>			<b>\$ 11,170</b>		

(1) Ratios are calculated as allowance for loan and lease losses as a percentage of loans and leases outstanding excluding loans accounted for under the fair value option. Consumer loans accounted for under the fair value option included residential mortgage loans of \$489 million and \$567 million and home equity loans of \$359 million and \$361 million at June 30, 2018 and December 31, 2017. Commercial loans accounted for under the fair value option included U.S. commercial loans of \$3.5 billion and \$2.6 billion and non-U.S. commercial loans of \$1.9 billion and \$2.2 billion at June 30, 2018 and December 31, 2017.

(2) Includes allowance for loan and lease losses for U.S. small business commercial loans of \$465 million and \$439 million at June 30, 2018 and December 31, 2017.

(3) Includes \$191 million and \$289 million of valuation allowance presented with the allowance for loan and lease losses related to PCI loans at June 30, 2018 and December 31, 2017.

n/m = not meaningful

## Market Risk Management

For more information on our market risk management process, see Market Risk Management in the MD&A of the Corporation's 2017 Annual Report on Form 10-K

## Trading Risk Management

To evaluate risk arising from trading activities, the Corporation focuses on the actual and potential volatility of revenues generated by individual positions as well as portfolios of positions.

VaR is a common statistic used to measure market risk as it allows the aggregation of market risk factors, including the effects of portfolio diversification. A VaR model simulates the value of a portfolio under a range of scenarios in order to generate a distribution of potential gains and losses. VaR represents the loss a portfolio is not expected to exceed more than a certain number of times per period, based on a specified holding period, confidence level and window of historical data. We use one VaR model consistently across the trading portfolios and it uses a historical simulation approach based on a three-year window of historical data. Our primary VaR statistic is equivalent to a 99 percent confidence level. This means that for a VaR with a one-day holding period, there should not be losses in excess of VaR, on average, 99 out of 100 trading days. For more information on our trading risk management process, see Trading Risk Management in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

Table 44 presents the total market-based trading portfolio VaR which is the combination of the covered positions trading portfolio and the impact from less liquid trading exposures. For more information on the market risk VaR for trading activities, see Trading Risk Management in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

The total market-based portfolio VaR results in Table 44 include market risk, excluding credit valuation adjustment (CVA), DVA and related hedges, to which we are exposed from all business segments. The majority of this portfolio is within the *Global Markets* segment. Table 44 presents period-end, average, high and low daily trading VaR for the three months ended June 30, 2018, March 31, 2018 and June 30, 2017, as well as average daily trading VaR for the six months ended June 30, 2018 and 2017, using a 99 percent confidence level. The amounts disclosed in Table 44 and Table 45 align to the view of covered positions used in the Basel 3 capital calculations. Foreign exchange and commodity positions are always considered covered positions, regardless of trading or banking treatment for the trade, except for structural foreign currency positions that are excluded with prior regulatory approval.

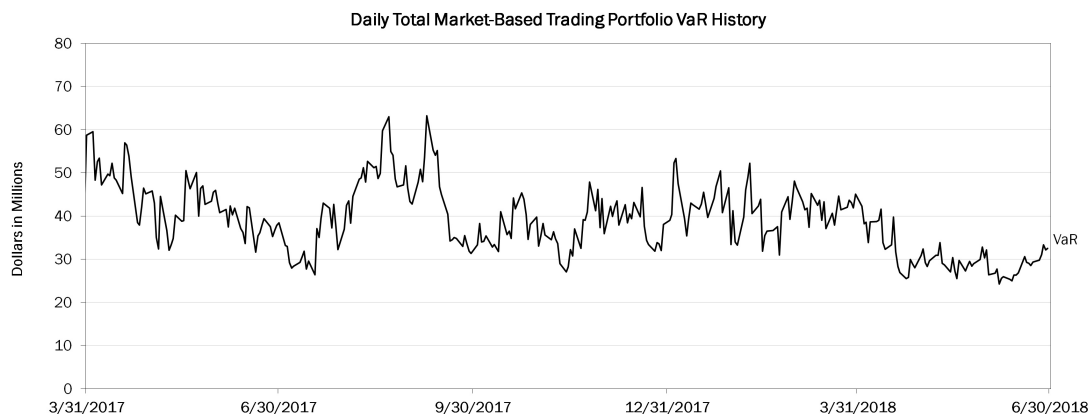
The average total market-based trading portfolio VaR decreased for the three months ended June 30, 2018 compared to the previous quarter primarily due to an increase in portfolio diversification largely driven by changes in the equities risk profile.

**Table 44** Market Risk VaR for Trading Activities

(Dollars in millions)	Three Months Ended												Six Months Ended	
	June 30, 2018				March 31, 2018				June 30, 2017				June 30	
	Period End	Average	High (1)	Low (1)	Period End	Average	High (1)	Low (1)	Period End	Average	High (1)	Low (1)	2018 Average	2017 Average
Foreign exchange	\$ 8	\$ 10	\$ 15	\$ 7	\$ 8	\$ 8	\$ 12	\$ 6	\$ 11	\$ 13	\$ 25	\$ 3	\$ 9	\$ 13
Interest rate	27	23	32	15	33	23	33	18	18	23	33	15	23	20
Credit	30	25	30	20	28	27	31	23	26	25	29	22	26	26
Equity	24	16	26	11	16	19	28	14	19	18	26	13	18	19
Commodities	7	9	14	4	10	6	12	3	6	6	9	4	8	5
Portfolio diversification	(65)	(55)	—	—	(57)	(49)	—	—	(45)	(47)	—	—	(53)	(47)
<b>Total covered positions portfolio</b>	<b>31</b>	<b>28</b>	<b>38</b>	<b>20</b>	<b>38</b>	<b>34</b>	<b>43</b>	<b>25</b>	<b>35</b>	<b>38</b>	<b>53</b>	<b>26</b>	<b>31</b>	<b>36</b>
Impact from less liquid exposures	2	2	—	—	4	6	—	—	3	5	—	—	4	5
<b>Total covered positions and less liquid trading positions portfolio</b>	<b>33</b>	<b>30</b>	<b>42</b>	<b>24</b>	<b>42</b>	<b>40</b>	<b>51</b>	<b>29</b>	<b>38</b>	<b>43</b>	<b>60</b>	<b>32</b>	<b>35</b>	<b>41</b>
Fair value option loans	12	13	18	8	12	10	12	8	9	10	12	9	12	11
Fair value option hedges	8	11	17	5	9	8	10	6	6	5	7	4	10	6
Fair value option portfolio diversification	(12)	(13)	—	—	(11)	(9)	—	—	(6)	(6)	—	—	(12)	(7)
<b>Total fair value option portfolio</b>	<b>8</b>	<b>11</b>	<b>16</b>	<b>5</b>	<b>10</b>	<b>9</b>	<b>10</b>	<b>7</b>	<b>9</b>	<b>9</b>	<b>11</b>	<b>8</b>	<b>10</b>	<b>10</b>
Portfolio diversification	(5)	(7)	—	—	(3)	(4)	—	—	(5)	(4)	—	—	(5)	(5)
<b>Total market-based portfolio</b>	<b>\$ 36</b>	<b>\$ 34</b>	<b>47</b>	<b>28</b>	<b>\$ 49</b>	<b>\$ 45</b>	<b>57</b>	<b>33</b>	<b>\$ 42</b>	<b>\$ 48</b>	<b>66</b>	<b>36</b>	<b>\$ 40</b>	<b>\$ 46</b>

(1) The high and low for each portfolio may have occurred on different trading days than the high and low for the components. Therefore the impact from less liquid exposures and the amount of portfolio diversification, which is the difference between the total portfolio and the sum of the individual components, is not relevant.

The graph below presents the daily total market-based trading portfolio VaR for the previous five quarters, corresponding to the data in Table 44.



Additional VaR statistics produced within our single VaR model are provided in Table 45 at the same level of detail as in Table 44. Evaluating VaR with additional statistics allows for an increased understanding of the risks in the portfolio as the historical market data used in the VaR calculation does not necessarily follow a predefined statistical distribution. Table 45 presents average trading VaR statistics at 99 percent and 95 percent confidence levels for the three months ended June 30, 2018 and June 30, 2017.

**Table 45** Average Market Risk VaR for Trading Activities – 99 percent and 95 percent VaR Statistics

(Dollars in millions)	Three Months Ended					
	June 30, 2018		March 31, 2018		June 30, 2017	
	99 percent	95 percent	99 percent	95 percent	99 percent	95 percent
Foreign exchange	\$ 10	\$ 6	\$ 8	\$ 5	\$ 13	\$ 7
Interest rate	23	14	23	15	23	16
Credit	25	15	27	16	25	15
Equity	16	9	19	10	18	9
Commodities	9	5	6	3	6	4
Portfolio diversification	(55)	(34)	(49)	(30)	(47)	(30)
<b>Total covered positions portfolio</b>	<b>28</b>	<b>15</b>	<b>34</b>	<b>19</b>	<b>38</b>	<b>21</b>
Impact from less liquid exposures	2	2	6	2	5	2
<b>Total covered positions and less liquid trading positions portfolio</b>	<b>30</b>	<b>17</b>	<b>40</b>	<b>21</b>	<b>43</b>	<b>23</b>
Fair value option loans	13	7	10	5	10	6
Fair value option hedges	11	8	8	6	5	4
Fair value option portfolio diversification	(13)	(10)	(9)	(6)	(6)	(5)
<b>Total fair value option portfolio</b>	<b>11</b>	<b>5</b>	<b>9</b>	<b>5</b>	<b>9</b>	<b>5</b>
Portfolio diversification	(7)	(3)	(4)	(3)	(4)	(3)
<b>Total market-based portfolio</b>	<b>\$ 34</b>	<b>\$ 19</b>	<b>\$ 45</b>	<b>\$ 23</b>	<b>\$ 48</b>	<b>\$ 25</b>

## Backtesting

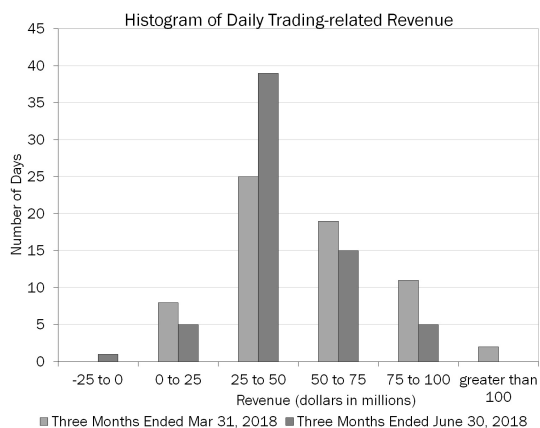
The accuracy of the VaR methodology is evaluated by backtesting, which compares the daily VaR results, utilizing a one-day holding period, against a comparable subset of trading revenue. A backtesting excess occurs when a trading loss exceeds the VaR for the corresponding day. These excesses are evaluated to understand the positions and market moves that produced the trading loss and to ensure that the VaR methodology accurately represents those losses. For more information on our backtesting process, see Trading Risk Management – Backtesting in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

During the three and six months ended June 30, 2018 there were no days in which there was a backtesting excess for our total market-based portfolio VaR, utilizing a one-day holding period.

## Total Trading-related Revenue

Total trading-related revenue, excluding brokerage fees, and CVA, DVA and funding valuation adjustment gains (losses), represents the total 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 are reported at fair value. For more information on fair value, see Note 20 – Fair Value Measurements to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K. Trading-related revenue can be volatile and is largely driven by general market conditions and customer demand. Also, trading-related revenue is 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. Significant daily revenue by business is monitored and the primary drivers of these are reviewed.

The following histogram is a graphic depiction of trading volatility and illustrates the daily level of trading-related revenue for the three months ended June 30, 2018 compared to the three months ended March 31, 2018. During the three months ended June 30, 2018, positive trading-related revenue was recorded for 98 percent of the trading days, of which 91 percent were daily trading gains of over \$25 million. This compares to the three months ended March 31, 2018 where positive trading-related revenue was recorded for 100 percent of the trading days, of which 88 percent were daily trading gains of over \$25 million.



## Trading Portfolio Stress Testing

Because the very nature of a VaR model suggests results can exceed our estimates and it is dependent on a limited historical window, we also stress test our portfolio using scenario analysis. This analysis estimates the change in the value of our trading portfolio that may result from abnormal market movements. For additional information, see Trading Risk Management – Trading Portfolio Stress Testing in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

## Interest Rate Risk Management for the Banking Book

The following discussion presents net interest income for banking book activities.

Interest rate risk represents the most significant market risk exposure to our banking book balance sheet. Interest rate risk is measured as the potential change in net interest income caused by movements in market interest rates. Client-facing activities, primarily lending and deposit-taking, create interest rate sensitive positions on our balance sheet.

We prepare forward-looking forecasts of net interest income. The baseline forecast takes into consideration expected future business growth, ALM positioning and the direction of interest rate movements as implied by the market-based forward curve. We then measure and evaluate the impact that alternative interest rate scenarios have on the baseline forecast in order to assess interest rate sensitivity under varied conditions. The net interest income forecast is frequently updated for changing assumptions and differing outlooks based on economic trends, market conditions and business strategies. Thus, we continually monitor our balance sheet position in order to maintain an acceptable level of exposure to interest rate changes.

The interest rate scenarios that we analyze incorporate balance sheet assumptions such as loan and deposit growth and pricing, changes in funding mix, product repricing, maturity characteristics and investment securities premium amortization. Our overall goal is to manage interest rate risk so that movements in interest rates do not significantly adversely affect earnings and capital.

Table 46 presents the spot and 12-month forward rates used in our baseline forecasts at June 30, 2018 and December 31, 2017.

**Table 46 Forward Rates**

	June 30, 2018		
	Federal Funds	Three-month LIBOR	10-Year Swap
Spot rates	2.00%	2.34%	2.93%
12-month forward rates	2.75	2.84	2.97
	December 31, 2017		
Spot rates	1.50%	1.69%	2.40%
12-month forward rates	2.00	2.14	2.48

Table 47 shows the pretax impact to forecasted net interest income over the next 12 months from June 30, 2018 and December 31, 2017, resulting from instantaneous parallel and non-parallel shocks to the market-based forward curve. Periodically we evaluate the scenarios presented so that they are meaningful in the context of the current rate environment.



In the six months ended June 30, 2018, the asset sensitivity of our balance sheet to rising rates has declined modestly primarily due to increases in long-end rates. We continue to be asset sensitive to a parallel move in interest rates with the majority of that impact coming from the short end of the yield curve. Additionally, higher interest rates impact the fair value of debt securities and, accordingly, for debt securities classified as available for sale (AFS), may adversely affect accumulated OCI and thus capital levels under the Basel 3 capital rules. Under instantaneous upward parallel shifts, the near-term adverse impact to Basel 3 capital is reduced over time by offsetting positive impacts to net interest income. For more information on Basel 3, see Capital Management – Regulatory Capital on page 22.

rate scenarios, any customer activity resulting in the replacement of low-cost or noninterest-bearing deposits with higher-yielding deposits or market-based funding would reduce our benefit in those scenarios.

### 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 manage 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 more information on our hedging activities, see *Note 3 – Derivatives* to the Consolidated Financial Statements. For more information on interest rate contracts and risk management, see Interest Rate Risk Management for the Banking Book in the MD&A of the Corporation's 2017 Annual Report on Form 10-K.

We use interest rate derivative instruments to hedge the variability in the cash flows of our assets and liabilities and other forecasted transactions (collectively referred to as cash flow hedges). The net losses on both open and terminated cash flow hedge derivative instruments recorded in accumulated OCI were \$1.7 billion and \$1.3 billion, on a pretax basis, at June 30, 2018 and December 31, 2017. These net losses are expected to be reclassified into earnings in the same period as 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 in prices or interest rates beyond what is implied in forward yield curves at June 30, 2018, the pretax net losses are expected to be reclassified into earnings as follows: \$383 million, or 23 percent, within the next year, 60 percent in years two through five, and 10 percent in years six through 10, with the remaining seven percent thereafter. For more information on derivatives designated as cash flow hedges, see *Note 3 – Derivatives* to the Consolidated Financial Statements.

We hedge our net investment in non-U.S. operations determined to have functional currencies other than the U.S. dollar using forward foreign exchange contracts that typically settle in less than 180 days, cross-currency basis swaps and foreign exchange options. We recorded net after-tax losses on derivatives in accumulated OCI associated with net investment hedges which were offset by gains on our net investments in consolidated non-U.S. entities at June 30, 2018.

**Table 47 Estimated Banking Book Net Interest Income Sensitivity**

(Dollars in millions)	Short Rate (bps)	Long Rate (bps)	June 30 2018	December 31 2017
<b>Curve Change</b>				
<b>Parallel Shifts</b>				
+100 bps instantaneous shift	+100	+100	\$ 2,835	\$ 3,317
-100 bps instantaneous shift	-100	-100	(3,759)	(5,183)
<b>Flatteners</b>				
Short-end instantaneous change	+100	—	2,004	2,182
Long-end instantaneous change	—	-100	(1,821)	(2,765)
<b>Steepeners</b>				
Short-end instantaneous change	-100	—	(1,914)	(2,394)
Long-end instantaneous change	—	+100	843	1,135

The sensitivity analysis in Table 47 assumes that we take no action in response to these rate shocks and does not assume any change in other macroeconomic variables normally correlated with changes in interest rates. As part of our ALM activities, we use securities, certain residential mortgages, and interest rate and foreign exchange derivatives in managing interest rate sensitivity.

The behavior of our deposit portfolio in the baseline forecast and in alternate interest rate scenarios is a key assumption in our projected estimates of net interest income. The sensitivity analysis in Table 47 assumes no change in deposit portfolio size or mix from the baseline forecast in alternate rate environments. In higher

Table 48 presents derivatives utilized in our ALM activities and shows the notional amount, fair value, weighted-average receive-fixed and pay-fixed rates, expected maturity and average estimated durations of our open ALM derivatives at June 30, 2018 and December 31, 2017. These amounts do not include derivative hedges on our MSRs.

**Table 48 Asset and Liability Management Interest Rate and Foreign Exchange Contracts**

(Dollars in millions, average estimated duration in years)	June 30, 2018								Average Estimated Duration
	Fair Value	Expected Maturity							
		Total	Remainder of 2018	2019	2020	2021	2022	Thereafter	
Receive-fixed interest rate swaps (1)	\$ (2,682)								5.34
Notional amount		\$ 185,508	\$ 5,536	\$ 27,176	\$ 16,347	\$ 12,998	\$ 19,120	\$ 104,331	
Weighted-average fixed-rate		2.38%	3.00%	1.87%	1.88%	2.81%	2.10%	2.56%	
Pay-fixed interest rate swaps (1)	1,217								5.53
Notional amount		\$ 48,403	\$ 11,247	\$ 1,210	\$ 4,344	\$ 1,616	\$ —	\$ 29,986	
Weighted-average fixed-rate		2.19%	1.70%	2.07%	2.16%	2.22%	—%	2.38%	
Same-currency basis swaps (2)	(18)								
Notional amount		\$ 51,249	\$ 1,421	\$ 10,274	\$ 13,439	\$ 8,782	\$ 955	\$ 16,378	
Foreign exchange basis swaps (1, 3, 4)	(1,843)								
Notional amount		115,870	12,094	13,476	21,514	16,159	10,592	42,035	
Option products (5)	4								
Notional amount (6)		2,351	2,335	—	—	—	—	16	
Foreign exchange contracts (1, 4, 7)	1,220								
Notional amount (6)		(549)	(22,463)	2,072	(2)	4,304	2,816	12,724	
<b>Net ALM contracts</b>	<b>\$ (2,102)</b>								

(Dollars in millions, average estimated duration in years)	December 31, 2017								Average Estimated Duration
	Fair Value	Expected Maturity							
		Total	2018	2019	2020	2021	2022	Thereafter	
Receive-fixed interest rate swaps (1)	\$ 2,330								5.38
Notional amount		\$ 176,390	\$ 21,850	\$ 27,176	\$ 16,347	\$ 6,498	\$ 19,120	\$ 85,399	
Weighted-average fixed-rate		2.42%	3.20%	1.87%	1.88%	2.99%	2.10%	2.52%	
Pay-fixed interest rate swaps (1)	(37)								5.63
Notional amount		\$ 45,873	\$ 11,555	\$ 1,210	\$ 4,344	\$ 1,616	\$ —	\$ 27,148	
Weighted-average fixed-rate		2.15%	1.73%	2.07%	2.16%	2.22%	—%	2.32%	
Same-currency basis swaps (2)	(17)								
Notional amount		\$ 38,622	\$ 11,028	\$ 6,789	\$ 1,180	\$ 2,807	\$ 955	\$ 15,863	
Foreign exchange basis swaps (1, 3, 4)	(1,616)								
Notional amount		107,263	24,886	11,922	13,367	9,301	6,860	40,927	
Option products (5)	13								
Notional amount (6)		1,218	1,201	—	—	—	—	17	
Foreign exchange contracts (1, 4, 7)	1,424								
Notional amount (6)		(11,783)	(28,689)	2,231	(24)	2,471	2,919	9,309	
<b>Net ALM contracts</b>	<b>\$ 2,097</b>								

- (1) Does not include basis adjustments on either fixed-rate debt issued by the Corporation or AFS debt securities, which are hedged using derivatives designated as fair value hedging instruments, that substantially offset the fair values of these derivatives.
- (2) At June 30, 2018 and December 31, 2017, the notional amount of same-currency basis swaps included \$51.2 billion and \$38.6 billion in both foreign currency and U.S. dollar-denominated basis swaps in which both sides of the swap are in the same currency.
- (3) Foreign exchange basis swaps consisted 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 non-U.S. debt issued by the Corporation that substantially offset the fair values of these derivatives.
- (5) The notional amount of option products of \$2.4 billion and \$1.2 billion at June 30, 2018 and December 31, 2017 was substantially all in foreign exchange options.
- (6) Reflects the net of long and short positions. Amounts shown as negative reflect a net short position.
- (7) The notional amount of foreign exchange contracts of \$(549) million at June 30, 2018 was comprised of \$35.5 billion in foreign currency-denominated and cross-currency receive-fixed swaps, \$30.8 billion in net foreign currency forward rate contracts, \$6.1 billion in foreign currency-denominated pay-fixed swaps and \$900 million in net foreign currency futures contracts. Foreign exchange contracts of \$(11.8) billion at December 31, 2017 were comprised of \$29.1 billion in foreign currency-denominated and cross-currency receive-fixed swaps, \$(35.6) billion in net foreign currency forward rate contracts, \$(6.2) billion in foreign currency-denominated pay-fixed swaps and \$940 million in foreign currency futures contracts.

### 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 risk and market risk can be substantial in the mortgage business. Changes in interest rates and other market factors impact the volume of mortgage originations. Changes in interest rates also impact the value of interest rate lock

commitments (IRLCs) and the related residential first mortgage LHFS between the date of the IRLC and the date the loans are sold to the secondary market. An increase in mortgage interest rates typically leads to a decrease in the value of these instruments. Conversely, when there is an increase in interest rates, the value of the MSRs will increase driven by lower prepayment expectations. Because the interest rate risks of these two hedged items offset, we combine them into one overall hedged item with one combined economic hedge portfolio consisting of derivative contracts and securities.

For the three and six months ended June 30, 2018 we recorded gains of \$60 million and \$129 million related to the change in fair value of the MSRs, IRLCs and LHFS, net of gains and losses on the hedge portfolio, compared to gains of \$41 million and \$66 million for the same periods in 2017. For more information on MSRs, see Note 14 – Fair Value Measurements to the Consolidated Financial Statements.

### Complex Accounting Estimates

Our significant accounting principles are essential in understanding the MD&A. Many of our significant accounting principles require complex judgments to estimate the values of assets and liabilities. We have procedures and processes in place to facilitate making these judgments. For additional information, see Complex Accounting Estimates in the MD&A of the Corporation's 2017 Annual Report on Form 10-K and Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

### Goodwill and Intangible Assets

The nature of and accounting for goodwill and intangible assets are discussed in the Corporation's 2017 Annual Report on Form 10-K in Note 1 – Summary of Significant Accounting Principles, Note 8 – Goodwill and Intangible Assets and Complex Accounting Estimates of the MD&A. Beginning with our annual goodwill impairment test as of June 30, 2018, we conducted a qualitative assessment, rather than a quantitative assessment as previously

performed, that is more fully described in Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements.

We completed our annual goodwill impairment test as of June 30, 2018 for all of our reporting units that had goodwill. We performed that test by assessing qualitative factors to determine whether it is more likely than not that the fair value of each reporting unit is less than its respective carrying value. Factors considered in the qualitative assessments include, among other things, macroeconomic conditions, industry and market considerations, financial performance of the respective reporting unit and other relevant entity- and reporting-unit specific considerations. If based on the results of the qualitative assessment, it is more likely than not that the fair value of a reporting unit is less than its carrying value, a quantitative assessment similar to that performed as of June 30, 2017 is conducted.

Based on our qualitative assessments, we determined that for each reporting unit with goodwill, it was more likely than not that its respective fair value exceeded its carrying value, indicating there was no impairment and no need to conduct a quantitative assessment. For more information regarding goodwill balances at June 30, 2018 and December 31, 2017, see Note 8 – Goodwill and Intangible Assets to the Consolidated Financial Statements.

### Non-GAAP Reconciliations

Tables 49 and 50 provide reconciliations of certain non-GAAP financial measures to GAAP financial measures.

**Table 49** Quarterly Supplemental Financial Data and Reconciliations to GAAP Financial Measures

(Dollars in millions)	Three Months Ended June 30					
	2018			2017		
	As Reported	Fully taxable-equivalent adjustment	Fully taxable-equivalent basis	As Reported	Fully taxable-equivalent adjustment	Fully taxable-equivalent basis
Net interest income	\$ 11,650	\$ 154	\$ 11,804	\$ 10,986	\$ 237	\$ 11,223
Total revenue, net of interest expense	22,609	154	22,763	22,829	237	23,066
Income tax expense	1,714	154	1,868	3,015	237	3,252
	Six Months Ended June 30					
	2018			2017		
Net interest income	\$ 23,258	\$ 304	\$ 23,562	\$ 22,044	\$ 434	\$ 22,478
Total revenue, net of interest expense	45,734	304	46,038	45,077	434	45,511
Income tax expense	3,190	304	3,494	4,998	434	5,432

**Table 50** Period-end and Average Supplemental Financial Data and Reconciliations to GAAP Financial Measures

(Dollars in millions)	Period-end		Average			
	June 30	December 31	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017	2018	2017
Common shareholders' equity	\$ 241,035	\$ 244,823	\$ 241,313	\$ 245,756	\$ 242,009	\$ 244,127
Goodwill	(68,951)	(68,951)	(68,951)	(69,489)	(68,951)	(69,616)
Intangible assets (excluding MSRs)	(2,043)	(2,312)	(2,126)	(2,743)	(2,193)	(2,833)
Related deferred tax liabilities	900	943	916	1,506	927	1,522
<b>Tangible common shareholders' equity</b>	<b>\$ 170,941</b>	<b>\$ 174,503</b>	<b>\$ 171,152</b>	<b>\$ 175,030</b>	<b>\$ 171,792</b>	<b>\$ 173,200</b>
Shareholders' equity	\$ 264,216	\$ 267,146	\$ 265,181	\$ 270,977	\$ 265,330	\$ 269,347
Goodwill	(68,951)	(68,951)	(68,951)	(69,489)	(68,951)	(69,616)
Intangible assets (excluding MSRs)	(2,043)	(2,312)	(2,126)	(2,743)	(2,193)	(2,833)
Related deferred tax liabilities	900	943	916	1,506	927	1,522
<b>Tangible shareholders' equity</b>	<b>\$ 194,122</b>	<b>\$ 196,826</b>	<b>\$ 195,020</b>	<b>\$ 200,251</b>	<b>\$ 195,113</b>	<b>\$ 198,420</b>
Total assets	\$ 2,291,670	\$ 2,281,234				
Goodwill	(68,951)	(68,951)				
Intangible assets (excluding MSRs)	(2,043)	(2,312)				
Related deferred tax liabilities	900	943				
<b>Tangible assets</b>	<b>\$ 2,221,576</b>	<b>\$ 2,210,914</b>				

**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

See Market Risk Management on page 48 in the MD&A and the sections referenced therein for Quantitative and Qualitative Disclosures about Market Risk.

**Item 4. Controls and Procedures****Disclosure Controls and Procedures**

As of the end of the period covered by this report, the Corporation's management, including the Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness and design of the Corporation's disclosure controls and procedures (as that term is defined in Rule 13a-15(e) of the Exchange Act). Based upon that evaluation, the Corporation's Chief Executive Officer and Chief Financial Officer concluded that the Corporation'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 by the Corporation in reports that it files or submits under the Exchange Act, within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to the Corporation's management, including the Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

**Changes in Internal Control Over Financial Reporting**

There have been no changes in the Corporation's internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) during the three months ended June 30, 2018, that have materially affected, or are reasonably likely to materially affect, the Corporation's internal control over financial reporting.

**Part I. Financial Information**  
**Item 1. Financial Statements**

**Bank of America Corporation and Subsidiaries**

**Consolidated Statement of Income**

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(In millions, except per share information)				
<b>Interest income</b>				
Loans and leases	\$ 10,071	\$ 8,920	\$ 19,694	\$ 17,674
Debt securities	2,856	2,594	5,660	5,135
Federal funds sold and securities borrowed or purchased under agreements to resell	709	560	1,331	999
Trading account assets	1,198	1,163	2,334	2,239
Other interest income	1,535	909	2,949	1,809
<b>Total interest income</b>	<b>16,369</b>	<b>14,146</b>	<b>31,968</b>	<b>27,856</b>
<b>Interest expense</b>				
Deposits	943	346	1,703	628
Short-term borrowings	1,462	917	2,597	1,564
Trading account liabilities	348	307	705	571
Long-term debt	1,966	1,590	3,705	3,049
<b>Total interest expense</b>	<b>4,719</b>	<b>3,160</b>	<b>8,710</b>	<b>5,812</b>
<b>Net interest income</b>	<b>11,650</b>	<b>10,986</b>	<b>23,258</b>	<b>22,044</b>
<b>Noninterest income</b>				
Card income	1,542	1,469	2,999	2,918
Service charges	1,954	1,977	3,875	3,895
Investment and brokerage services	3,458	3,460	7,122	6,877
Investment banking income	1,422	1,532	2,775	3,116
Trading account profits	2,315	1,956	5,014	4,287
Other income	268	1,449	691	1,940
<b>Total noninterest income</b>	<b>10,959</b>	<b>11,843</b>	<b>22,476</b>	<b>23,033</b>
<b>Total revenue, net of interest expense</b>	<b>22,609</b>	<b>22,829</b>	<b>45,734</b>	<b>45,077</b>
<b>Provision for credit losses</b>	<b>827</b>	<b>726</b>	<b>1,661</b>	<b>1,561</b>
<b>Noninterest expense</b>				
Personnel	7,944	8,040	16,424	16,515
Occupancy	1,022	1,001	2,036	2,001
Equipment	415	427	857	865
Marketing	395	442	740	774
Professional fees	399	485	780	941
Data processing	797	773	1,607	1,567
Telecommunications	166	177	349	368
Other general operating	2,146	2,637	4,388	5,044
<b>Total noninterest expense</b>	<b>13,284</b>	<b>13,982</b>	<b>27,181</b>	<b>28,075</b>
<b>Income before income taxes</b>	<b>8,498</b>	<b>8,121</b>	<b>16,892</b>	<b>15,441</b>
<b>Income tax expense</b>	<b>1,714</b>	<b>3,015</b>	<b>3,190</b>	<b>4,998</b>
<b>Net income</b>	<b>\$ 6,784</b>	<b>\$ 5,106</b>	<b>\$ 13,702</b>	<b>\$ 10,443</b>
<b>Preferred stock dividends</b>	<b>318</b>	<b>361</b>	<b>746</b>	<b>863</b>
<b>Net income applicable to common shareholders</b>	<b>\$ 6,466</b>	<b>\$ 4,745</b>	<b>\$ 12,956</b>	<b>\$ 9,580</b>
<b>Per common share information</b>				
Earnings	\$ 0.64	\$ 0.47	\$ 1.26	\$ 0.95
Diluted earnings	0.63	0.44	1.25	0.89
Dividends paid	0.12	0.075	0.24	0.15
<b>Average common shares issued and outstanding</b>	<b>10,181.7</b>	<b>10,013.5</b>	<b>10,251.7</b>	<b>10,056.1</b>
<b>Average diluted common shares issued and outstanding</b>	<b>10,309.4</b>	<b>10,834.8</b>	<b>10,389.9</b>	<b>10,876.7</b>



Consolidated Statement of Comprehensive Income

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
<b>Net income</b>	\$ 6,784	\$ 5,106	\$ 13,702	\$ 10,443
<b>Other comprehensive income (loss), net-of-tax:</b>				
Net change in debt and equity securities	(1,031)	568	(4,994)	469
Net change in debit valuation adjustments	179	(78)	452	(69)
Net change in derivatives	(92)	94	(367)	132
Employee benefit plan adjustments	30	27	60	54
Net change in foreign currency translation adjustments	(141)	100	(189)	97
<b>Other comprehensive income (loss)</b>	<b>(1,055)</b>	<b>711</b>	<b>(5,038)</b>	<b>683</b>
<b>Comprehensive income</b>	<b>\$ 5,729</b>	<b>\$ 5,817</b>	<b>\$ 8,664</b>	<b>\$ 11,126</b>

See accompanying Notes to Consolidated Financial Statements.

# Bank of America Corporation and Subsidiaries

## Consolidated Balance Sheet

(Dollars in millions)	June 30 2018	December 31 2017
<b>Assets</b>		
Cash and due from banks	\$ 29,365	\$ 29,480
Interest-bearing deposits with the Federal Reserve, non-U.S. central banks and other banks	141,834	127,954
Cash and cash equivalents	171,199	157,434
Time deposits placed and other short-term investments	8,212	11,153
Federal funds sold and securities borrowed or purchased under agreements to resell (includes \$59,763 and \$52,906 measured at fair value)	226,486	212,747
Trading account assets (includes \$103,145 and \$106,274 pledged as collateral)	203,420	209,358
Derivative assets	45,210	37,762
Debt securities:		
Carried at fair value	275,256	315,117
Held-to-maturity, at cost (fair value – \$158,231 and \$123,299)	163,013	125,013
Total debt securities	438,269	440,130
Loans and leases (includes \$6,227 and \$5,710 measured at fair value)	935,824	936,749
Allowance for loan and lease losses	(10,050)	(10,393)
Loans and leases, net of allowance	925,774	926,356
Premises and equipment, net	9,537	9,247
Goodwill	68,951	68,951
Loans held-for-sale (includes \$2,845 and \$2,156 measured at fair value)	6,511	11,430
Customer and other receivables	57,813	61,623
Other assets (includes \$21,883 and \$22,581 measured at fair value)	130,288	135,043
<b>Total assets</b>	<b>\$ 2,291,670</b>	<b>\$ 2,281,234</b>
<b>Assets of consolidated variable interest entities included in total assets above (isolated to settle the liabilities of the variable interest entities)</b>		
Trading account assets	\$ 5,692	\$ 6,521
Loans and leases	45,483	48,929
Allowance for loan and lease losses	(959)	(1,016)
Loans and leases, net of allowance	44,524	47,913
Loans held-for-sale	3	27
All other assets	396	1,694
<b>Total assets of consolidated variable interest entities</b>	<b>\$ 50,615</b>	<b>\$ 56,155</b>

See accompanying Notes to Consolidated Financial Statements.



**Consolidated Balance Sheet (continued)**

(Dollars in millions)	June 30 2018	December 31 2017
<b>Liabilities</b>		
Deposits in U.S. offices:		
Noninterest-bearing	\$ 420,995	\$ 430,650
Interest-bearing (includes \$513 and \$449 measured at fair value)	811,193	796,576
Deposits in non-U.S. offices:		
Noninterest-bearing	14,247	14,024
Interest-bearing	63,256	68,295
<b>Total deposits</b>	<b>1,309,691</b>	<b>1,309,545</b>
Federal funds purchased and securities loaned or sold under agreements to repurchase (includes \$32,724 and \$36,182 measured at fair value)	177,903	176,865
Trading account liabilities	87,028	81,187
Derivative liabilities	33,605	34,300
Short-term borrowings (includes \$3,396 and \$1,494 measured at fair value)	40,622	32,666
Accrued expenses and other liabilities (includes \$21,178 and \$22,840 measured at fair value and \$787 and \$777 of reserve for unfunded lending commitments)	152,010	152,123
Long-term debt (includes \$28,377 and \$31,786 measured at fair value)	226,595	227,402
<b>Total liabilities</b>	<b>2,027,454</b>	<b>2,014,088</b>
Commitments and contingencies (Note 7 – Securitizations and Other Variable Interest Entities and Note 10 – Commitments and Contingencies)		
<b>Shareholders' equity</b>		
Preferred stock, \$0.01 par value; authorized – 100,000,000 shares; issued and outstanding – 3,872,702 and 3,837,683 shares	23,181	22,323
Common stock and additional paid-in capital, \$0.01 par value; authorized – 12,800,000,000 shares; issued and outstanding – 10,012,719,225 and 10,287,302,431 shares	128,822	138,089
Retained earnings	125,546	113,816
Accumulated other comprehensive income (loss)	(13,333)	(7,082)
<b>Total shareholders' equity</b>	<b>264,216</b>	<b>267,146</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 2,291,670</b>	<b>\$ 2,281,234</b>
<b>Liabilities of consolidated variable interest entities included in total liabilities above</b>		
Short-term borrowings	\$ 396	\$ 312
Long-term debt (includes \$9,864 and \$9,872 of non-recourse debt)	9,865	9,873
All other liabilities (includes \$37 and \$34 of non-recourse liabilities)	39	37
<b>Total liabilities of consolidated variable interest entities</b>	<b>\$ 10,300</b>	<b>\$ 10,222</b>

See accompanying Notes to Consolidated Financial Statements.

## Bank of America Corporation and Subsidiaries

### Consolidated Statement of Changes in Shareholders' Equity

(In millions)	Preferred Stock	Common Stock and Additional Paid-in Capital		Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Shareholders' Equity
		Shares	Amount			
<b>Balance, December 31, 2016</b>	\$ 25,220	10,052.6	\$ 147,038	\$ 101,225	\$ (7,288)	\$ 266,195
Net income				10,443		10,443
Net change in debt and equity securities					469	469
Net change in debit valuation adjustments					(69)	(69)
Net change in derivatives					132	132
Employee benefit plan adjustments					54	54
Net change in foreign currency translation adjustments					97	97
Dividends declared:						
Common				(1,504)		(1,504)
Preferred				(863)		(863)
Common stock issued under employee plans, net		36.2	670			670
Common stock repurchased		(210.7)	(4,964)			(4,964)
<b>Balance, June 30, 2017</b>	\$ 25,220	9,878.1	\$ 142,744	\$ 109,301	\$ (6,605)	\$ 270,660
<b>Balance, December 31, 2017</b>	\$ 22,323	10,287.3	\$ 138,089	\$ 113,816	\$ (7,082)	\$ 267,146
Cumulative adjustment for adoption of hedge accounting standard				(32)	57	25
Adoption of accounting standard related to certain tax effects stranded in accumulated other comprehensive income (loss)				1,270	(1,270)	—
Net income				13,702		13,702
Net change in debt and equity securities					(4,994)	(4,994)
Net change in debit valuation adjustments					452	452
Net change in derivatives					(367)	(367)
Employee benefit plan adjustments					60	60
Net change in foreign currency translation adjustments					(189)	(189)
Dividends declared:						
Common				(2,455)		(2,455)
Preferred				(746)		(746)
Issuance of preferred stock	3,671					3,671
Redemption of preferred stock	(2,813)					(2,813)
Common stock issued under employee plans, net and other		43.7	556	(9)		547
Common stock repurchased		(318.3)	(9,823)			(9,823)
<b>Balance, June 30, 2018</b>	\$ 23,181	10,012.7	\$ 128,822	\$ 125,546	\$ (13,333)	\$ 264,216

See accompanying Notes to Consolidated Financial Statements.

# Bank of America Corporation and Subsidiaries

## Consolidated Statement of Cash Flows

	Six Months Ended June 30	
	2018	2017
(Dollars in millions)		
<b>Operating activities</b>		
Net income	\$ 13,702	\$ 10,443
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Provision for credit losses	1,661	1,561
Gains on sales of debt securities	(3)	(153)
Depreciation and premises improvements amortization	755	743
Amortization of intangibles	269	322
Net amortization of premium/discount on debt securities	909	1,065
Deferred income taxes	1,782	3,515
Stock-based compensation	877	765
Loans held-for-sale:		
Originations and purchases	(11,709)	(18,103)
Proceeds from sales and paydowns of loans originally classified as held for sale and instruments from related securitization activities	17,246	21,106
Net change in:		
Trading and derivative instruments	(1,295)	(24,312)
Other assets	9,381	(7,704)
Accrued expenses and other liabilities	399	4,450
Other operating activities, net	(138)	2,962
<b>Net cash provided by (used in) operating activities</b>	<b>33,836</b>	<b>(3,340)</b>
<b>Investing activities</b>		
Net change in:		
Time deposits placed and other short-term investments	2,941	(291)
Federal funds sold and securities borrowed or purchased under agreements to resell	(13,739)	(18,977)
Debt securities carried at fair value:		
Proceeds from sales	1,194	40,704
Proceeds from paydowns and maturities	37,774	47,492
Purchases	(31,762)	(87,188)
Held-to-maturity debt securities:		
Proceeds from paydowns and maturities	7,820	7,644
Purchases	(22,110)	(9,935)
Loans and leases:		
Proceeds from sales of loans originally classified as held for investment and instruments from related securitization activities	7,172	5,317
Purchases	(2,656)	(3,195)
Other changes in loans and leases, net	(5,755)	(14,758)
Other investing activities, net	(1,748)	9,262
<b>Net cash used in investing activities</b>	<b>(20,869)</b>	<b>(23,925)</b>
<b>Financing activities</b>		
Net change in:		
Deposits	146	2,046
Federal funds purchased and securities loaned or sold under agreements to repurchase	996	26,283
Short-term borrowings	7,956	12,404
Long-term debt:		
Proceeds from issuance	42,426	33,633
Retirement	(37,264)	(29,650)
Preferred stock:		
Proceeds from issuance	3,671	—
Redemption	(2,813)	—
Common stock repurchased	(9,823)	(4,964)
Cash dividends paid	(3,245)	(2,403)
Other financing activities, net	(533)	(582)
<b>Net cash provided by financing activities</b>	<b>1,517</b>	<b>36,767</b>
Effect of exchange rate changes on cash and cash equivalents	(719)	1,464
<b>Net increase in cash and cash equivalents</b>	<b>13,765</b>	<b>10,966</b>
Cash and cash equivalents at January 1	157,434	147,738
<b>Cash and cash equivalents at June 30</b>	<b>\$ 171,199</b>	<b>\$ 158,704</b>

See accompanying Notes to Consolidated Financial Statements.

## Bank of America Corporation and Subsidiaries

### Notes to Consolidated Financial Statements

#### NOTE 1 Summary of Significant Accounting Principles

Bank of America Corporation, a bank holding company and a financial holding company, provides a diverse range of financial services and products throughout the U.S. and in certain international markets. The term "the Corporation" as used herein may refer to Bank of America Corporation, individually, Bank of America Corporation and its subsidiaries, or certain of Bank of America Corporation's subsidiaries or affiliates.

#### 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. Intercompany accounts and transactions have been eliminated. Results of operations of acquired companies 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 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. Equity method investments are subject to impairment testing, and the Corporation's proportionate share of income or loss is included in other income.

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

These unaudited Consolidated Financial Statements should be read in conjunction with the audited Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The nature of the Corporation's business is such that the results of any interim period are not necessarily indicative of results for a full year. In the opinion of management, all adjustments, which consist of normal recurring adjustments necessary for a fair statement of the interim period results, have been made. The Corporation evaluates subsequent events through the date of filing with the Securities and Exchange Commission (SEC). Certain prior-period amounts have been reclassified to conform to current period presentation.

#### Change in Tax Law

On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act (the Tax Act) which made significant changes to federal income tax law including, among other things, reducing the statutory corporate income tax rate to 21 percent from 35 percent and changing the taxation of the Corporation's non-U.S. business activities. On the same date, the SEC issued Staff Accounting Bulletin No. 118 which specifies, among other things, that reasonable estimates of the income tax effects of the Tax Act should be used, if determinable. The Corporation has accounted for the effects of the Tax Act using reasonable estimates based on currently available information and its interpretations thereof. This accounting may change due to, among other things, changes

in interpretations the Corporation has made and the issuance of new tax or accounting guidance.

#### Accounting Standards Adopted on January 1, 2018

Effective January 1, 2018, the Corporation adopted the following new accounting standards on a prospective basis. For additional information, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

- **Revenue Recognition** – The new accounting standard addresses the recognition of revenue from contracts with customers. For additional information, see Revenue Recognition Accounting Policies in this Note, *Note 2 – Noninterest Income* and *Note 17 – Business Segment Information*.
- **Hedge Accounting** – The new accounting standard simplifies and expands the ability to apply hedge accounting to certain risk management activities. For additional information, see *Note 3 – Derivatives*.
- **Recognition and Measurement of Financial Assets and Liabilities** – The new accounting standard relates to the recognition and measurement of financial instruments, including equity investments. For additional information, see *Note 4 – Securities* and *Note 16 – Fair Value of Financial Instruments*.
- **Tax Effects in Accumulated Other Comprehensive Income** – The new accounting standard addresses certain tax effects stranded in accumulated other comprehensive income (OCI) related to the Tax Act. For additional information, see *Note 12 – Accumulated Other Comprehensive Income (Loss)*.

Effective January 1, 2018, the Corporation adopted the following new accounting standards on a retrospective basis, resulting in restatement of all prior periods presented in the Consolidated Statement of Income and the Consolidated Statement of Cash Flows. The changes in presentation are not material to the individual line items affected.

- **Presentation of Pension Costs** – The new accounting standard requires separate presentation of the service cost component of pension expense from all other components of net pension benefit/cost in the Consolidated Statement of Income. As a result, the service cost component continues to be presented in personnel expense while other components of net pension benefit/cost (e.g., interest cost, actual return on plan assets, amortization of prior service cost) are now presented in other general operating expense.
- **Classification of Cash Flows and Restricted Cash** – The new accounting standards address the classification of certain cash receipts and cash payments in the statement of cash flows as well as the presentation and disclosure of restricted cash. For more information on restricted cash, see *Note 9 – Federal Funds Sold or Purchased, Securities Financing Agreements, Short-term Borrowings and Restricted Cash*.

#### Accounting Standards Issued and Not Yet Adopted

##### Lease Accounting

The Financial Accounting Standards Board (FASB) issued a new accounting standard effective on January 1, 2019 that requires substantially all leases to be recorded as assets and liabilities on the balance sheet. On January 5, 2018, the FASB issued an exposure draft proposing an amendment to the standard that, if approved, would permit companies the option to apply the provisions of the new lease standard either prospectively as of the effective date, without adjusting comparative periods

presented, or using a modified retrospective transition applicable to all prior periods presented. The Corporation is in the process of reviewing its existing lease portfolios, including certain service contracts for embedded leases, to evaluate the impact of the standard on its consolidated financial statements, as well as the impact to regulatory capital and risk-weighted assets. The effect of the adoption will depend on the lease portfolio at the time of transition and the transition options ultimately available; however, the Corporation does not expect the new accounting standard to have a material impact on its consolidated financial position, results of operations or disclosures in the Notes to the Consolidated Financial Statements.

#### **Accounting for Financial Instruments -- Credit Losses**

The FASB issued a new accounting standard effective on January 1, 2020, with early adoption permitted on January 1, 2019, that will replace the existing measurement of the allowance for credit losses with management's best estimate of probable credit losses inherent in the Corporation's lending activities. The new standard will reflect management's best estimate of all expected credit losses for substantially all of the Corporation's financial assets that are recognized at amortized cost. The standard also requires expanded credit quality disclosures. The Corporation is in the process of identifying and implementing required changes to credit loss estimation models and processes and evaluating the impact of this new accounting standard, which at the date of adoption is expected to increase the allowance for credit losses with a resulting negative adjustment to retained earnings. The change will be dependent on the characteristics of the Corporation's portfolio at adoption date as well as the macroeconomic conditions and forecast as of that date. While a final decision has not been made, the Corporation does not expect to early adopt the standard.

### **Significant Accounting Principles Updates**

#### **Goodwill and Intangible Assets**

Goodwill is 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. A reporting unit is a business segment or one level below a business segment.

The Corporation assesses the fair value of each reporting unit against its carrying value, including goodwill, as measured by allocated equity. For purposes of goodwill impairment testing, the Corporation utilizes allocated equity as a proxy for the carrying value of its reporting units. Allocated equity in the reporting units is comprised of allocated capital plus capital for the portion of goodwill and intangibles specifically assigned to the reporting unit.

In performing its goodwill impairment testing, the Corporation first assesses qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying value. Qualitative factors include, among other things, macroeconomic conditions, industry and market considerations, financial performance of the respective reporting unit and other relevant entity- and reporting-unit specific considerations.

If the Corporation concludes it is more likely than not that the fair value of a reporting unit is less than its carrying value, a quantitative assessment is performed. If the fair value of the reporting unit exceeds its carrying value, goodwill of the reporting unit is considered not impaired; however, if the carrying value of the reporting unit exceeds its fair value, an additional step must be performed to measure potential impairment.

This step involves calculating an implied fair value of goodwill 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 assets, liabilities and identifiable intangibles as if the reporting unit was being acquired in a business combination. 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 goodwill, an impairment charge is recorded for the excess. An impairment loss recognized cannot exceed the amount of goodwill assigned to a reporting unit. An impairment loss establishes a new basis in the goodwill, and subsequent reversals of goodwill impairment losses are not permitted under applicable accounting guidance.

For intangible assets subject to amortization, an impairment loss is recognized if the carrying value of the intangible asset is not recoverable and exceeds fair value. The carrying value of the intangible asset is considered not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use of the asset. Intangible assets deemed to have indefinite useful lives are not subject to amortization. An impairment loss is recognized if the carrying value of the intangible asset with an indefinite life exceeds its fair value.

#### **Revenue Recognition**

The following summarizes the Corporation's revenue recognition accounting policies for certain noninterest income activities.

#### **Card Income**

Card income includes annual, late and over-limit fees as well as fees earned from interchange, cash advances and other miscellaneous transactions and is presented net of direct costs. Interchange fees are recognized upon settlement of the credit and debit card payment transactions and are generally determined on a percentage basis for credit cards and fixed rates for debit cards based on the corresponding payment network's rates. Substantially all card fees are recognized at the transaction date, except for certain time-based fees such as annual fees, which are recognized over 12 months. Fees charged to cardholders that are estimated to be uncollectible are reserved in the allowance for loan and lease losses. Rewards paid to cardholders are related to points earned by the cardholder that can be redeemed for a broad range of rewards including cash, travel and gift cards. Based on past redemption behavior, card product type, account transaction activity and other historical card performance, the Corporation estimates a liability based on the amount of earned reward points that are expected to be redeemed. The Corporation also makes payments to credit card partners. The payments are based on revenue-sharing agreements that are generally driven by cardholder transactions and partner sales volumes.

#### **Service Charges**

Service charges include deposit and lending-related fees. Deposit-related fees consist of fees earned on consumer and commercial deposit activities and are generally recognized when the transactions occur or as the service is performed. Consumer fees are earned on consumer deposit accounts for account maintenance and various transaction-based services, such as ATM transactions, wire transfer activities, check and money order processing and insufficient funds/overdraft transactions. Commercial deposit-related fees are from the Corporation's Global Transaction Services business and consist of commercial deposit and treasury management services, including account maintenance and other services, such as payroll, sweep account and other cash management services. Lending-related fees generally represent transactional fees earned from certain loan commitments, financial guarantees and standby letters of credit (SBLCs).

### Investment and Brokerage Services

Investment and brokerage services consist of asset management and brokerage fees. Asset management fees are earned from the management of client assets under advisory agreements or the full discretion of the Corporation's financial advisors (collectively referred to as assets under management (AUM)). Asset management fees are earned as a percentage of the client's AUM and generally range from 50 basis points (bps) to 150 bps of the AUM. In cases where a third party is used to obtain a client's investment allocation, the fee remitted to the third party is recorded net and is not reflected in the transaction price, as the Corporation is an agent for those services.

Brokerage fees include income earned from transaction-based services that are performed as part of investment management services and are based on a fixed price per unit or as a percentage of the total transaction amount. Brokerage fees also include distribution fees and sales commissions that are primarily in the *Global Wealth & Investment Management (GWIM)* segment and are earned over time. In addition, primarily in the *Global Markets* segment, brokerage fees are earned when the Corporation fills customer orders to buy or sell various financial products or when it acknowledges, affirms, settles and clears transactions and/or submits trade information to the appropriate clearing broker. Certain customers pay brokerage, clearing and/or exchange fees imposed by relevant regulatory bodies or exchanges in order to execute or clear trades. These fees are recorded net and are not reflected in the transaction price, as the Corporation is an agent for those services.

### Investment Banking Income

Investment banking income includes underwriting income and financial advisory services income. Underwriting consists of fees earned for the placement of a customer's debt or equity securities. The revenue is generally earned based on a percentage of the fixed number of shares or principal placed. Once the number of

shares or notes is determined and the service is completed, the underwriting fees are recognized. The Corporation incurs certain out-of-pocket expenses, such as legal costs, in performing these services. These expenses are recovered through the revenue the Corporation earns from the customer and are included in operating expenses. Syndication fees represent fees earned as the agent or lead lender responsible for structuring, arranging and administering a loan syndication.

Financial advisory services consist of fees earned for assisting customers with transactions related to mergers and acquisitions and financial restructurings. Revenue varies depending on the size and number of services performed for each contract and is generally contingent on successful execution of the transaction. Revenue is typically recognized once the transaction is completed and all services have been rendered. Additionally, the Corporation may earn a fixed fee in merger and acquisition transactions to provide a fairness opinion, with the fees recognized when the opinion is delivered to the customer.

### Other Revenue Measurement and Recognition Policies

The Corporation did not disclose the value of any open performance obligations at June 30, 2018, as its contracts with customers generally have a fixed term that is less than one year, an open term with a cancellation period that is less than one year, or provisions that allow the Corporation to recognize revenue at the amount it has the right to invoice.

## NOTE 2 Noninterest Income

The table below presents the Corporation's noninterest income disaggregated by revenue source for the three and six months ended June 30, 2018 and 2017. For more information, see *Note 1 – Summary of Significant Accounting Principles*. For a disaggregation of noninterest income by business segment and *All Other*, see *Note 17 – Business Segment Information*.

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
<b>Card income</b>				
Interchange fees (1)	\$ 1,070	\$ 983	\$ 2,041	\$ 1,941
Other card income	472	486	958	977
Total card income	1,542	1,469	2,999	2,918
<b>Service charges</b>				
Deposit-related fees	1,680	1,696	3,326	3,349
Lending-related fees	274	281	549	546
Total service charges	1,954	1,977	3,875	3,895
<b>Investment and brokerage services</b>				
Asset management fees	2,513	2,288	5,077	4,488
Brokerage fees	945	1,172	2,045	2,389
Total investment and brokerage services	3,458	3,460	7,122	6,877
<b>Investment banking income</b>				
Underwriting income	719	709	1,460	1,488
Syndication fees	400	340	716	740
Financial advisory services	303	483	599	888
Total investment banking income	1,422	1,532	2,775	3,116
<b>Trading account profits</b>	2,315	1,956	5,014	4,287
<b>Other income</b>	268	1,449	691	1,940
<b>Total noninterest income</b>	<b>\$ 10,959</b>	<b>\$ 11,843</b>	<b>\$ 22,476</b>	<b>\$ 23,033</b>

(1) Gross interchange fees were \$2.4 billion and \$2.2 billion for the three months ended June 30, 2018 and 2017, and are presented net of \$1.3 billion and \$1.2 billion of expenses for rewards and partner payments. For the six months ended June 30, 2018 and 2017, gross interchange fees were \$4.6 billion and \$4.3 billion and are presented net of \$2.6 billion and \$2.3 billion of expenses for rewards and partner payments.

## NOTE 3 Derivatives

### Derivative Balances

Derivatives are entered into on behalf of customers, for trading or to support risk management activities. Derivatives used in risk management activities include derivatives that may or may not be designated in qualifying hedge accounting relationships. Derivatives that are not designated in qualifying hedge accounting relationships are referred to as other risk management derivatives. For more information on the Corporation's derivatives and hedging activities, see *Note 1 – Summary of Significant Accounting*

*Principles* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K. The following tables present derivative instruments included on the Consolidated Balance Sheet in derivative assets and liabilities at June 30, 2018 and December 31, 2017. Balances are presented on a gross basis, prior to the application of counterparty and cash collateral netting. Total derivative assets and liabilities are adjusted on an aggregate basis to take into consideration the effects of legally enforceable master netting agreements and have been reduced by cash collateral received or paid.

(Dollars in billions)	June 30, 2018						
	Contract/ Notional (1)	Gross Derivative Assets			Gross Derivative Liabilities		
		Trading and Other Risk Management Derivatives	Qualifying Accounting Hedges	Total	Trading and Other Risk Management Derivatives	Qualifying Accounting Hedges	Total
<b>Interest rate contracts</b>							
Swaps	\$ 17,626.4	\$ 153.3	\$ 1.6	\$ 154.9	\$ 147.2	\$ 4.8	\$ 152.0
Futures and forwards	6,464.7	1.4	—	1.4	1.4	—	1.4
Written options	1,328.4	—	—	—	30.5	—	30.5
Purchased options	1,283.1	31.9	—	31.9	—	—	—
<b>Foreign exchange contracts</b>							
Swaps	1,941.7	47.4	2.5	49.9	48.7	3.5	52.2
Spot, futures and forwards	5,190.9	52.1	1.2	53.3	49.1	0.5	49.6
Written options	353.5	—	—	—	5.4	—	5.4
Purchased options	352.5	4.9	—	4.9	—	—	—
<b>Equity contracts</b>							
Swaps	269.6	5.1	—	5.1	5.4	—	5.4
Futures and forwards	98.2	0.9	—	0.9	0.8	—	0.8
Written options	565.4	—	—	—	24.2	—	24.2
Purchased options	533.8	35.9	—	35.9	—	—	—
<b>Commodity contracts</b>							
Swaps	51.0	2.5	—	2.5	5.0	—	5.0
Futures and forwards	63.1	3.3	—	3.3	0.5	—	0.5
Written options	32.1	—	—	—	2.2	—	2.2
Purchased options	31.3	2.1	—	2.1	—	—	—
<b>Credit derivatives (2)</b>							
Purchased credit derivatives:							
Credit default swaps	431.6	4.9	—	4.9	8.9	—	8.9
Total return swaps/options	75.3	0.4	—	0.4	1.1	—	1.1
Written credit derivatives:							
Credit default swaps	407.6	8.5	—	8.5	4.3	—	4.3
Total return swaps/options	75.3	0.7	—	0.7	0.3	—	0.3
Gross derivative assets/liabilities		\$ 355.3	\$ 5.3	\$ 360.6	\$ 335.0	\$ 8.8	\$ 343.8
Less: Legally enforceable master netting agreements				(282.1)	—		(282.1)
Less: Cash collateral received/paid				(33.3)			(28.1)
<b>Total derivative assets/liabilities</b>				\$ 45.2			\$ 33.6

(1) Represents the total contract/notional amount of derivative assets and liabilities outstanding.

(2) The net derivative asset and notional amount of written credit derivatives for which the Corporation held purchased credit derivatives with identical underlying referenced names were \$3.6 billion and \$418.1 billion at June 30, 2018.



December 31, 2017

(Dollars in billions)	Contract/ Notional (1)	Gross Derivative Assets			Gross Derivative Liabilities		
		Trading and Other Risk Management Derivatives	Qualifying Accounting Hedges	Total	Trading and Other Risk Management Derivatives	Qualifying Accounting Hedges	Total
<b>Interest rate contracts</b>							
Swaps	\$ 15,416.4	\$ 175.1	\$ 2.9	\$ 178.0	\$ 172.5	\$ 1.7	\$ 174.2
Futures and forwards	4,332.4	0.5	—	0.5	0.5	—	0.5
Written options	1,170.5	—	—	—	35.5	—	35.5
Purchased options	1,184.5	37.6	—	37.6	—	—	—
<b>Foreign exchange contracts</b>							
Swaps	2,011.1	35.6	2.2	37.8	36.1	2.7	38.8
Spot, futures and forwards	3,543.3	39.1	0.7	39.8	39.1	0.8	39.9
Written options	291.8	—	—	—	5.1	—	5.1
Purchased options	271.9	4.6	—	4.6	—	—	—
<b>Equity contracts</b>							
Swaps	265.6	4.8	—	4.8	4.4	—	4.4
Futures and forwards	106.9	1.5	—	1.5	0.9	—	0.9
Written options	480.8	—	—	—	23.9	—	23.9
Purchased options	428.2	24.7	—	24.7	—	—	—
<b>Commodity contracts</b>							
Swaps	46.1	1.8	—	1.8	4.6	—	4.6
Futures and forwards	47.1	3.5	—	3.5	0.6	—	0.6
Written options	21.7	—	—	—	1.4	—	1.4
Purchased options	22.9	1.4	—	1.4	—	—	—
<b>Credit derivatives (2)</b>							
Purchased credit derivatives:							
Credit default swaps	470.9	4.1	—	4.1	11.1	—	11.1
Total return swaps/options	54.1	0.1	—	0.1	1.3	—	1.3
Written credit derivatives:							
Credit default swaps	448.2	10.6	—	10.6	3.6	—	3.6
Total return swaps/options	55.2	0.8	—	0.8	0.2	—	0.2
Gross derivative assets/liabilities		\$ 345.8	\$ 5.8	\$ 351.6	\$ 340.8	\$ 5.2	\$ 346.0
Less: Legally enforceable master netting agreements				(279.2)			(279.2)
Less: Cash collateral received/paid				(34.6)			(32.5)
<b>Total derivative assets/liabilities</b>				\$ 37.8			\$ 34.3

(1) Represents the total contract/notional amount of derivative assets and liabilities outstanding.

(2) The net derivative asset and notional amount of written credit derivatives for which the Corporation held purchased credit derivatives with identical underlying referenced names were \$6.4 billion and \$435.1 billion at December 31, 2017.

## Offsetting of Derivatives

The Corporation enters into International Swaps and Derivatives Association, Inc. (ISDA) master netting agreements or similar agreements with substantially all of the Corporation's derivative counterparties. For additional information, see *Note 2 – Derivatives* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The following table presents derivative instruments included in derivative assets and liabilities on the Consolidated Balance Sheet at June 30, 2018 and December 31, 2017 by primary risk (e.g., interest rate risk) and the platform, where applicable, on

which these derivatives are transacted. Balances are presented on a gross basis, prior to the application of counterparty and cash collateral netting. Total gross derivative assets and liabilities are adjusted on an aggregate basis to take into consideration the effects of legally enforceable master netting agreements which include reducing the balance for counterparty netting and cash collateral received or paid.

For more information on offsetting of securities financing agreements, see *Note 9 – Federal Funds Sold or Purchased, Securities Financing Agreements, Short-term Borrowings and Restricted Cash*.

## Offsetting of Derivatives (1)

(Dollars in billions)	Derivative Assets		Derivative Liabilities		Derivative Assets		Derivative Liabilities	
	June 30, 2018				December 31, 2017			
<b>Interest rate contracts</b>								
Over-the-counter	\$	182.0	\$	177.6	\$	211.7	\$	206.0
Over-the-counter cleared		3.2		2.7		1.9		1.8
<b>Foreign exchange contracts</b>								
Over-the-counter		104.6		104.0		78.7		80.8
Over-the-counter cleared		1.1		0.9		0.9		0.7
<b>Equity contracts</b>								
Over-the-counter		27.0		16.2		18.3		16.2
Exchange-traded		11.0		10.3		9.1		8.5
<b>Commodity contracts</b>								
Over-the-counter		3.6		5.0		2.9		4.4
Exchange-traded		1.1		1.2		0.7		0.8
<b>Credit derivatives</b>								
Over-the-counter		8.1		8.5		9.1		9.6
Over-the-counter cleared		5.9		5.8		6.1		6.0
<b>Total gross derivative assets/liabilities, before netting</b>								
Over-the-counter		325.3		311.3		320.7		317.0
Exchange-traded		12.1		11.5		9.8		9.3
Over-the-counter cleared		10.2		9.4		8.9		8.5
Less: Legally enforceable master netting agreements and cash collateral received/paid								
Over-the-counter		(295.8)		(290.4)		(296.9)		(294.6)
Exchange-traded		(10.5)		(10.5)		(8.6)		(8.6)
Over-the-counter cleared		(9.1)		(9.3)		(8.3)		(8.5)
<b>Derivative assets/liabilities, after netting</b>		32.2		22.0		25.6		23.1
Other gross derivative assets/liabilities (2)		13.0		11.6		12.2		11.2
<b>Total derivative assets/liabilities</b>		45.2		33.6		37.8		34.3
Less: Financial instruments collateral (3)		(19.2)		(9.2)		(11.2)		(10.4)
<b>Total net derivative assets/liabilities</b>	\$	26.0	\$	24.4	\$	26.6	\$	23.9

(1) Over-the-counter (OTC) derivatives include bilateral transactions between the Corporation and a particular counterparty. OTC-cleared derivatives include bilateral transactions between the Corporation and a counterparty where the transaction is cleared through a clearinghouse, and exchange-traded derivatives include listed options transacted on an exchange.

(2) Consists of derivatives entered into under master netting agreements where the enforceability of these agreements is uncertain under bankruptcy laws in some countries or industries.

(3) Amounts are limited to the derivative asset/liability balance and, accordingly, do not include excess collateral received/pledged. Financial instruments collateral includes securities collateral received or pledged and cash securities held and posted at third-party custodians that are not offset on the Consolidated Balance Sheet but shown as a reduction to derive net derivative assets and liabilities.

## ALM and Risk Management Derivatives

The Corporation's asset and liability management (ALM) and risk management activities include the use of derivatives to mitigate risk to the Corporation including derivatives designated in qualifying hedge accounting relationships and derivatives used in other risk management activities. For additional information, see *Note 2 – Derivatives* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

## Derivatives Designated as Accounting 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 and equity derivatives to protect against changes in the cash flows of its assets and liabilities, and other forecasted transactions (cash flow hedges). The Corporation hedges its net investment in consolidated non-U.S. operations determined to have functional currencies other than the U.S. dollar using forward exchange contracts and cross-currency basis swaps, and by issuing foreign currency-denominated debt (net investment hedges).

Effective January 1, 2018, the Corporation early adopted the hedge accounting standard on a prospective basis and, accordingly, prior-period hedge accounting disclosures were not conformed to the current-period presentation. For more information, see *Note 1 – Summary of Significant Accounting Principles*

## Fair Value Hedges

The table below summarizes information related to fair value hedges for the three and six months ended June 30, 2018 and 2017.

### Gains and Losses on Derivatives Designated as Fair Value Hedges

(Dollars in millions)	Three Months Ended June 30, 2018		Three Months Ended June 30, 2017		
	Derivative	Hedged Item	Derivative	Hedged Item	Hedge Ineffectiveness
Interest rate risk on long-term debt (1)	\$ (869)	\$ 821	\$ 272	\$ (422)	\$ (150)
Interest rate and foreign currency risk on long-term debt (2, 3)	(1,067)	934	901	(877)	24
Interest rate risk on available-for-sale securities (4)	(1)	1	(80)	70	(10)
<b>Total</b>	<b>\$ (1,937)</b>	<b>\$ 1,756</b>	<b>\$ 1,093</b>	<b>\$ (1,229)</b>	<b>\$ (136)</b>

(Dollars in millions)	Six Months Ended June 30, 2018		Six Months Ended June 30, 2017		
	Derivative	Hedged Item	Derivative	Hedged Item	Hedge Ineffectiveness
Interest rate risk on long-term debt (1)	\$ (3,174)	\$ 3,057	\$ (478)	\$ 144	\$ (334)
Interest rate and foreign currency risk on long-term debt (2, 3)	(745)	588	1,024	(1,010)	14
Interest rate risk on available-for-sale securities (4)	(32)	31	(63)	33	(30)
<b>Total</b>	<b>\$ (3,951)</b>	<b>\$ 3,676</b>	<b>\$ 483</b>	<b>\$ (833)</b>	<b>\$ (350)</b>

(1) Amounts are recorded in interest expense in the Consolidated Statement of Income.

(2) For the three and six months ended June 30, 2018, the derivative amount includes losses of \$1.0 billion and \$576 million in other income and a gain of \$25 million and a loss of \$39 million in interest expense, respectively. For the same periods in 2017, the derivative amount includes gains of \$1.0 billion and \$1.3 billion in other income and losses of \$124 million and \$281 million in interest expense, respectively. Line item totals are in the Consolidated Statement of Income.

(3) For the three and six months ended June 30, 2018, the derivative amount includes losses of \$83 million and \$130 million related to certain changes in the fair value of derivatives that were excluded from effectiveness testing and recognized in accumulated OCI. None of the excluded amounts have been reclassified into earnings.

(4) Amounts are recorded in interest income in the Consolidated Statement of Income.

The table below summarizes the carrying value of hedged assets and liabilities that are designated and qualifying in fair value hedging relationships along with the cumulative amount of fair value hedging adjustments included in the carrying value that have been recorded in the current hedging relationships. These fair value hedging adjustments are open basis adjustments that are not subject to amortization as long as the hedging relationship remains designated.

### Designated Fair Value Hedged Assets (Liabilities)

(Dollars in millions)	June 30, 2018	
	Carrying Value	Cumulative Fair Value Adjustments (1)
Long-term debt	\$ (133,177)	\$ 1,894
Available-for-sale securities (2)	954	(48)

(1) For assets, increase (decrease) to carrying value and for liabilities, (increase) decrease to carrying value.

(2) The amortized cost of available-for-sale securities in fair value hedging relationships was \$949 million and is included in debt securities carried at fair value on the Consolidated Balance Sheet.

At June 30, 2018, the cumulative fair value adjustments remaining on long-term debt and available-for-sale (AFS) securities from discontinued hedging relationships were an increase of \$900 million and a decrease of \$39 million, which are being amortized over the remaining contractual life of the de-designated hedged items.

### Cash Flow and Net Investment Hedges

The following table summarizes certain information related to cash flow hedges and net investment hedges for the three and six months ended June 30, 2018 and 2017. Of the \$1.3 billion after-

tax net loss (\$1.7 billion pretax) on derivatives in accumulated OCI at June 30, 2018, \$292 million after-tax (\$383 million pretax) is expected to be reclassified into earnings in the next 12 months. These net losses reclassified into earnings are expected to primarily reduce net interest income related to the respective hedged items. For terminated cash flow hedges, the time period over which the majority of the forecasted transactions are hedged is approximately seven years, with a maximum length of time for certain forecasted transactions of 18 years.

## Gains and Losses on Derivatives Designated as Cash Flow and Net Investment Hedges

(Dollars in millions, amounts pretax)

	Gains (Losses) Recognized in Accumulated OCI on Derivatives		Gains (Losses) in Income Reclassified from Accumulated OCI		Gains (Losses) Recognized in Accumulated OCI on Derivatives		Gains (Losses) in Income Reclassified from Accumulated OCI	
	Three Months Ended June 30, 2018				Six Months Ended June 30, 2018			
<b>Cash flow hedges</b>								
Interest rate risk on variable-rate assets (1)	\$	(71)	\$	(33)	\$	(499)	\$	(83)
Price risk on certain restricted stock awards (2)		—		—		4		27
<b>Total</b>	\$	(71)	\$	(33)	\$	(495)	\$	(56)
<b>Net investment hedges</b>								
Foreign exchange risk (3)	\$	923	\$	—	\$	679	\$	(1)
<b>Three Months Ended June 30, 2017</b>								
<b>Cash flow hedges</b>								
Interest rate risk on variable-rate assets (1)	\$	64	\$	(108)	\$	27	\$	(220)
Price risk on certain restricted stock awards (2)		6		29		34		71
<b>Total</b>	\$	70	\$	(79)	\$	61	\$	(149)
<b>Net investment hedges</b>								
Foreign exchange risk (3)	\$	(464)	\$	1,928	\$	(1,114)	\$	1,798

(1) Amounts reclassified from accumulated OCI are recorded in interest income in the Consolidated Statement of Income.

(2) Amounts reclassified from accumulated OCI are recorded in personnel expense in the Consolidated Statement of Income.

(3) Amounts reclassified from accumulated OCI are recorded in other income in the Consolidated Statement of Income. For the three and six months ended June 30, 2018, amounts excluded from effectiveness testing and recognized in other income were gains of \$24 million and \$29 million. For the same periods in 2017, amounts excluded from effectiveness testing and recognized in other income were losses of \$33 million and \$48 million.

## Other Risk Management Derivatives

Other risk management derivatives are used by the Corporation to reduce certain risk exposures by economically hedging various assets and liabilities. The gains and losses on these derivatives are recognized in other income. The table below presents gains (losses) on these derivatives for the three and six months ended June 30, 2018 and 2017. These gains (losses) are largely offset by the income or expense that is recorded on the hedged item.

## Gains and Losses On Other Risk Management Derivatives

(Dollars in millions)

	Three Months Ended June 30		Six Months Ended June 30					
	2018	2017	2018	2017				
Interest rate risk on mortgage activities (1)	\$	(26)	\$	55	\$	(161)	\$	31
Credit risk on loans (2)		(2)		(1)		(5)		(3)
Interest rate and foreign currency risk on ALM activities (3)		702		238		563		(52)

(1) Primarily related to hedges of interest rate risk on mortgage servicing rights (MSRs) and interest rate lock commitments (IRLCs) to originate mortgage loans that will be held for sale. The net gains on IRLCs, which are not included in the table but are considered derivative instruments, were \$14 million and \$28 million for the three and six months ended June 30, 2018 compared to \$60 million and \$116 million for the same periods in 2017.

(2) Primarily related to derivatives that are economic hedges of credit risk on loans.

(3) Primarily related to hedges of debt securities carried at fair value and hedges of foreign currency-denominated debt.

## Transfers of Financial Assets with Risk Retained through Derivatives

The Corporation enters into certain transactions involving the transfer of financial assets that are accounted for as sales where substantially all of the economic exposure to the transferred financial assets is retained through derivatives (e.g., interest rate and/or credit), but the Corporation does not retain control over the assets transferred. As of both June 30, 2018 and December 31, 2017, the Corporation had transferred \$6.0 billion of non-U.S. government-guaranteed mortgage-backed securities (MBS) to a

third-party trust and retained economic exposure to the transferred assets through derivative contracts. In connection with these transfers, the Corporation received gross cash proceeds of \$6.0 billion at the transfer dates. At June 30, 2018 and December 31, 2017, the fair value of the transferred securities was \$5.7 billion and \$6.1 billion. At June 30, 2018 and December 31, 2017, derivative assets of \$49 million and \$46 million and liabilities of \$2 million and \$3 million were recorded and are included in credit derivatives in the derivative instruments table on page 64.

## Sales and Trading Revenue

The Corporation enters into trading derivatives to facilitate client transactions and to manage risk exposures arising from trading account assets and liabilities. It is the Corporation's policy to include these derivative instruments in its trading activities which include derivatives and non-derivative cash instruments. The resulting risk from these derivatives is managed on a portfolio basis as part of the Corporation's *Global Markets* business segment. For more information on sales and trading revenue, see *Note 2 – Derivatives* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The table below, which includes both derivatives and non-derivative cash instruments, identifies the amounts in the

respective income statement line items attributable to the Corporation's sales and trading revenue in *Global Markets*, categorized by primary risk, for the three and six months ended June 30, 2018 and 2017. The difference between total trading account profits in the following table and in the Consolidated Statement of Income represents trading activities in business segments other than *Global Markets*. This table includes debit valuation adjustment (DVA) and funding valuation adjustment (FVA) gains (losses). *Global Markets* results in *Note 17 – Business Segment Information* are presented on a fully taxable-equivalent (FTE) basis. The table below is not presented on an FTE basis.

## Sales and Trading Revenue

(Dollars in millions)	Three Months Ended June 30, 2018				Six Months Ended June 30, 2018			
	Trading Account Profits	Net Interest Income	Other (1)	Total	Trading Account Profits	Net Interest Income	Other (1)	Total
Interest rate risk	\$ 348	\$ 314	\$ (1)	\$ 661	\$ 888	\$ 639	\$ 67	\$ 1,594
Foreign exchange risk	392	(8)	1	385	796	(13)	3	786
Equity risk	1,097	(202)	398	1,293	2,249	(327)	848	2,770
Credit risk	284	487	136	907	828	959	271	2,058
Other risk	63	4	24	91	126	13	39	178
<b>Total sales and trading revenue</b>	<b>\$ 2,184</b>	<b>\$ 595</b>	<b>\$ 558</b>	<b>\$ 3,337</b>	<b>\$ 4,887</b>	<b>\$ 1,271</b>	<b>\$ 1,228</b>	<b>\$ 7,386</b>

(Dollars in millions)	Three Months Ended June 30, 2017				Six Months Ended June 30, 2017			
	Trading Account Profits	Net Interest Income	Other (1)	Total	Trading Account Profits	Net Interest Income	Other (1)	Total
Interest rate risk	\$ 219	\$ 375	\$ 75	\$ 669	\$ 502	\$ 817	\$ 152	\$ 1,471
Foreign exchange risk	347	(1)	3	349	715	(4)	3	714
Equity risk	775	(155)	476	1,096	1,447	(230)	962	2,179
Credit risk	371	473	148	992	1,121	984	346	2,451
Other risk	31	5	17	53	135	10	49	194
<b>Total sales and trading revenue</b>	<b>\$ 1,743</b>	<b>\$ 697</b>	<b>\$ 719</b>	<b>\$ 3,159</b>	<b>\$ 3,920</b>	<b>\$ 1,577</b>	<b>\$ 1,512</b>	<b>\$ 7,009</b>

(1) Represents amounts in investment and brokerage services and other income that are recorded in *Global Markets* and included in the definition of sales and trading revenue. Includes investment and brokerage services revenue of \$420 million and \$897 million for the three and six months ended June 30, 2018 compared to \$514 million and \$1.0 billion for the same periods in 2017.

## 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 where the Corporation is the seller of credit protection and their expiration at June 30, 2018 and December 31, 2017 are summarized in the table below.

### Credit Derivative Instruments

	Less than One Year	One to Three Years	Three to Five Years	Over Five Years	Total
June 30, 2018					
Carrying Value					
(Dollars in millions)					
Credit default swaps:					
Investment grade	\$ 1	\$ 42	\$ 427	\$ 462	\$ 932
Non-investment grade	52	438	981	1,919	3,390
Total	53	480	1,408	2,381	4,322
Total return swaps/options:					
Investment grade	71	—	—	—	71
Non-investment grade	238	28	—	—	266
Total	309	28	—	—	337
<b>Total credit derivatives</b>	<b>\$ 362</b>	<b>\$ 508</b>	<b>\$ 1,408</b>	<b>\$ 2,381</b>	<b>\$ 4,659</b>
Credit-related notes:					
Investment grade	\$ —	\$ —	\$ 2	\$ 435	\$ 437
Non-investment grade	3	—	7	1,703	1,713
<b>Total credit-related notes</b>	<b>\$ 3</b>	<b>\$ —</b>	<b>\$ 9</b>	<b>\$ 2,138</b>	<b>\$ 2,150</b>
Maximum Payout/Notional					
Credit default swaps:					
Investment grade	\$ 20,037	\$ 115,539	\$ 123,451	\$ 22,070	\$ 281,097
Non-investment grade	23,801	41,746	45,687	15,266	126,500
Total	43,838	157,285	169,138	37,336	407,597
Total return swaps/options:					
Investment grade	55,557	1,672	—	136	57,365
Non-investment grade	17,450	379	39	76	17,944
Total	73,007	2,051	39	212	75,309
<b>Total credit derivatives</b>	<b>\$ 116,845</b>	<b>\$ 159,336</b>	<b>\$ 169,177</b>	<b>\$ 37,548</b>	<b>\$ 482,906</b>
December 31, 2017					
Carrying Value					
Credit default swaps:					
Investment grade	\$ 4	\$ 3	\$ 61	\$ 245	\$ 313
Non-investment grade	203	453	484	2,133	3,273
Total	207	456	545	2,378	3,586
Total return swaps/options:					
Investment grade	30	—	—	—	30
Non-investment grade	150	—	—	3	153
Total	180	—	—	3	183
<b>Total credit derivatives</b>	<b>\$ 387</b>	<b>\$ 456</b>	<b>\$ 545</b>	<b>\$ 2,381</b>	<b>\$ 3,769</b>
Credit-related notes:					
Investment grade	\$ —	\$ —	\$ 7	\$ 689	\$ 696
Non-investment grade	12	4	34	1,548	1,598
<b>Total credit-related notes</b>	<b>\$ 12</b>	<b>\$ 4</b>	<b>\$ 41</b>	<b>\$ 2,237</b>	<b>\$ 2,294</b>
Maximum Payout/Notional					
Credit default swaps:					
Investment grade	\$ 61,388	\$ 115,480	\$ 107,081	\$ 21,579	\$ 305,528
Non-investment grade	39,312	49,843	39,098	14,420	142,673
Total	100,700	165,323	146,179	35,999	448,201
Total return swaps/options:					
Investment grade	37,394	2,581	—	143	40,118
Non-investment grade	13,751	514	143	697	15,105
Total	51,145	3,095	143	840	55,223
<b>Total credit derivatives</b>	<b>\$ 151,845</b>	<b>\$ 168,418</b>	<b>\$ 146,322</b>	<b>\$ 36,839</b>	<b>\$ 503,424</b>

Credit derivatives are classified as investment and non-investment grade based on the credit quality of the underlying referenced obligation. The Corporation considers ratings of BBB- or higher as investment grade. Non-investment grade includes non-rated credit derivative instruments. The Corporation discloses internal categorizations of investment grade and non-investment grade consistent with how risk is managed for these instruments.

The notional amount represents the maximum amount payable by the Corporation for most credit derivatives. However, the Corporation does not monitor its exposure to credit derivatives based solely on the notional amount because this measure does not take into consideration the probability of occurrence. As such, the notional amount 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 so that certain credit risk-related losses occur within acceptable, predefined limits.

Credit-related notes in the table above include investments in securities issued by collateralized debt obligation (CDO), collateralized loan obligation and credit-linked note vehicles. These instruments are primarily classified as trading securities. The carrying value of these instruments equals the Corporation's maximum exposure to loss. The Corporation is not obligated to make any payments to the entities under the terms of the securities owned.

### Credit-related Contingent Features and Collateral

A majority of the Corporation's derivative contracts contain credit risk-related contingent features, primarily in the form of ISDA master netting agreements and credit support documentation that enhance the creditworthiness of these instruments compared to other obligations of the respective counterparty with whom the Corporation has transacted. These contingent features may be for the benefit of the Corporation as well as its counterparties with respect to changes in the Corporation's creditworthiness and the mark-to-market exposure under the derivative transactions. At June 30, 2018 and December 31, 2017, the Corporation held cash and securities collateral of \$88.4 billion and \$77.2 billion, and posted cash and securities collateral of \$56.8 billion and \$59.2 billion in the normal course of business under derivative agreements, excluding cross-product margining agreements where clients are permitted to margin on a net basis for both derivative and secured financing arrangements.

In connection with certain OTC derivative contracts and other trading agreements, the Corporation can be required to provide additional collateral or to terminate transactions with certain counterparties in the event of a downgrade of the senior debt ratings of the Corporation or certain subsidiaries. The amount of additional collateral required depends on the contract and is usually a fixed incremental amount and/or the market value of the exposure. For more information on credit-related contingent features and collateral, see *Note 2 – Derivatives* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

At June 30, 2018, the amount of collateral, calculated based on the terms of the contracts, that the Corporation and certain subsidiaries could be required to post to counterparties but had not yet posted to counterparties was \$2.3 billion, including \$1.5 billion for Bank of America, National Association (Bank of America, N.A. or BANA).

Some counterparties are currently able to unilaterally terminate certain contracts, or the Corporation or certain subsidiaries may be required to take other action such as find a

suitable replacement or obtain a guarantee. At June 30, 2018 and December 31, 2017, the liability recorded for these derivative contracts was not significant.

The table below presents the amount of additional collateral that would have been contractually required by derivative contracts and other trading agreements at June 30, 2018 if the rating agencies had downgraded their long-term senior debt ratings for the Corporation or certain subsidiaries by one incremental notch and by an additional second incremental notch.

### Additional Collateral Required to be Posted Upon Downgrade at June 30, 2018

(Dollars in millions)	One incremental notch	Second incremental notch
Bank of America Corporation	\$ 643	\$ 289
Bank of America, N.A. and subsidiaries (1)	322	247

(1) Included in Bank of America Corporation collateral requirements in this table.

The table below presents the derivative liabilities that would be subject to unilateral termination by counterparties and the amounts of collateral that would have been contractually required at June 30, 2018 if the long-term senior debt ratings for the Corporation or certain subsidiaries had been lower by one incremental notch and by an additional second incremental notch.

### Derivative Liabilities Subject to Unilateral Termination Upon Downgrade at June 30, 2018

(Dollars in millions)	One incremental notch	Second incremental notch
Derivative liabilities	\$ 184	\$ 614
Collateral posted	115	479

### Valuation Adjustments on Derivatives

The table below presents credit valuation adjustment (CVA), DVA and FVA gains (losses) on derivatives, which are recorded in trading account profits, on a gross and net of hedge basis for the three and six months ended June 30, 2018 and 2017. For more information on the valuation adjustments on derivatives, see *Note 2 – Derivatives* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

### Valuation Adjustments on Derivatives (1)

Gains (Losses)	Three Months Ended June 30			
	2018		2017	
(Dollars in millions)	Gross	Net	Gross	Net
Derivative assets (CVA)	\$ 139	\$ 127	\$ 97	\$ 52
Derivative assets/liabilities (FVA)	28	(18)	27	41
Derivative liabilities (DVA)	(159)	(159)	(128)	(125)

	Six Months Ended June 30			
	2018		2017	
Derivative assets (CVA)	\$ 115	\$ 145	\$ 258	\$ 78
Derivative assets/liabilities (FVA)	(9)	(19)	76	97
Derivative liabilities (DVA)	(43)	(53)	(278)	(218)

(1) At June 30, 2018 and December 31, 2017, cumulative CVA reduced the derivative assets balance by \$562 million and \$677 million, cumulative FVA reduced the net derivatives balance by \$145 million and \$136 million, and cumulative DVA reduced the derivative liabilities balance by \$407 million and \$450 million, respectively.

## NOTE 4 Securities

The table below presents the amortized cost, gross unrealized gains and losses, and fair value of AFS debt securities, other debt securities carried at fair value and held-to-maturity (HTM) debt securities at June 30, 2018 and December 31, 2017.

### Debt Securities

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
(Dollars in millions)				
<b>June 30, 2018</b>				
<b>Available-for-sale debt securities</b>				
Mortgage-backed securities:				
Agency	\$ 162,301	\$ 125	\$ (5,426)	\$ 157,000
Agency-collateralized mortgage obligations	6,194	13	(172)	6,035
Commercial	14,156	2	(558)	13,600
Non-agency residential (1)	2,283	262	(11)	2,534
Total mortgage-backed securities	184,934	402	(6,167)	179,169
U.S. Treasury and agency securities	54,758	12	(2,036)	52,734
Non-U.S. securities	6,659	7	(1)	6,665
Other taxable securities, substantially all asset-backed securities	4,412	81	(7)	4,486
Total taxable securities	250,763	502	(8,211)	243,054
Tax-exempt securities	19,085	82	(102)	19,065
<b>Total available-for-sale debt securities</b>	<b>269,848</b>	<b>584</b>	<b>(8,313)</b>	<b>262,119</b>
<b>Other debt securities carried at fair value</b>	<b>12,853</b>	<b>306</b>	<b>(22)</b>	<b>13,137</b>
<b>Total debt securities carried at fair value</b>	<b>282,701</b>	<b>890</b>	<b>(8,335)</b>	<b>275,256</b>
<b>Held-to-maturity debt securities, substantially all U.S. agency mortgage-backed securities (2)</b>	<b>163,013</b>	<b>131</b>	<b>(4,913)</b>	<b>158,231</b>
<b>Total debt securities (3, 4)</b>	<b>\$ 445,714</b>	<b>\$ 1,021</b>	<b>\$ (13,248)</b>	<b>\$ 433,487</b>
<b>December 31, 2017</b>				
<b>Available-for-sale debt securities</b>				
Mortgage-backed securities:				
Agency	\$ 194,119	\$ 506	\$ (1,696)	\$ 192,929
Agency-collateralized mortgage obligations	6,846	39	(81)	6,804
Commercial	13,864	28	(208)	13,684
Non-agency residential (1)	2,410	267	(8)	2,669
Total mortgage-backed securities	217,239	840	(1,993)	216,086
U.S. Treasury and agency securities	54,523	18	(1,018)	53,523
Non-U.S. securities	6,669	9	(1)	6,677
Other taxable securities, substantially all asset-backed securities	5,699	73	(2)	5,770
Total taxable securities	284,130	940	(3,014)	282,056
Tax-exempt securities	20,541	138	(104)	20,575
<b>Total available-for-sale debt securities</b>	<b>304,671</b>	<b>1,078</b>	<b>(3,118)</b>	<b>302,631</b>
<b>Other debt securities carried at fair value</b>	<b>12,273</b>	<b>252</b>	<b>(39)</b>	<b>12,486</b>
<b>Total debt securities carried at fair value</b>	<b>316,944</b>	<b>1,330</b>	<b>(3,157)</b>	<b>315,117</b>
<b>Held-to-maturity debt securities, substantially all U.S. agency mortgage-backed securities</b>	<b>125,013</b>	<b>111</b>	<b>(1,825)</b>	<b>123,299</b>
<b>Total debt securities (3, 4)</b>	<b>\$ 441,957</b>	<b>\$ 1,441</b>	<b>\$ (4,982)</b>	<b>\$ 438,416</b>
<b>Available-for-sale marketable equity securities (5)</b>	<b>\$ 27</b>	<b>\$ —</b>	<b>\$ (2)</b>	<b>\$ 25</b>

(1) At both June 30, 2018 and December 31, 2017, the underlying collateral type included approximately 62 percent prime, 13 percent Alt-A and 25 percent subprime.

(2) During the three months ended June 30, 2018, the Corporation transferred \$25 billion of available-for-sale debt securities to held to maturity.

(3) Includes securities pledged as collateral of \$42.4 billion and \$35.8 billion at June 30, 2018 and December 31, 2017.

(4) The Corporation had debt securities from Fannie Mae (FNMA) and Freddie Mac (FHLMC) that each exceeded 10 percent of shareholders' equity, with an amortized cost of \$165.6 billion and \$52.8 billion, and a fair value of \$160.6 billion and \$51.2 billion at June 30, 2018, and an amortized cost of \$163.6 billion and \$50.3 billion, and a fair value of \$162.1 billion and \$50.0 billion at December 31, 2017.

(5) Classified in other assets on the Consolidated Balance Sheet.

At June 30, 2018, the accumulated net unrealized loss on AFS debt securities included in accumulated OCI was \$5.8 billion, net of the related income tax benefit of \$1.9 billion. The Corporation had nonperforming AFS debt securities of \$92 million and \$99 million at June 30, 2018 and December 31, 2017.

Effective January 1, 2018, the Corporation adopted an accounting standard applicable to equity securities. For more information, see *Note 1 – Summary of Significant Accounting Principles*. At June 30, 2018, the Corporation held equity securities at an aggregate fair value of \$946 million and other equity securities, as valued under the measurement alternative, at cost

of \$241 million, both of which are included in other assets.

The following table presents the components of other debt securities carried at fair value where the changes in fair value are reported in other income. In the three and six months ended June 30, 2018, the Corporation recorded unrealized mark-to-market net gains of \$28 million and \$69 million, and realized net gains of \$15 million and \$9 million, compared to unrealized mark-to-market net gains of \$83 million and \$199 million and realized net losses of \$14 million and \$118 million for the same periods in 2017. These amounts exclude hedge results.



## Other Debt Securities Carried at Fair Value

(Dollars in millions)	June 30 2018	December 31 2017
Mortgage-backed securities:		
Agency-collateralized mortgage obligations	\$ —	\$ 5
Non-agency residential	2,535	2,764
Total mortgage-backed securities	2,535	2,769
Non-U.S. securities (1)	10,400	9,488
Other taxable securities, substantially all asset-backed securities	202	229
<b>Total</b>	<b>\$ 13,137</b>	<b>\$ 12,486</b>

(1) These securities are primarily used to satisfy certain international regulatory liquidity requirements.

The gross realized gains and losses on sales of AFS debt securities for the three and six months ended June 30, 2018 and 2017 are presented in the table below.

## Gains and Losses on Sales of AFS Debt Securities

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Gross gains	\$ 1	\$ 102	\$ 3	\$ 156
Gross losses	—	(1)	—	(3)
<b>Net gains on sales of AFS debt securities</b>	<b>\$ 1</b>	<b>\$ 101</b>	<b>\$ 3</b>	<b>\$ 153</b>
<b>Income tax expense attributable to realized net gains on sales of AFS debt securities</b>	<b>\$ 1</b>	<b>\$ 38</b>	<b>\$ 1</b>	<b>\$ 58</b>

The table below presents the fair value and the associated gross unrealized losses on AFS debt securities and whether these securities have had gross unrealized losses for less than 12 months or for 12 months or longer at June 30, 2018 and December 31, 2017.

## Temporarily Impaired and Other-than-temporarily Impaired AFS Debt Securities

(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
	<b>June 30, 2018</b>					
<b>Temporarily impaired AFS debt securities</b>						
Mortgage-backed securities:						
Agency	\$ 93,123	\$ (2,718)	\$ 59,404	\$ (2,708)	\$ 152,527	\$ (5,426)
Agency-collateralized mortgage obligations	3,706	(93)	1,698	(79)	5,404	(172)
Commercial	8,325	(250)	4,486	(308)	12,811	(558)
Non-agency residential	154	(6)	—	—	154	(6)
Total mortgage-backed securities	105,308	(3,067)	65,588	(3,095)	170,896	(6,162)
U.S. Treasury and agency securities	27,277	(918)	23,856	(1,118)	51,133	(2,036)
Non-U.S. securities	—	—	86	(1)	86	(1)
Other taxable securities, substantially all asset-backed securities	152	(4)	113	(3)	265	(7)
Total taxable securities	132,737	(3,989)	89,643	(4,217)	222,380	(8,206)
Tax-exempt securities	303	(2)	3,990	(100)	4,293	(102)
<b>Total temporarily impaired AFS debt securities</b>	<b>133,040</b>	<b>(3,991)</b>	<b>93,633</b>	<b>(4,317)</b>	<b>226,673</b>	<b>(8,308)</b>
<b>Other-than-temporarily impaired AFS debt securities (1)</b>						
Non-agency residential mortgage-backed securities	150	(5)	—	—	150	(5)
<b>Total temporarily impaired and other-than-temporarily impaired AFS debt securities</b>	<b>\$ 133,190</b>	<b>\$ (3,996)</b>	<b>\$ 93,633</b>	<b>\$ (4,317)</b>	<b>\$ 226,823</b>	<b>\$ (8,313)</b>

December 31, 2017

<b>Temporarily impaired AFS debt securities</b>						
Mortgage-backed securities:						
Agency	\$ 73,535	\$ (352)	\$ 72,612	\$ (1,344)	\$ 146,147	\$ (1,696)
Agency-collateralized mortgage obligations	2,743	(29)	1,684	(52)	4,427	(81)
Commercial	5,575	(50)	4,586	(158)	10,161	(208)
Non-agency residential	335	(7)	—	—	335	(7)
Total mortgage-backed securities	82,188	(438)	78,882	(1,554)	161,070	(1,992)
U.S. Treasury and agency securities	27,537	(251)	24,035	(767)	51,572	(1,018)
Non-U.S. securities	772	(1)	—	—	772	(1)
Other taxable securities, substantially all asset-backed securities	—	—	92	(2)	92	(2)
Total taxable securities	110,497	(690)	103,009	(2,323)	213,506	(3,013)
Tax-exempt securities	1,090	(2)	7,100	(102)	8,190	(104)
<b>Total temporarily impaired AFS debt securities</b>	<b>111,587</b>	<b>(692)</b>	<b>110,109</b>	<b>(2,425)</b>	<b>221,696</b>	<b>(3,117)</b>
<b>Other-than-temporarily impaired AFS debt securities (1)</b>						
Non-agency residential mortgage-backed securities	58	(1)	—	—	58	(1)

<b>Total temporarily impaired and other-than-temporarily impaired AFS debt securities</b>	\$ 111,645	\$ (693)	\$ 110,109	\$ (2,425)	\$ 221,754	\$ (3,118)
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(1) Includes other-than-temporarily impaired (OTTI) AFS debt securities on which an OTTI loss, primarily related to changes in interest rates, remains in accumulated OCI.

The Corporation had \$8 million and \$11 million of credit-related OTTI losses on AFS debt securities which were recognized in other income for the three and six months ended June 30, 2018 compared to \$6 million and \$33 million for the same periods in 2017. The amount of noncredit-related OTTI losses, which is recognized in OCI, was insignificant for all periods presented.

The cumulative credit loss component of OTTI losses that has been recognized in income related to AFS debt securities that the Corporation does not intend to sell was \$264 million for both the three and six months ended June 30, 2018 compared to \$284 million for each of the same periods in 2017.

For more information on OTTI losses and significant assumptions used for the Corporation's underlying collateral, see Note 3 – Securities to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K. Significant assumptions used in estimating the expected cash flows for measuring credit losses on non-agency residential mortgage-backed securities (RMBS) were as follows at June 30, 2018.

## Significant Assumptions

	Weighted average	Range (1)	
		10th Percentile (2)	90th Percentile (2)
Prepayment speed	13.0%	3.2%	21.4%
Loss severity	19.9	9.0	36.9
Life default rate	17.9	1.5	67.1

(1) Represents the range of inputs/assumptions based upon the underlying collateral.

(2) The value of a variable below which the indicated percentile of observations will fall.

Annual constant prepayment speed and loss severity rates are projected considering collateral characteristics such as loan-to-value (LTV), creditworthiness of borrowers as measured using Fair Isaac Corporation (FICO) scores, and geographic concentrations. The weighted-average severity by collateral type was 16.8 percent for prime, 17.1 percent for Alt-A and 26.9 percent for subprime at June 30, 2018. Default rates are projected by considering collateral characteristics including, but not limited to, LTV, FICO and geographic concentration. Weighted-average life default rates by collateral type were 15.6 percent for prime, 17.3 percent for Alt-A and 20.0 percent for subprime at June 30, 2018.

The remaining contractual maturity distribution and yields of the Corporation's debt securities carried at fair value and HTM debt securities at June 30, 2018 are summarized in the table below. Actual duration and yields may differ as prepayments on the loans underlying the mortgages or other asset-backed securities (ABS) are passed through to the Corporation.

## Maturities of Debt Securities Carried at Fair Value and Held-to-maturity Debt Securities

	Due in One Year or Less		Due after One Year through Five Years		Due after Five Years through Ten Years		Due after Ten Years		Total	
	Amount	Yield (1)	Amount	Yield (1)	Amount	Yield (1)	Amount	Yield (1)	Amount	Yield (1)
(Dollars in millions)										
June 30, 2018										
<b>Amortized cost of debt securities carried at fair value</b>										
Mortgage-backed securities:										
Agency	\$ 2	3.50%	\$ 26	3.98%	\$ 492	2.61%	\$ 161,781	3.26%	\$ 162,301	3.26%
Agency-collateralized mortgage obligations	—	—	—	—	31	2.55	6,163	3.17	6,194	3.17
Commercial	54	9.55	2,155	2.22	11,052	2.48	895	2.81	14,156	2.49
Non-agency residential	—	—	—	—	21	0.01	4,543	9.82	4,564	9.77
<b>Total mortgage-backed securities</b>	<b>56</b>	<b>9.33</b>	<b>2,181</b>	<b>2.24</b>	<b>11,596</b>	<b>2.48</b>	<b>173,382</b>	<b>3.43</b>	<b>187,215</b>	<b>3.36</b>
U.S. Treasury and agency securities	542	0.45	32,638	1.47	21,549	2.24	29	2.70	54,758	1.76
Non-U.S. securities	15,118	0.79	1,787	1.53	2	3.56	140	6.55	17,047	0.91
Other taxable securities, substantially all asset-backed securities	576	3.39	2,886	3.34	874	3.24	260	8.56	4,596	3.62
<b>Total taxable securities</b>	<b>16,292</b>	<b>0.90</b>	<b>39,492</b>	<b>1.65</b>	<b>34,021</b>	<b>2.35</b>	<b>173,811</b>	<b>3.44</b>	<b>263,616</b>	<b>2.87</b>
Tax-exempt securities	894	1.71	8,332	2.27	7,252	2.22	2,607	2.64	19,085	2.28
<b>Total amortized cost of debt securities carried at fair value</b>	<b>\$ 17,186</b>	<b>0.94</b>	<b>\$ 47,824</b>	<b>1.76</b>	<b>\$ 41,273</b>	<b>2.32</b>	<b>\$ 176,418</b>	<b>3.42</b>	<b>\$ 282,701</b>	<b>2.83</b>
<b>Amortized cost of HTM debt securities(2)</b>	<b>\$ 4</b>	<b>3.36</b>	<b>\$ 63</b>	<b>3.56</b>	<b>\$ 1,427</b>	<b>2.78</b>	<b>\$ 161,519</b>	<b>3.15</b>	<b>\$ 163,013</b>	<b>3.15</b>
<b>Debt securities carried at fair value</b>										
Mortgage-backed securities:										
Agency	\$ 2		\$ 26		\$ 484		\$ 156,488		\$ 157,000	
Agency-collateralized mortgage obligations	—		—		30		6,005		6,035	
Commercial	54		2,108		10,592		846		13,600	
Non-agency residential	—		—		33		5,036		5,069	
<b>Total mortgage-backed securities</b>	<b>56</b>		<b>2,134</b>		<b>11,139</b>		<b>168,375</b>		<b>181,704</b>	
U.S. Treasury and agency securities	542		31,381		20,783		28		52,734	
Non-U.S. securities	15,121		1,798		2		144		17,065	
Other taxable securities, substantially all asset-backed securities	571		2,905		916		296		4,688	
<b>Total taxable securities</b>	<b>16,290</b>		<b>38,218</b>		<b>32,840</b>		<b>168,843</b>		<b>256,191</b>	
Tax-exempt securities	894		8,347		7,230		2,594		19,065	
<b>Total debt securities carried at fair value</b>	<b>\$ 17,184</b>		<b>\$ 46,565</b>		<b>\$ 40,070</b>		<b>\$ 171,437</b>		<b>\$ 275,256</b>	
<b>Fair value of HTM debt securities(2)</b>	<b>\$ 4</b>		<b>\$ 63</b>		<b>\$ 1,363</b>		<b>\$ 156,801</b>		<b>\$ 158,231</b>	

(1) The average yield is computed based on a constant effective interest rate over the contractual life of each security. The average yield considers the contractual coupon and the amortization of premiums and accretion of discounts, excluding the effect of related hedging derivatives.

(2) Substantially all U.S. agency MBS.

## NOTE 5 Outstanding Loans and Leases

The following tables present total outstanding loans and leases and an aging analysis for the Consumer Real Estate, Credit Card and Other Consumer, and Commercial portfolio segments, by class of financing receivables, at June 30, 2018 and December 31, 2017.

	June 30, 2018								
	30-59 Days Past Due (1)	60-89 Days Past Due (1)	90 Days or More Past Due (2)	Total Past Due 30 Days or More	Total Current or Less Than 30 Days Past Due (3)	Purchased Credit-impaired (4)	Loans Accounted for Under the Fair Value Option	Total Outstandings	
(Dollars in millions)									
<b>Consumer real estate</b>									
Core portfolio									
Residential mortgage	\$ 1,064	\$ 259	\$ 886	\$ 2,209	\$ 182,453			\$ 184,662	
Home equity	205	102	457	764	40,761			41,525	
Non-core portfolio									
Residential mortgage (5)	840	361	2,672	3,873	11,822	\$ 7,207		22,902	
Home equity	186	96	488	770	8,914	2,378		12,062	
<b>Credit card and other consumer</b>									
U.S. credit card	501	329	865	1,695	93,095			94,790	
Direct/Indirect consumer (6)	282	77	37	396	92,225			92,621	
Other consumer (7)	—	—	—	—	167			167	
Total consumer	3,078	1,224	5,405	9,707	429,437	9,585		448,729	
Consumer loans accounted for under the fair value option (8)							\$ 848	848	
<b>Total consumer loans and leases</b>	<b>3,078</b>	<b>1,224</b>	<b>5,405</b>	<b>9,707</b>	<b>429,437</b>	<b>9,585</b>	<b>848</b>	<b>449,577</b>	
<b>Commercial</b>									
U.S. commercial	441	213	685	1,339	288,402			289,741	
Non-U.S. commercial	43	389	—	432	94,018			94,450	
Commercial real estate (9)	59	—	76	135	60,938			61,073	
Commercial lease financing	46	59	30	135	21,264			21,399	
U.S. small business commercial	61	40	84	185	14,020			14,205	
Total commercial	650	701	875	2,226	478,642			480,868	
Commercial loans accounted for under the fair value option (8)							5,379	5,379	
<b>Total commercial loans and leases</b>	<b>650</b>	<b>701</b>	<b>875</b>	<b>2,226</b>	<b>478,642</b>		<b>5,379</b>	<b>486,247</b>	
<b>Total loans and leases (10)</b>	<b>\$ 3,728</b>	<b>\$ 1,925</b>	<b>\$ 6,280</b>	<b>\$ 11,933</b>	<b>\$ 908,079</b>	<b>\$ 9,585</b>	<b>\$ 6,227</b>	<b>\$ 935,824</b>	
<b>Percentage of outstandings</b>	<b>0.40 %</b>	<b>0.21 %</b>	<b>0.67 %</b>	<b>1.28 %</b>	<b>97.03 %</b>	<b>1.02 %</b>	<b>0.67 %</b>	<b>100.00 %</b>	

(1) Consumer real estate loans 30-59 days past due includes fully-insured loans of \$665 million and nonperforming loans of \$242 million. Consumer real estate loans 60-89 days past due includes fully-insured loans of \$307 million and nonperforming loans of \$195 million.

(2) Consumer real estate includes fully-insured loans of \$2.5 billion.

(3) Consumer real estate includes \$2.1 billion and direct/indirect consumer includes \$44 million of nonperforming loans.

(4) Purchased credit-impaired (PCI) loan amounts are shown gross of the valuation allowance.

(5) Total outstandings includes pay option loans of \$1.2 billion. The Corporation no longer originates this product.

(6) Total outstandings includes auto and specialty lending loans and leases of \$50.2 billion, unsecured consumer lending loans of \$410 million, U.S. securities-based lending loans of \$38.4 billion, non-U.S. consumer loans of \$2.8 billion and other consumer loans of \$769 million.

(7) Substantially all of other consumer is consumer overdrafts.

(8) Consumer loans accounted for under the fair value option includes residential mortgage loans of \$489 million and home equity loans of \$359 million. Commercial loans accounted for under the fair value option includes U.S. commercial loans of \$3.5 billion and non-U.S. commercial loans of \$1.9 billion. For more information, see Note 14 – Fair Value Measurements and Note 15 – Fair Value Option.

(9) Total outstandings includes U.S. commercial real estate loans of \$57.1 billion and non-U.S. commercial real estate loans of \$4.0 billion.

(10) Total outstandings includes loans and leases pledged as collateral of \$55.0 billion. The Corporation also pledged \$150.1 billion of loans with no related outstanding borrowings to secure potential borrowing capacity with the Federal Reserve Bank and Federal Home Loan Bank (FHLB).

	30-59 Days Past Due (1)	60-89 Days Past Due (1)	90 Days or More Past Due (2)	Total Past Due 30 Days or More	Total Current or Less Than 30 Days Past Due (3)	Purchased Credit-impaired (4)	Loans Accounted for Under the Fair Value Option	Total Outstandings
December 31, 2017								
(Dollars in millions)								
<b>Consumer real estate</b>								
Core portfolio								
Residential mortgage	\$ 1,242	\$ 321	\$ 1,040	\$ 2,603	\$ 174,015			\$ 176,618
Home equity	215	108	473	796	43,449			44,245
Non-core portfolio								
Residential mortgage (5)	1,028	468	3,535	5,031	14,161	\$ 8,001		27,193
Home equity	224	121	572	917	9,866	2,716		13,499
<b>Credit card and other consumer</b>								
U.S. credit card	542	405	900	1,847	94,438			96,285
Direct/Indirect consumer (6)	330	104	44	478	95,864			96,342
Other consumer (7)	—	—	—	—	166			166
<b>Total consumer</b>	<b>3,581</b>	<b>1,527</b>	<b>6,564</b>	<b>11,672</b>	<b>431,959</b>	<b>10,717</b>		<b>454,348</b>
Consumer loans accounted for under the fair value option (8)							\$ 928	928
<b>Total consumer loans and leases</b>	<b>3,581</b>	<b>1,527</b>	<b>6,564</b>	<b>11,672</b>	<b>431,959</b>	<b>10,717</b>	<b>928</b>	<b>455,276</b>
<b>Commercial</b>								
U.S. commercial	547	244	425	1,216	283,620			284,836
Non-U.S. commercial	52	1	3	56	97,736			97,792
Commercial real estate (9)	48	10	29	87	58,211			58,298
Commercial lease financing	110	68	26	204	21,912			22,116
U.S. small business commercial	95	45	88	228	13,421			13,649
<b>Total commercial</b>	<b>852</b>	<b>368</b>	<b>571</b>	<b>1,791</b>	<b>474,900</b>			<b>476,691</b>
Commercial loans accounted for under the fair value option (8)							4,782	4,782
<b>Total commercial loans and leases</b>	<b>852</b>	<b>368</b>	<b>571</b>	<b>1,791</b>	<b>474,900</b>		<b>4,782</b>	<b>481,473</b>
<b>Total loans and leases (10)</b>	<b>\$ 4,433</b>	<b>\$ 1,895</b>	<b>\$ 7,135</b>	<b>\$ 13,463</b>	<b>\$ 906,859</b>	<b>\$ 10,717</b>	<b>\$ 5,710</b>	<b>\$ 936,749</b>
<b>Percentage of outstandings</b>	<b>0.48 %</b>	<b>0.20 %</b>	<b>0.76 %</b>	<b>1.44 %</b>	<b>96.81 %</b>	<b>1.14 %</b>	<b>0.61 %</b>	<b>100.00 %</b>

(1) Consumer real estate loans 30-59 days past due includes fully-insured loans of \$850 million and nonperforming loans of \$253 million. Consumer real estate loans 60-89 days past due includes fully-insured loans of \$386 million and nonperforming loans of \$195 million.

(2) Consumer real estate includes fully-insured loans of \$3.2 billion.

(3) Consumer real estate includes \$2.3 billion and direct/indirect consumer includes \$43 million of nonperforming loans.

(4) PCI loan amounts are shown gross of the valuation allowance.

(5) Total outstandings includes pay option loans of \$1.4 billion. The Corporation no longer originates this product.

(6) Total outstandings includes auto and specialty lending loans and leases of \$52.4 billion, unsecured consumer lending loans of \$469 million, U.S. securities-based lending loans of \$39.8 billion, non-U.S. consumer loans of \$3.0 billion and other consumer loans of \$684 million.

(7) Substantially all of other consumer is consumer overdrafts.

(8) Consumer loans accounted for under the fair value option includes residential mortgage loans of \$567 million and home equity loans of \$361 million. Commercial loans accounted for under the fair value option includes U.S. commercial loans of \$2.6 billion and non-U.S. commercial loans of \$2.2 billion. For more information, see Note 14 – Fair Value Measurements and Note 15 – Fair Value Option.

(9) Total outstandings includes U.S. commercial real estate loans of \$54.8 billion and non-U.S. commercial real estate loans of \$3.5 billion.

(10) Total outstandings includes loans and leases pledged as collateral of \$40.1 billion. The Corporation also pledged \$160.3 billion of loans with no related outstanding borrowings to secure potential borrowing capacity with the Federal Reserve Bank and FHLB.

The Corporation categorizes consumer real estate loans as core and non-core based on loan and customer characteristics such as origination date, product type, LTV, FICO score and delinquency status consistent with its current consumer and mortgage servicing strategy. Generally, loans that were originated after January 1, 2010, qualified under government-sponsored enterprise (GSE) underwriting guidelines, or otherwise met the Corporation's underwriting guidelines in place in 2015 are characterized as core loans. All other loans are generally characterized as non-core loans and represent run-off portfolios.

The Corporation has entered into long-term credit protection agreements with FNMA and FHLB on loans totaling \$6.0 billion and \$6.3 billion at June 30, 2018 and December 31, 2017, providing full credit protection on residential mortgage loans that become severely delinquent. All of these loans are individually insured and therefore the Corporation does not record an allowance for credit losses related to these loans.

## Nonperforming Loans and Leases

The Corporation classifies junior-lien home equity loans as nonperforming when the first-lien loan becomes 90 days past due even if the junior-lien loan is performing. At June 30, 2018 and December 31, 2017, \$266 million and \$330 million of such junior-lien home equity loans were included in nonperforming loans.

The Corporation classifies consumer real estate loans that have been discharged in Chapter 7 bankruptcy and not reaffirmed by the borrower as troubled debt restructurings (TDRs), irrespective of payment history or delinquency status, even if the repayment terms for the loan have not been otherwise modified. The Corporation continues to have a lien on the underlying collateral. At June 30, 2018, nonperforming loans discharged in Chapter 7 bankruptcy with no change in repayment terms were \$263 million of which \$139 million were current on their contractual payments, while \$102 million were 90 days or more past due. Of the contractually current nonperforming loans, 57 percent were discharged in Chapter 7 bankruptcy over 12 months ago, and 50 percent were discharged 24 months or more ago.

During the three and six months ended June 30, 2018, the Corporation sold nonperforming and other delinquent consumer real estate loans with a carrying value of \$168 million and \$546 million, including \$51 million and \$160 million of PCI loans, compared to \$323 million and \$465 million, including \$204 million of PCI loans for both periods, for the same periods in 2017. The Corporation recorded net recoveries of \$7 million and \$27 million related to these sales for the three and six months ended June 30, 2018 compared to net recoveries of \$3 million and \$14 million for the same periods in 2017. Gains related to these sales of \$10 million and \$26 million were recorded in other income in the Consolidated Statement of Income for the three and six months ended June 30, 2018 compared to gains of \$6 million and \$12 million for the same periods in 2017. During the six months ended

June 30, 2018 and 2017, the Corporation transferred consumer nonperforming loans with a net carrying value of \$2 million and \$198 million to held for sale.

The table below presents the Corporation's nonperforming loans and leases including nonperforming TDRs, and loans accruing past due 90 days or more at June 30, 2018 and December 31, 2017. Nonperforming loans held-for-sale (LHFS) are excluded from nonperforming loans and leases as they are recorded at either fair value or the lower of cost or fair value. For more information on the criteria for classification as nonperforming, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

## Credit Quality

	Nonperforming Loans and Leases		Accruing Past Due 90 Days or More	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)				
<b>Consumer real estate</b>				
Core portfolio				
Residential mortgage (1)	\$ 1,052	\$ 1,087	\$ 344	\$ 417
Home equity	1,077	1,079	—	—
Non-core portfolio				
Residential mortgage (1)	1,088	1,389	2,139	2,813
Home equity	1,375	1,565	—	—
<b>Credit card and other consumer</b>				
U.S. credit card	n/a	n/a	865	900
Direct/Indirect consumer	47	46	35	40
Other consumer	—	—	—	—
<b>Total consumer</b>	<b>4,639</b>	<b>5,166</b>	<b>3,383</b>	<b>4,170</b>
<b>Commercial</b>				
U.S. commercial	881	814	221	144
Non-U.S. commercial	170	299	—	3
Commercial real estate	117	112	—	4
Commercial lease financing	34	24	12	19
U.S. small business commercial	56	55	73	75
<b>Total commercial</b>	<b>1,258</b>	<b>1,304</b>	<b>306</b>	<b>245</b>
<b>Total loans and leases</b>	<b>\$ 5,897</b>	<b>\$ 6,470</b>	<b>\$ 3,689</b>	<b>\$ 4,415</b>

(1) Residential mortgage loans in the core and non-core portfolios accruing past due 90 days or more are fully-insured loans. At June 30, 2018 and December 31, 2017, residential mortgage includes \$1.7 billion and \$2.2 billion of loans on which interest has been curtailed by the Federal Housing Administration (FHA), and therefore are no longer accruing interest, although principal is still insured, and \$742 million and \$1.0 billion of loans on which interest is still accruing. n/a = not applicable

## Credit Quality Indicators

The Corporation monitors credit quality within its Consumer Real Estate, Credit Card and Other Consumer, and Commercial portfolio segments based on primary credit quality indicators. For more information on the portfolio segments and their related credit quality indicators, see *Significant Accounting Principles – Loans and Leases* in *Note 1 – Summary of Significant Accounting Principles* and *Credit Quality Indicators* in *Note 4 – Outstanding Loans and Leases* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The following tables present certain credit quality indicators for the Corporation's Consumer Real Estate, Credit Card and Other Consumer, and Commercial portfolio segments, by class of financing receivables, at June 30, 2018 and December 31, 2017.

### Consumer Real Estate – Credit Quality Indicators (1)

	Core Residential Mortgage (2)	Non-core Residential Mortgage (2)	Residential Mortgage PCI (3)	Core Home Equity (2)	Non-core Home Equity (2)	Home Equity PCI
(Dollars in millions)						
June 30, 2018						
Refreshed LTV (4)						
Less than or equal to 90 percent	\$ 163,729	\$ 9,975	\$ 6,289	\$ 40,505	\$ 7,395	\$ 1,618
Greater than 90 percent but less than or equal to 100 percent	2,676	664	452	476	880	338
Greater than 100 percent	992	777	466	544	1,409	422
Fully-insured loans (5)	17,265	4,279	—	—	—	—
<b>Total consumer real estate</b>	<b>\$ 184,662</b>	<b>\$ 15,695</b>	<b>\$ 7,207</b>	<b>\$ 41,525</b>	<b>\$ 9,684</b>	<b>\$ 2,378</b>
Refreshed FICO score						
Less than 620	\$ 2,128	\$ 1,890	\$ 1,673	\$ 1,112	\$ 1,858	\$ 393
Greater than or equal to 620 and less than 680	4,236	1,690	1,431	2,152	2,090	390
Greater than or equal to 680 and less than 740	22,803	2,759	2,129	7,318	2,484	666
Greater than or equal to 740	138,230	5,077	1,974	30,943	3,252	929
Fully-insured loans (5)	17,265	4,279	—	—	—	—
<b>Total consumer real estate</b>	<b>\$ 184,662</b>	<b>\$ 15,695</b>	<b>\$ 7,207</b>	<b>\$ 41,525</b>	<b>\$ 9,684</b>	<b>\$ 2,378</b>

(1) Excludes \$848 million of loans accounted for under the fair value option.

(2) Excludes PCI loans.

(3) Includes \$1.1 billion of pay option loans. The Corporation no longer originates this product.

(4) Refreshed LTV percentages for PCI loans are calculated using the carrying value net of the related valuation allowance.

(5) Credit quality indicators are not reported for fully-insured loans as principal repayment is insured.

### Credit Card and Other Consumer – Credit Quality Indicators

	U.S. Credit Card	Direct/Indirect Consumer	Other Consumer
(Dollars in millions)			
June 30, 2018			
Refreshed FICO score			
Less than 620	\$ 4,504	\$ 1,588	\$ —
Greater than or equal to 620 and less than 680	11,810	1,854	—
Greater than or equal to 680 and less than 740	34,852	11,193	—
Greater than or equal to 740	43,624	35,949	—
Other internal credit metrics (1, 2)	—	42,037	167
<b>Total credit card and other consumer</b>	<b>\$ 94,790</b>	<b>\$ 92,621</b>	<b>\$ 167</b>

(1) Other internal credit metrics may include delinquency status, geography or other factors.

(2) Direct/indirect consumer includes \$41.3 billion of securities-based lending which is overcollateralized and therefore has minimal credit risk.

### Commercial – Credit Quality Indicators (1)

	U.S. Commercial	Non-U.S. Commercial	Commercial Real Estate	Commercial Lease Financing	U.S. Small Business Commercial (2)
(Dollars in millions)					
June 30, 2018					
Risk ratings					
Pass rated	\$ 281,622	\$ 92,676	\$ 60,622	\$ 20,978	\$ 282
Reservable criticized	8,119	1,774	451	421	36
Refreshed FICO score (3)					
Less than 620					235
Greater than or equal to 620 and less than 680					639
Greater than or equal to 680 and less than 740					1,982
Greater than or equal to 740					4,134
Other internal credit metrics (3, 4)					6,897
<b>Total commercial</b>	<b>\$ 289,741</b>	<b>\$ 94,450</b>	<b>\$ 61,073</b>	<b>\$ 21,399</b>	<b>\$ 14,205</b>

(1) Excludes \$5.4 billion of loans accounted for under the fair value option.

(2) U.S. small business commercial includes \$725 million of criticized business card and small business loans which are evaluated using refreshed FICO scores or internal credit metrics, including delinquency status, rather than risk ratings. At June 30, 2018, 99 percent of the balances where internal credit metrics are used was current or less than 30 days past due.

(3) Refreshed FICO score and other internal credit metrics are applicable only to the U.S. small business commercial portfolio.

(4) Other internal credit metrics may include delinquency status, application scores, geography or other factors.

## Consumer Real Estate – Credit Quality Indicators (1)

	Core Residential Mortgage (2)	Non-core Residential Mortgage (2)	Residential Mortgage PCI (3)	Core Home Equity (2)	Non-core Home Equity (2)	Home Equity PCI
	December 31, 2017					
(Dollars in millions)						
Refreshed LTV (4)						
Less than or equal to 90 percent	\$ 153,669	\$ 12,135	\$ 6,872	\$ 43,048	\$ 7,944	\$ 1,781
Greater than 90 percent but less than or equal to 100 percent	3,082	850	559	549	1,053	412
Greater than 100 percent	1,322	1,011	570	648	1,786	523
Fully-insured loans (5)	18,545	5,196	—	—	—	—
<b>Total consumer real estate</b>	<b>\$ 176,618</b>	<b>\$ 19,192</b>	<b>\$ 8,001</b>	<b>\$ 44,245</b>	<b>\$ 10,783</b>	<b>\$ 2,716</b>
Refreshed FICO score						
Less than 620	\$ 2,234	\$ 2,390	\$ 1,941	\$ 1,169	\$ 2,098	\$ 452
Greater than or equal to 620 and less than 680	4,531	2,086	1,657	2,371	2,393	466
Greater than or equal to 680 and less than 740	22,934	3,519	2,396	8,115	2,723	786
Greater than or equal to 740	128,374	6,001	2,007	32,590	3,569	1,012
Fully-insured loans (5)	18,545	5,196	—	—	—	—
<b>Total consumer real estate</b>	<b>\$ 176,618</b>	<b>\$ 19,192</b>	<b>\$ 8,001</b>	<b>\$ 44,245</b>	<b>\$ 10,783</b>	<b>\$ 2,716</b>

(1) Excludes \$928 million of loans accounted for under the fair value option.

(2) Excludes PCI loans.

(3) Includes \$1.2 billion of pay option loans. The Corporation no longer originates this product.

(4) Refreshed LTV percentages for PCI loans are calculated using the carrying value net of the related valuation allowance.

(5) Credit quality indicators are not reported for fully-insured loans as principal repayment is insured.

## Credit Card and Other Consumer – Credit Quality Indicators

	U.S. Credit Card	Direct/Indirect Consumer	Other Consumer
	December 31, 2017		
(Dollars in millions)			
Refreshed FICO score			
Less than 620	\$ 4,730	\$ 1,680	\$ —
Greater than or equal to 620 and less than 680	12,422	2,143	—
Greater than or equal to 680 and less than 740	35,656	12,304	—
Greater than or equal to 740	43,477	36,759	—
Other internal credit metrics (1, 2)	—	43,456	166
<b>Total credit card and other consumer</b>	<b>\$ 96,285</b>	<b>\$ 96,342</b>	<b>\$ 166</b>

(1) Other internal credit metrics may include delinquency status, geography or other factors.

(2) Direct/indirect consumer includes \$42.8 billion of securities-based lending which is overcollateralized and therefore has minimal credit risk.

## Commercial – Credit Quality Indicators (1)

	U.S. Commercial	Non-U.S. Commercial	Commercial Real Estate	Commercial Lease Financing	U.S. Small Business Commercial (2)
	December 31, 2017				
(Dollars in millions)					
Risk ratings					
Pass rated	\$ 275,904	\$ 96,199	\$ 57,732	\$ 21,535	\$ 322
Reservable criticized	8,932	1,593	566	581	50
Refreshed FICO score (3)					
Less than 620					223
Greater than or equal to 620 and less than 680					625
Greater than or equal to 680 and less than 740					1,875
Greater than or equal to 740					3,713
Other internal credit metrics (3, 4)					6,841
<b>Total commercial</b>	<b>\$ 284,836</b>	<b>\$ 97,792</b>	<b>\$ 58,298</b>	<b>\$ 22,116</b>	<b>\$ 13,649</b>

(1) Excludes \$4.8 billion of loans accounted for under the fair value option.

(2) U.S. small business commercial includes \$709 million of criticized business card and small business loans which are evaluated using refreshed FICO scores or internal credit metrics, including delinquency status, rather than risk ratings. At December 31, 2017, 98 percent of the balances where internal credit metrics are used was current or less than 30 days past due.

(3) Refreshed FICO score and other internal credit metrics are applicable only to the U.S. small business commercial portfolio.

(4) Other internal credit metrics may include delinquency status, application scores, geography or other factors.



## Impaired Loans and Troubled Debt Restructurings

A loan is considered impaired when, based on current information, it is probable that the Corporation will be unable to collect all amounts due from the borrower in accordance with the contractual terms of the loan. For additional information on impaired loans, see Note 1 – Summary of Significant Accounting Principles and Note 4 – Outstanding Loans and Leases to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K

### Consumer Real Estate

Impaired consumer real estate loans within the Consumer Real Estate portfolio segment consist entirely of TDRs. Excluding PCI loans, most modifications of consumer real estate loans meet the definition of TDRs when a binding offer is extended to a borrower. For more information on impaired consumer real estate loans, see Note 4 – Outstanding Loans and Leases to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K

Consumer real estate loans that have been discharged in Chapter 7 bankruptcy with no change in repayment terms and not reaffirmed by the borrower of \$1.0 billion were included in TDRs at June 30, 2018, of which \$263 million were classified as nonperforming and \$382 million were loans fully-insured by the FHA. For more information on loans discharged in Chapter 7 bankruptcy, see Nonperforming Loans and Leases in this Note.

At June 30, 2018 and December 31, 2017, remaining commitments to lend additional funds to debtors whose terms have been modified in a consumer real estate TDR were immaterial. Consumer real estate foreclosed properties totaled \$263 million and \$236 million at June 30, 2018 and December 31, 2017. The carrying value of consumer real estate loans, including fully-insured and PCI loans, for which formal foreclosure proceedings were in process at June 30, 2018 was \$3.0 billion. During the three and six months ended June 30, 2018 the Corporation reclassified \$151 million and \$319 million of consumer real estate loans to foreclosed properties or, for properties acquired upon foreclosure of certain government-guaranteed loans (principally FHA-insured loans), to other assets. This compared to reclassifications of \$226 million and \$426 million for the same periods in 2017. The reclassifications represent non-cash investing activities and, accordingly, are not reflected in the Consolidated Statement of Cash Flows.

The table below provides the unpaid principal balance, carrying value and related allowance at June 30, 2018 and December 31, 2017, and the average carrying value and interest income recognized for the three and six months ended June 30, 2018 and 2017 for impaired loans in the Corporation's Consumer Real Estate portfolio segment. Certain impaired consumer real estate loans do not have a related allowance as the current valuation of these impaired loans exceeded the carrying value, which is net of previously recorded charge-offs.

### Impaired Loans – Consumer Real Estate

	Unpaid Principal Balance			Carrying Value			Related Allowance		
	June 30, 2018	December 31, 2017		June 30, 2018	December 31, 2017		June 30, 2018	December 31, 2017	
(Dollars in millions)									
<b>With no recorded allowance</b>									
Residential mortgage	\$ 6,544	\$ 8,856	\$ —	\$ 5,223	\$ 6,870	\$ —	\$ 8,856	\$ 6,870	\$ —
Home equity	3,545	3,622	—	1,932	1,956	—	3,622	1,956	—
<b>With an allowance recorded</b>									
Residential mortgage	\$ 2,482	\$ 2,908	\$ 149	\$ 2,421	\$ 2,828	\$ 174	\$ 2,908	\$ 2,828	\$ 174
Home equity	962	972	178	894	900	174	972	900	174
<b>Total</b>									
Residential mortgage (1)	\$ 9,026	\$ 11,764	\$ 149	\$ 7,644	\$ 9,698	\$ 174	\$ 11,764	\$ 9,698	\$ 174
Home equity	4,507	4,594	178	2,826	2,856	174	4,594	2,856	174

	Average Carrying Value		Interest Income Recognized (2)		Average Carrying Value		Interest Income Recognized (2)	
	Three Months Ended June 30				Six Months Ended June 30			
	2018	2017	2018	2017	2018	2017	2018	2017
<b>With no recorded allowance</b>								
Residential mortgage	\$ 5,362	\$ 7,886	\$ 50	\$ 81	\$ 5,978	\$ 115	\$ 8,192	\$ 160
Home equity	1,944	1,999	25	28	1,953	52	2,000	55
<b>With an allowance recorded</b>								
Residential mortgage	\$ 2,482	\$ 3,647	\$ 24	\$ 33	\$ 2,597	\$ 49	\$ 3,723	\$ 68
Home equity	891	868	6	7	889	12	842	12
<b>Total</b>								
Residential mortgage (1)	\$ 7,844	\$ 11,533	\$ 74	\$ 114	\$ 8,575	\$ 164	\$ 11,915	\$ 228
Home equity	2,835	2,867	31	35	2,842	64	2,842	67

(1) During the three months ended June 30, 2018, previously impaired residential mortgage loans with a carrying value of \$1.2 billion were sold, resulting in a gain of \$572 million recorded in other income.

(2) Interest income recognized includes interest accrued and collected on the outstanding balances of accruing impaired loans as well as interest cash collections on nonaccruing impaired loans for which the principal is considered collectible.

The table below presents the June 30, 2018 and 2017 unpaid principal balance, carrying value, and average pre- and post-modification interest rates on consumer real estate loans that were modified in TDRs during the three and six months ended June 30, 2018 and 2017. The following Consumer Real Estate portfolio segment tables include loans that were initially classified as TDRs during the period and also loans that had previously been classified as TDRs and were modified again during the period.

### Consumer Real Estate – TDRs Entered into During the Three and Six Months Ended June 30, 2018 and 2017

	Unpaid Principal Balance	Carrying Value	Pre-Modification Interest Rate	Post-Modification Interest Rate (1)	Unpaid Principal Balance	Carrying Value	Pre-Modification Interest Rate	Post-Modification Interest Rate (1)
(Dollars in millions)	Three Months Ended June 30, 2018				Six Months Ended June 30, 2018			
Residential mortgage	\$ 276	\$ 237	4.24%	3.94%	\$ 628	\$ 542	4.17%	3.93%
Home equity	194	152	4.43	4.42	392	297	4.38	4.06
<b>Total (2)</b>	<b>\$ 470</b>	<b>\$ 389</b>	<b>4.32</b>	<b>4.14</b>	<b>\$ 1,020</b>	<b>\$ 839</b>	<b>4.25</b>	<b>3.98</b>
	Three Months Ended June 30, 2017				Six Months Ended June 30, 2017			
Residential mortgage	\$ 346	\$ 313	4.50%	4.37%	\$ 646	\$ 581	4.51%	4.34%
Home equity	250	201	4.11	3.94	469	365	4.20	3.75
<b>Total (2)</b>	<b>\$ 596</b>	<b>\$ 514</b>	<b>4.33</b>	<b>4.19</b>	<b>\$ 1,115</b>	<b>\$ 946</b>	<b>4.38</b>	<b>4.09</b>

(1) The post-modification interest rate reflects the interest rate applicable only to permanently completed modifications, which exclude loans that are in a trial modification period.

(2) Net charge-offs, which include amounts recorded on loans modified during the period that are no longer held by the Corporation at June 30, 2018 and 2017 due to sales and other dispositions, were \$15 million and \$24 million for the three and six months ended June 30, 2018 compared to \$12 million and \$20 million for the same periods in 2017.

The table below presents the June 30, 2018 and 2017 carrying value for consumer real estate loans that were modified in a TDR during the three and six months ended June 30, 2018 and 2017, by type of modification.

### Consumer Real Estate – Modification Programs

	TDRs Entered into During the			
	Three Months Ended June 30		Six Months Ended June 30	
(Dollars in millions)	2018	2017	2018	2017
<b>Modifications under government programs</b>				
Contractual interest rate reduction	\$ 9	\$ 11	\$ 17	\$ 38
Principal and/or interest forbearance	—	1	—	3
Other modifications (1)	8	3	18	8
<b>Total modifications under government programs</b>	<b>17</b>	<b>15</b>	<b>35</b>	<b>49</b>
<b>Modifications under proprietary programs</b>				
Contractual interest rate reduction	13	20	67	72
Capitalization of past due amounts	19	9	43	21
Principal and/or interest forbearance	5	3	16	9
Other modifications (1)	55	16	205	44
<b>Total modifications under proprietary programs</b>	<b>92</b>	<b>48</b>	<b>331</b>	<b>146</b>
<b>Trial modifications</b>	<b>242</b>	<b>387</b>	<b>379</b>	<b>622</b>
<b>Loans discharged in Chapter 7 bankruptcy (2)</b>	<b>38</b>	<b>64</b>	<b>94</b>	<b>129</b>
<b>Total modifications</b>	<b>\$ 389</b>	<b>\$ 514</b>	<b>\$ 839</b>	<b>\$ 946</b>

(1) Includes other modifications such as term or payment extensions and repayment plans. During the three and six months ended June 30, 2018, this included \$38 million and \$196 million of modifications related to the 2017 hurricanes that met the definition of a TDR. These modifications had been written down to their net realizable value less costs to sell or were fully insured as of June 30, 2018.

(2) Includes loans discharged in Chapter 7 bankruptcy with no change in repayment terms that are classified as TDRs.

The table below presents the carrying value of consumer real estate loans that entered into payment default during the three and six months ended June 30, 2018 and 2017 that were modified in a TDR during the 12 months preceding payment default. A payment default for consumer real estate TDRs is recognized when a borrower has missed three monthly payments (not necessarily consecutively) since modification.

### Consumer Real Estate – TDRs Entering Payment Default that were Modified During the Preceding 12 Months

	Three Months Ended June 30		Six Months Ended June 30	
(Dollars in millions)	2018	2017	2018	2017
Modifications under government programs	\$ 11	\$ 20	\$ 24	\$ 46
Modifications under proprietary programs	56	33	87	67
Loans discharged in Chapter 7 bankruptcy (1)	16	15	39	77
Trial modifications (2)	22	46	67	258
<b>Total modifications</b>	<b>\$ 105</b>	<b>\$ 114</b>	<b>\$ 217</b>	<b>\$ 448</b>

(1) Includes loans discharged in Chapter 7 bankruptcy with no change in repayment terms that are classified as TDRs.

(2) Includes trial modification offers to which the customer did not respond.

### Credit Card and Other Consumer

Impaired loans within the Credit Card and Other Consumer portfolio segment consist entirely of loans that have been modified in TDRs. The Corporation seeks to assist customers that are experiencing financial difficulty by modifying loans while ensuring compliance with federal, local and international laws and guidelines. Credit card and other consumer loan modifications generally involve reducing the interest rate on the account, placing the customer on a fixed payment plan not exceeding 60 months and canceling the customer's available line of credit, all of which are considered TDRs. The Corporation makes loan modifications directly with borrowers for debt held only by the Corporation (internal programs). Additionally, the Corporation makes loan modifications for borrowers working with third-party renegotiation agencies that

provide solutions to customers' entire unsecured debt structures (external programs). The Corporation classifies other secured consumer loans that have been discharged in Chapter 7 bankruptcy as TDRs which are written down to collateral value and placed on nonaccrual status no later than the time of discharge. For more information on the regulatory guidance on loans discharged in Chapter 7 bankruptcy, see Nonperforming Loans and Leases in this Note.

The table below provides the unpaid principal balance, carrying value and related allowance at June 30, 2018 and December 31, 2017, and the average carrying value and interest income recognized for the three and six months ended June 30, 2018 and 2017 on TDRs within the Credit Card and Other Consumer portfolio segment.

### Impaired Loans – Credit Card and Other Consumer

	June 30, 2018			December 31, 2017		
	Unpaid Principal Balance	Carrying Value (1)	Related Allowance	Unpaid Principal Balance	Carrying Value (1)	Related Allowance
(Dollars in millions)						
<b>With no recorded allowance</b>						
Direct/Indirect consumer	\$ 63	\$ 30	\$ —	\$ 58	\$ 28	\$ —
<b>With an allowance recorded</b>						
U.S. credit card	\$ 478	\$ 486	\$ 143	\$ 454	\$ 461	\$ 125
Direct/Indirect consumer	1	1	—	1	1	—
<b>Total</b>						
<b>U.S. credit card</b>	<b>\$ 478</b>	<b>\$ 486</b>	<b>\$ 143</b>	<b>\$ 454</b>	<b>\$ 461</b>	<b>\$ 125</b>
<b>Direct/Indirect consumer</b>	<b>64</b>	<b>31</b>	<b>—</b>	<b>59</b>	<b>29</b>	<b>—</b>

	Average Carrying Value		Interest Income Recognized (2)		Average Carrying Value		Interest Income Recognized (2)	
	Three Months Ended June 30				Six Months Ended June 30			
	2018		2017		2018		2017	
<b>With no recorded allowance</b>								
Direct/Indirect consumer	\$ 29	\$ 1	\$ 18	\$ —	\$ 29	\$ 1	\$ 18	\$ —
<b>With an allowance recorded</b>								
U.S. credit card	\$ 480	\$ 6	\$ 463	\$ 6	\$ 473	\$ 12	\$ 470	\$ 12
Non-U.S. credit card (3)	—	—	78	—	—	—	88	1
Direct/Indirect consumer	1	—	2	—	1	—	3	—
<b>Total</b>								
<b>U.S. credit card</b>	<b>\$ 480</b>	<b>\$ 6</b>	<b>\$ 463</b>	<b>\$ 6</b>	<b>\$ 473</b>	<b>\$ 12</b>	<b>\$ 470</b>	<b>\$ 12</b>
<b>Non-U.S. credit card (3)</b>	<b>—</b>	<b>—</b>	<b>78</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>88</b>	<b>1</b>
<b>Direct/Indirect consumer</b>	<b>30</b>	<b>1</b>	<b>20</b>	<b>—</b>	<b>30</b>	<b>1</b>	<b>21</b>	<b>—</b>

(1) Includes accrued interest and fees.

(2) Interest income recognized includes interest accrued and collected on the outstanding balances of accruing impaired loans as well as interest cash collections on nonaccruing impaired loans for which the principal is considered collectible.

(3) In the second quarter of 2017, the Corporation sold its non-U.S. consumer credit card business.

The table below provides information on the Corporation's primary modification programs for the Credit Card and Other Consumer TDR portfolio at June 30, 2018 and December 31, 2017.

### Credit Card and Other Consumer – TDRs by Program Type

	U.S. Credit Card		Direct/Indirect Consumer		Total TDRs by Program Type	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)						
Internal programs	\$ 223	\$ 203	\$ 1	\$ 1	\$ 224	\$ 204
External programs	262	257	—	—	262	257
Other	1	1	30	28	31	29
<b>Total</b>	<b>\$ 486</b>	<b>\$ 461</b>	<b>\$ 31</b>	<b>\$ 29</b>	<b>\$ 517</b>	<b>\$ 490</b>
Percent of balances current or less than 30 days past due	86.42%	86.92%	89.63%	88.16%	86.60%	87.00%

The table below provides information on the Corporation's Credit Card and Other Consumer TDR portfolio including the June 30, 2018 and 2017 unpaid principal balance, carrying value, and average pre- and post-modification interest rates of loans that were modified in TDRs during the three and six months ended June 30, 2018 and 2017.

**Credit Card and Other Consumer – TDRs Entered into During the Three and Six Months Ended June 30, 2018 and 2017**

	Unpaid Principal Balance		Pre-Modification Interest Rate	Post-Modification Interest Rate	Unpaid Principal Balance		Pre-Modification Interest Rate	Post-Modification Interest Rate
		Carrying Value (1)				Carrying Value (1)		
(Dollars in millions)	Three Months Ended June 30, 2018				Six Months Ended June 30, 2018			
U.S. credit card	\$ 72	\$ 78	19.18 %	5.29 %	\$ 140	\$ 149	19.06 %	5.26 %
Direct/Indirect consumer	19	11	4.43	4.43	28	16	4.73	4.56
<b>Total (2)</b>	<b>\$ 91</b>	<b>\$ 89</b>	<b>17.29</b>	<b>5.18</b>	<b>\$ 168</b>	<b>\$ 165</b>	<b>17.63</b>	<b>5.19</b>
	Three Months Ended June 30, 2017				Six Months Ended June 30, 2017			
U.S. credit card	\$ 52	\$ 57	18.31 %	5.30 %	\$ 100	\$ 106	18.19 %	5.32 %
Direct/Indirect consumer	7	4	4.14	4.08	11	6	4.12	4.04
<b>Total (2)</b>	<b>\$ 59</b>	<b>\$ 61</b>	<b>17.31</b>	<b>5.21</b>	<b>\$ 111</b>	<b>\$ 112</b>	<b>17.39</b>	<b>5.24</b>

(1) Includes accrued interest and fees.

(2) Net charge-offs were \$14 million and \$22 million for the three and six months ended June 30, 2018 compared to \$13 million and \$19 million for the same periods in 2017, including net charge-offs related to the non-U.S. credit card loan portfolio sold during the second quarter of 2017.

Credit card and other consumer loans are deemed to be in payment default during the quarter in which a borrower misses the second of two consecutive payments. Payment defaults are one of the factors considered when projecting future cash flows in the calculation of the allowance for loan and lease losses for impaired credit card and other consumer loans. Based on historical experience, the Corporation estimates that 13 percent of new U.S. credit card TDRs and 21 percent of new direct/indirect consumer TDRs may be in payment default within 12 months after modification. Loans that entered into payment default during the three and six months ended June 30, 2018 that had been modified in a TDR during the preceding 12 months were \$8 million and \$16 million for U.S. credit card and \$2 million and \$5 million for direct/indirect consumer. During the three and six months ended June 30, 2017, loans that entered into payment default that had been modified in a TDR during the preceding 12 months were \$5 million

and \$12 million for U.S. credit card and \$1 million and \$2 million for direct/indirect consumer.

**Commercial Loans**

Impaired commercial loans include nonperforming loans and TDRs (both performing and nonperforming). For more information on impaired commercial loans, see Note 4 – *Outstanding Loans and Leases* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K

At June 30, 2018 and December 31, 2017, remaining commitments to lend additional funds to debtors whose terms have been modified in a commercial loan TDR were \$317 million and \$205 million.

Commercial foreclosed properties totaled \$21 million and \$52 million at June 30, 2018 and December 31, 2017.

The table below provides information on impaired loans in the Commercial loan portfolio segment including the unpaid principal balance, carrying value and related allowance at June 30, 2018 and December 31, 2017, and the average carrying value and interest income recognized for the three and six months ended June 30, 2018 and 2017. Certain impaired commercial loans do not have a related allowance because the valuation of these impaired loans exceeded the carrying value, which is net of previously recorded charge-offs.

### Impaired Loans – Commercial

	Unpaid Principal Balance			Carrying Value			Related Allowance		
	June 30, 2018			December 31, 2017					
	Unpaid Principal Balance	Carrying Value	Related Allowance	Unpaid Principal Balance	Carrying Value	Related Allowance	Unpaid Principal Balance	Carrying Value	Related Allowance
(Dollars in millions)									
<b>With no recorded allowance</b>									
U.S. commercial	\$ 599	\$ 596	\$ —	\$ 576	\$ 571	\$ —	\$ 576	\$ 571	\$ —
Non-U.S. commercial	8	8	—	14	11	—	14	11	—
Commercial real estate	112	104	—	83	80	—	83	80	—
Commercial lease financing	3	3	—	—	—	—	—	—	—
<b>With an allowance recorded</b>									
U.S. commercial	\$ 1,529	\$ 1,246	\$ 140	\$ 1,393	\$ 1,109	\$ 98	\$ 1,393	\$ 1,109	\$ 98
Non-U.S. commercial	426	395	41	528	507	58	528	507	58
Commercial real estate	100	20	3	133	41	4	133	41	4
Commercial lease financing	45	44	—	20	18	3	20	18	3
U.S. small business commercial (1)	86	73	28	84	70	27	84	70	27
<b>Total</b>									
U.S. commercial	\$ 2,128	\$ 1,842	\$ 140	\$ 1,969	\$ 1,680	\$ 98	\$ 1,969	\$ 1,680	\$ 98
Non-U.S. commercial	434	403	41	542	518	58	542	518	58
Commercial real estate	212	124	3	216	121	4	216	121	4
Commercial lease financing	48	47	—	20	18	3	20	18	3
U.S. small business commercial (1)	86	73	28	84	70	27	84	70	27

	Average Carrying Value		Interest Income Recognized (2)		Average Carrying Value		Interest Income Recognized (2)	
	Three Months Ended June 30				Six Months Ended June 30			
	2018		2017		2018		2017	
<b>With no recorded allowance</b>								
U.S. commercial	\$ 684	\$ 4	\$ 857	\$ 3	\$ 678	\$ 8	\$ 870	\$ 6
Non-U.S. commercial	61	—	43	—	61	2	75	—
Commercial real estate	81	1	48	—	75	1	54	—
Commercial lease financing	7	—	—	—	6	—	—	—
<b>With an allowance recorded</b>								
U.S. commercial	\$ 1,221	\$ 10	\$ 1,264	\$ 7	\$ 1,163	\$ 21	\$ 1,376	\$ 16
Non-U.S. commercial	386	4	482	3	416	6	469	6
Commercial real estate	8	—	106	1	22	—	91	2
Commercial lease financing	25	—	4	—	18	—	4	—
U.S. small business commercial (1)	73	—	77	—	74	—	75	—
<b>Total</b>								
U.S. commercial	\$ 1,905	\$ 14	\$ 2,121	\$ 10	\$ 1,841	\$ 29	\$ 2,246	\$ 22
Non-U.S. commercial	447	4	525	3	477	8	544	6
Commercial real estate	89	1	154	1	97	1	145	2
Commercial lease financing	32	—	4	—	24	—	4	—
U.S. small business commercial (1)	73	—	77	—	74	—	75	—

(1) Includes U.S. small business commercial renegotiated TDR loans and related allowance.

(2) Interest income recognized includes interest accrued and collected on the outstanding balances of accruing impaired loans as well as interest cash collections on nonaccruing impaired loans for which the principal is considered collectible.

The table below presents the June 30, 2018 and 2017 unpaid principal balance and carrying value of commercial loans that were modified as TDRs during the three and six months ended June 30, 2018 and 2017. The table below includes loans that were initially classified as TDRs during the period and also loans that had previously been classified as TDRs and were modified again during the period.

### Commercial – TDRs Entered into During the Three and Six Months Ended June 30, 2018 and 2017

(Dollars in millions)	Unpaid Principal Balance		Carrying Value		Unpaid Principal Balance		Carrying Value	
					Three Months Ended June 30, 2018			
	Three Months Ended June 30, 2018		Six Months Ended June 30, 2018		Three Months Ended June 30, 2017		Six Months Ended June 30, 2017	
U.S. commercial	\$	743	\$	733	\$	1,040	\$	962
Non-U.S. commercial		8		8		257		247
Commercial real estate		5		5		5		5
Commercial lease financing		45		45		45		45
U.S. small business commercial (1)		3		3		5		5
<b>Total (2)</b>	<b>\$</b>	<b>804</b>	<b>\$</b>	<b>794</b>	<b>\$</b>	<b>1,352</b>	<b>\$</b>	<b>1,264</b>
U.S. commercial	\$	405	\$	393	\$	687	\$	648
Commercial real estate		44		37		59		46
U.S. small business commercial (1)		7		7		9		10
<b>Total (2)</b>	<b>\$</b>	<b>456</b>	<b>\$</b>	<b>437</b>	<b>\$</b>	<b>755</b>	<b>\$</b>	<b>704</b>

(1) U.S. small business commercial TDRs are comprised of renegotiated small business card loans.

(2) Net charge-offs were \$9 million and \$26 million for the three and six months ended June 30, 2018 compared to \$21 million and \$62 million for the same periods in 2017.

A commercial TDR is generally deemed to be in payment default when the loan is 90 days or more past due, including delinquencies that were not resolved as part of the modification. U.S. small business commercial TDRs are deemed to be in payment default during the quarter in which a borrower misses the second of two consecutive payments. Payment defaults are one of the factors considered when projecting future cash flows, along with observable market prices or fair value of collateral when measuring the allowance for loan and lease losses. TDRs that were in payment default had a carrying value of \$178 million and \$78 million for

U.S. commercial, \$17 million and \$32 million for commercial real estate and \$2 million and \$0 for commercial lease financing at June 30, 2018 and 2017.

### Purchased Credit-impaired Loans

The table below shows activity for the accretable yield on PCI loans. The reclassifications from nonaccretable difference during the three and six months ended June 30, 2018 were primarily due to an increase in the expected principal and interest cash flows due to lower default estimates and the rising interest rate environment.

### Rollforward of Accretable Yield

(Dollars in millions)	Three Months Ended June 30, 2018		Six Months Ended June 30, 2018	
<b>Accretable yield, beginning of period</b>	\$	2,730	\$	2,789
Accretion		(124)		(254)
Disposals/transfers		(105)		(212)
Reclassifications from nonaccretable difference		57		235
<b>Accretable yield, June 30, 2018</b>	<b>\$</b>	<b>2,558</b>	<b>\$</b>	<b>2,558</b>

During the three and six months ended June 30, 2018 the Corporation sold PCI loans with a carrying value of \$51 million and \$160 million. During the three and six months ended June 30, 2017, the Corporation sold PCI loans with a carrying value of \$204 million. For more information on PCI loans, see *Note 1 – Summary of Significant Accounting Principles* and *Note 4 – Outstanding Loans and Leases* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K, and for the carrying value and valuation allowance for PCI loans, see *Note 6 – Allowance for Credit Losses* herein.

### Loans Held-for-sale

The Corporation had LHFS of \$6.5 billion and \$11.4 billion at June 30, 2018 and December 31, 2017. Cash and non-cash proceeds from sales and paydowns of loans originally classified as LHFS were \$17.3 billion and \$21.1 billion for the six months ended June 30, 2018 and 2017. Cash used for originations and purchases of LHFS totaled \$11.7 billion and \$18.1 billion for the six months ended June 30, 2018 and 2017.

## NOTE 6 Allowance for Credit Losses

The table below summarizes the changes in the allowance for credit losses by portfolio segment for the three and six months ended June 30, 2018 and 2017.

(Dollars in millions)	Consumer Real Estate (1)	Credit Card and Other Consumer	Commercial	Total Allowance
	Three Months Ended June 30, 2018			
<b>Allowance for loan and lease losses, April 1</b>	\$ 1,530	\$ 3,720	\$ 5,010	\$ 10,260
Loans and leases charged off	(137)	(1,033)	(208)	(1,378)
Recoveries of loans and leases previously charged off	130	210	42	382
Net charge-offs	(7)	(823)	(166)	(996)
Write-offs of PCI loans (2)	(36)	—	—	(36)
Provision for loan and lease losses (3)	(121)	878	65	822
Other (4)	—	(1)	1	—
<b>Allowance for loan and lease losses, June 30</b>	<b>1,366</b>	<b>3,774</b>	<b>4,910</b>	<b>10,050</b>
<b>Reserve for unfunded lending commitments, April 1</b>	—	—	782	782
Provision for unfunded lending commitments	—	—	5	5
<b>Reserve for unfunded lending commitments, June 30</b>	—	—	<b>787</b>	<b>787</b>
<b>Allowance for credit losses, June 30</b>	<b>\$ 1,366</b>	<b>\$ 3,774</b>	<b>\$ 5,697</b>	<b>\$ 10,837</b>
	Three Months Ended June 30, 2017			
<b>Allowance for loan and lease losses, April 1</b>	\$ 2,565	\$ 3,329	\$ 5,218	\$ 11,112
Loans and leases charged off	(198)	(954)	(198)	(1,350)
Recoveries of loans and leases previously charged off	167	234	41	442
Net charge-offs	(31)	(720)	(157)	(908)
Write-offs of PCI loans (2)	(55)	—	—	(55)
Provision for loan and lease losses (3)	(170)	776	120	726
Other (4)	—	1	(1)	—
<b>Allowance for loan and lease losses, June 30</b>	<b>2,309</b>	<b>3,386</b>	<b>5,180</b>	<b>10,875</b>
<b>Reserve for unfunded lending commitments, April 1 and June 30</b>	—	—	757	757
<b>Allowance for credit losses, June 30</b>	<b>\$ 2,309</b>	<b>\$ 3,386</b>	<b>\$ 5,937</b>	<b>\$ 11,632</b>
	Six Months Ended June 30, 2018			
<b>Allowance for loan and lease losses, January 1</b>	\$ 1,720	\$ 3,663	\$ 5,010	\$ 10,393
Loans and leases charged off	(311)	(2,039)	(324)	(2,674)
Recoveries of loans and leases previously charged off	277	413	77	767
Net charge-offs	(34)	(1,626)	(247)	(1,907)
Write-offs of PCI loans (2)	(71)	—	—	(71)
Provision for loan and lease losses (3)	(249)	1,754	146	1,651
Other (4)	—	(17)	1	(16)
<b>Allowance for loan and lease losses, June 30</b>	<b>1,366</b>	<b>3,774</b>	<b>4,910</b>	<b>10,050</b>
<b>Reserve for unfunded lending commitments, January 1</b>	—	—	777	777
Provision for unfunded lending commitments	—	—	10	10
<b>Reserve for unfunded lending commitments, June 30</b>	—	—	<b>787</b>	<b>787</b>
<b>Allowance for credit losses, June 30</b>	<b>\$ 1,366</b>	<b>\$ 3,774</b>	<b>\$ 5,697</b>	<b>\$ 10,837</b>
	Six Months Ended June 30, 2017			
<b>Allowance for loan and lease losses, January 1</b>	\$ 2,750	\$ 3,229	\$ 5,258	\$ 11,237
Loans and leases charged off	(402)	(1,900)	(358)	(2,660)
Recoveries of loans and leases previously charged off	290	434	94	818
Net charge-offs	(112)	(1,466)	(264)	(1,842)
Write-offs of PCI loans (2)	(88)	—	—	(88)
Provision for loan and lease losses (3)	(241)	1,619	188	1,566
Other (4)	—	4	(2)	2
<b>Allowance for loan and lease losses, June 30</b>	<b>2,309</b>	<b>3,386</b>	<b>5,180</b>	<b>10,875</b>
<b>Reserve for unfunded lending commitments, January 1</b>	—	—	762	762
Provision for unfunded lending commitments	—	—	(5)	(5)
<b>Reserve for unfunded lending commitments, June 30</b>	—	—	<b>757</b>	<b>757</b>
<b>Allowance for credit losses, June 30</b>	<b>\$ 2,309</b>	<b>\$ 3,386</b>	<b>\$ 5,937</b>	<b>\$ 11,632</b>

(1) Includes valuation allowance associated with the PCI loan portfolio.

(2) Includes write-offs associated with the sale of PCI loans of \$1 million and \$17 million during the three and six months ended June 30, 2018 compared to \$35 million for both of the same periods in 2017.

(3) Includes provision benefit associated with the PCI loan portfolio of \$14 million and \$25 million during the three and six months ended June 30, 2018 compared to provision benefit of \$24 million and provision expense of \$44 million for the same periods in 2017.

(4) Primarily represents the net impact of portfolio sales, consolidations and deconsolidations, foreign currency translation adjustments, transfers to held for sale and certain other reclassifications.

The table below presents the allowance and the carrying value of outstanding loans and leases by portfolio segment at June 30, 2018 and December 31, 2017.

### Allowance and Carrying Value by Portfolio Segment

	Consumer Real Estate		Credit Card and Other Consumer		Commercial		Total	
	June 30, 2018							
(Dollars in millions)								
<b>Impaired loans and troubled debt restructurings (1)</b>								
Allowance for loan and lease losses	\$	327	\$	143	\$	212	\$	682
Carrying value (2)		10,470		517		2,489		13,476
Allowance as a percentage of carrying value		3.12%		27.66%		8.52%		5.06%
<b>Loans collectively evaluated for impairment</b>								
Allowance for loan and lease losses	\$	848	\$	3,631	\$	4,698	\$	9,177
Carrying value (2, 3)		241,096		187,061		478,379		906,536
Allowance as a percentage of carrying value (3)		0.35%		1.94%		0.98%		1.01%
<b>Purchased credit-impaired loans</b>								
Valuation allowance	\$	191		n/a		n/a	\$	191
Carrying value gross of valuation allowance		9,585		n/a		n/a		9,585
Valuation allowance as a percentage of carrying value		1.99%		n/a		n/a		1.99%
<b>Total</b>								
Allowance for loan and lease losses	\$	1,366	\$	3,774	\$	4,910	\$	10,050
Carrying value (2, 3)		261,151		187,578		480,868		929,597
Allowance as a percentage of carrying value (3)		0.52%		2.01%		1.02%		1.08%
December 31, 2017								
<b>Impaired loans and troubled debt restructurings (1)</b>								
Allowance for loan and lease losses	\$	348	\$	125	\$	190	\$	663
Carrying value (2)		12,554		490		2,407		15,451
Allowance as a percentage of carrying value		2.77%		25.51%		7.89%		4.29%
<b>Loans collectively evaluated for impairment</b>								
Allowance for loan and lease losses	\$	1,083	\$	3,538	\$	4,820	\$	9,441
Carrying value (2, 3)		238,284		192,303		474,284		904,871
Allowance as a percentage of carrying value (3)		0.45%		1.84%		1.02%		1.04%
<b>Purchased credit-impaired loans</b>								
Valuation allowance	\$	289		n/a		n/a	\$	289
Carrying value gross of valuation allowance		10,717		n/a		n/a		10,717
Valuation allowance as a percentage of carrying value		2.70%		n/a		n/a		2.70%
<b>Total</b>								
Allowance for loan and lease losses	\$	1,720	\$	3,663	\$	5,010	\$	10,393
Carrying value (2, 3)		261,555		192,793		476,691		931,039
Allowance as a percentage of carrying value (3)		0.66%		1.90%		1.05%		1.12%

(1) Impaired loans include nonperforming commercial loans and all TDRs, including both commercial and consumer TDRs. Impaired loans exclude nonperforming consumer loans unless they are TDRs, and all consumer and commercial loans accounted for under the fair value option.

(2) Amounts are presented gross of the allowance for loan and lease losses.

(3) Outstanding loan and lease balances and ratios do not include loans accounted for under the fair value option of \$6.2 billion and \$5.7 billion at June 30, 2018 and December 31, 2017.

n/a = not applicable



## NOTE 7 Securitizations and Other Variable Interest Entities

The Corporation utilizes VIEs in the ordinary course of business to support its own and its customers' financing and investing needs. The tables in this Note present the assets, liabilities and maximum loss exposure of consolidated and unconsolidated VIEs at June 30, 2018 and December 31, 2017 where the Corporation has continuing involvement with transferred assets or if the Corporation otherwise has a variable interest in the VIE. For additional information on the Corporation's use of VIEs and related maximum loss exposure, see *Note 1 – Summary of Significant Accounting Principles* and *Note 6 – Securitizations and Other Variable Interest Entities* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The Corporation invests in ABS issued by third-party VIEs with which it has no other form of involvement and enters into certain commercial lending arrangements that may also incorporate the use of VIEs, for example to hold collateral. These securities and loans are included in *Note 4 – Securities* or *Note 5 – Outstanding Loans and Leases*. In addition, the Corporation has used VIEs such as trust preferred securities trusts in connection with its funding activities. On June 6, 2018, the Corporation redeemed trust preferred securities with a total carrying value of \$3.1 billion resulting in the extinguishment of the related junior subordinated notes issued by the Corporation. In connection therewith, the Corporation recorded a charge to other income of \$729 million primarily due to the difference between the carrying and redemption values of the trust preferred securities, the majority of which relates to the discount on the junior subordinated notes

assumed in prior acquisitions. For more information on trust preferred securities, see *Note 11 – Long-term Debt* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K. These VIEs, which are generally not consolidated by the Corporation, as applicable, are not included in the tables herein.

Except as described below, the Corporation did not provide financial support to consolidated or unconsolidated VIEs during the six months ended June 30, 2018 or the year ended December 31, 2017 that it was not previously contractually required to provide, nor does it intend to do so.

The Corporation had liquidity commitments, including written put options and collateral value guarantees, with certain unconsolidated VIEs of \$271 million and \$442 million at June 30, 2018 and December 31, 2017.

### First-lien Mortgage Securitizations

#### First-lien Mortgages

As part of its mortgage banking activities, the Corporation securitizes a portion of the first-lien residential mortgage loans it originates or purchases from third parties. Except as described below and in *Note 10 – Commitments and Contingencies*, the Corporation does not provide guarantees or recourse to the securitization trusts other than standard representations and warranties.

The table below summarizes select information related to first-lien mortgage securitizations for the three and six months ended June 30, 2018 and 2017.

### First-lien Mortgage Securitizations

(Dollars in millions)	Residential Mortgage - Agency				Commercial Mortgage			
	Three Months Ended June 30		Six Months Ended June 30		Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017	2018	2017	2018	2017
Cash proceeds from new securitizations (1)	\$ 1,379	\$ 3,302	\$ 3,065	\$ 7,958	\$ 1,672	\$ 1,097	\$ 2,184	\$ 1,706
Gains on securitizations (2)	23	61	41	100	21	35	39	53
Repurchases from securitization trusts (3)	357	602	858	1,474	—	—	—	—

(1) The Corporation transfers residential mortgage loans to securitizations sponsored by the GSEs or Government National Mortgage Association (GNMA) in the normal course of business and receives RMBS in exchange which may then be sold into the market to third-party investors for cash proceeds.

(2) A majority of the first-lien residential mortgage loans securitized are initially classified as LHFS and accounted for under the fair value option. Gains recognized on these LHFS prior to securitization, which totaled \$1 million and \$45 million, net of hedges, during the three and six months ended June 30, 2018, compared to \$42 million and \$132 million for the same periods in 2017, are not included in the table above.

(3) The Corporation may have the option to repurchase delinquent loans out of securitization trusts, which reduces the amount of servicing advances it is required to make. The Corporation may also repurchase loans from securitization trusts to perform modifications. Repurchased loans include FHA-insured mortgages collateralizing GNMA securities.

In addition to cash proceeds as reported in the table above, the Corporation received securities with an initial fair value of \$164 million and \$302 million in connection with first-lien mortgage securitizations for the three and six months ended June 30, 2018, compared to \$288 million and \$563 million for the same periods in 2017. The receipt of these securities represents non-cash operating and investing activities and, accordingly, is not reflected in the Consolidated Statement of Cash Flows. Substantially all of these securities were initially classified as Level 2 assets within the fair value hierarchy. During the three and six months ended June 30, 2018 and 2017, there were no changes to the initial classification.

The Corporation recognizes consumer MSR from the sale or securitization of consumer real estate loans. The unpaid principal

balance of loans serviced for investors, including residential mortgage and home equity loans, totaled \$249.5 billion and \$304.9 billion at June 30, 2018 and 2017. Servicing fee and ancillary fee income on serviced loans was \$181 million and \$378 million during the three and six months ended June 30, 2018, compared to \$233 million and \$478 million for the same periods in 2017. Servicing advances on serviced loans, including loans serviced for others and loans held for investment, were \$3.8 billion and \$4.5 billion at June 30, 2018 and December 31, 2017. For more information on MSRs, see *Note 14 – Fair Value Measurements*.

During the three and six months ended June 30, 2018 and 2017, there were no deconsolidations of agency residential mortgage securitizations.

The table below summarizes select information related to first-lien mortgage securitization trusts in which the Corporation held a variable interest at June 30, 2018 and December 31, 2017.

### First-lien Mortgage VIEs

	Residential Mortgage									
	Agency				Non-agency				Commercial Mortgage	
	Prime		Subprime		Alt-A					
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)										
<b>Unconsolidated VIEs</b>										
<b>Maximum loss exposure (1)</b>	\$ 17,336	\$ 19,110	\$ 655	\$ 689	\$ 2,483	\$ 2,643	\$ 399	\$ 403	\$ 615	\$ 585
On-balance sheet assets										
Senior securities:										
Trading account assets	\$ 636	\$ 716	\$ 50	\$ 6	\$ 36	\$ 10	\$ 62	\$ 50	\$ 58	\$ 108
Debt securities carried at fair value	13,075	15,036	420	477	2,021	2,221	335	351	—	—
Held-to-maturity securities	3,625	3,348	—	—	—	—	—	—	362	274
All other assets (2)	—	10	5	5	60	38	2	2	80	88
<b>Total retained positions</b>	\$ 17,336	\$ 19,110	\$ 475	\$ 488	\$ 2,117	\$ 2,269	\$ 399	\$ 403	\$ 500	\$ 470
<b>Principal balance outstanding (3)</b>	\$ 208,265	\$ 232,761	\$ 10,083	\$ 10,549	\$ 9,436	\$ 10,254	\$ 25,640	\$ 28,129	\$ 26,487	\$ 26,504

### Consolidated VIEs

<b>Maximum loss exposure (1)</b>	\$ 13,342	\$ 14,502	\$ 653	\$ 571	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
On-balance sheet assets										
Trading account assets	\$ 269	\$ 232	\$ 837	\$ 571	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
Loans and leases, net	12,867	14,030	—	—	—	—	—	—	—	—
All other assets	207	240	—	—	—	—	—	—	—	—
<b>Total assets</b>	\$ 13,343	\$ 14,502	\$ 837	\$ 571	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
<b>Total liabilities</b>	\$ 3	\$ 3	\$ 184	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —

(1) Maximum loss exposure includes obligations under loss-sharing reinsurance and other arrangements for non-agency residential mortgage and commercial mortgage securitizations, but excludes the reserve for representations and warranties obligations and corporate guarantees and also excludes servicing advances and other servicing rights and obligations. For more information, see Note 10 – Commitments and Contingencies and Note 14 – Fair Value Measurements.

(2) Not included in the table above are all other assets of \$61 million and \$148 million, representing the unpaid principal balance of mortgage loans eligible for repurchase from unconsolidated residential mortgage securitization VIEs, principally guaranteed by GNMA, and all other liabilities of \$61 million and \$148 million, representing the principal amount that would be payable to the securitization VIEs if the Corporation was to exercise the repurchase option, at June 30, 2018 and December 31, 2017.

(3) Principal balance outstanding includes loans where the Corporation was the transferor to securitization VIEs with which it has continuing involvement, which may include servicing the loans.

### Other Asset-backed Securitizations

The table below summarizes select information related to home equity loan, credit card and other asset-backed VIEs in which the Corporation held a variable interest at June 30, 2018 and December 31, 2017.

### Home Equity Loan, Credit Card and Other Asset-backed VIEs

	Home Equity Loan (1)		Credit Card (2, 3)		Resecuritization Trusts		Municipal Bond Trusts	
	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017	June 30 2018	December 31 2017
(Dollars in millions)								
<b>Unconsolidated VIEs</b>								
<b>Maximum loss exposure</b>	\$ 1,238	\$ 1,522	\$ —	\$ —	\$ 8,025	\$ 8,204	\$ 1,726	\$ 1,631
On-balance sheet assets								
Senior securities (4):								
Trading account assets	\$ —	\$ —	\$ —	\$ —	\$ 1,297	\$ 869	\$ —	\$ 33
Debt securities carried at fair value	31	36	—	—	1,471	1,661	—	—
Held-to-maturity securities	—	—	—	—	5,257	5,644	—	—
All other assets (4)	—	—	—	—	—	30	—	—
<b>Total retained positions</b>	\$ 31	\$ 36	\$ —	\$ —	\$ 8,025	\$ 8,204	\$ —	\$ 33
Total assets of VIEs (5)	\$ 2,085	\$ 2,432	\$ —	\$ —	\$ 19,975	\$ 19,281	\$ 2,378	\$ 2,287
<b>Consolidated VIEs</b>								
<b>Maximum loss exposure</b>	\$ 97	\$ 112	\$ 20,518	\$ 24,337	\$ 264	\$ 628	\$ 1,480	\$ 1,453
On-balance sheet assets								
Trading account assets	\$ —	\$ —	\$ —	\$ —	\$ 622	\$ 1,557	\$ 1,492	\$ 1,452
Loans and leases	154	177	30,433	32,554	—	—	—	—
Allowance for loan and lease losses	(7)	(9)	(944)	(988)	—	—	—	—
All other assets	5	6	128	1,385	—	—	1	1
<b>Total assets</b>	\$ 152	\$ 174	\$ 29,617	\$ 32,951	\$ 622	\$ 1,557	\$ 1,493	\$ 1,453
On-balance sheet liabilities								
Short-term borrowings	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 396	\$ 312
Long-term debt	65	76	9,071	8,598	358	929	12	—
All other liabilities	—	—	28	16	—	—	—	—
<b>Total liabilities</b>	\$ 65	\$ 76	\$ 9,099	\$ 8,614	\$ 358	\$ 929	\$ 408	\$ 312

(1) For unconsolidated home equity loan VIEs, the maximum loss exposure includes outstanding trust certificates issued by trusts in rapid amortization, net of recorded reserves. For both consolidated and unconsolidated home equity loan VIEs, the maximum loss exposure excludes the reserve for representations and warranties obligations and corporate guarantees. For more information, see Note 10 – Commitments and Contingencies.

(2) At June 30, 2018 and December 31, 2017, loans and leases in the consolidated credit card trust included \$13.0 billion and \$15.6 billion of seller's interest.

(3) At June 30, 2018 and December 31, 2017, all other assets in the consolidated credit card trust included restricted cash, certain short-term investments, and unbilled accrued interest and fees.

(4) All other assets includes subordinate securities. The retained senior and subordinate securities were valued using quoted market prices or observable market inputs (Level 2 of the fair value hierarchy).

(5) Total assets of VIEs includes loans the Corporation transferred with which it has continuing involvement, which may include servicing the loan.

### Home Equity Loans

The Corporation retains interests in home equity securitization trusts to which it transferred home equity loans. These retained interests primarily include senior securities. In addition, the Corporation may be obligated to provide subordinate funding to the trusts during a rapid amortization event. This obligation is included in the maximum loss exposure in the table above. The charges that will ultimately be recorded as a result of the rapid amortization events depend on the undrawn portion of the home equity lines of credit (HELOCs), performance of the loans, the amount of subsequent draws and the timing of related cash flows.

There were no deconsolidations of HELOC trusts during these six months ended June 30, 2018 and 2017.

### Credit Card Securitizations

The Corporation securitizes originated and purchased credit card loans. The Corporation's continuing involvement with the securitization trust includes servicing the receivables, retaining an undivided interest (seller's interest) in the receivables, and holding certain retained interests including subordinate interests in accrued interest and fees on the securitized receivables and cash reserve accounts.

During the six months ended June 30, 2018 and 2017, new senior debt securities issued to third-party investors from the credit card securitization trust were \$2.8 billion and \$2.0 billion.

At June 30, 2018 and December 31, 2017, the Corporation held subordinate securities issued by the credit card securitization trust with a notional principal amount of \$7.5 billion and \$7.4 billion. These securities serve as a form of credit enhancement to the senior debt securities and have a stated interest rate of zero percent. There were \$448 million and \$323 million of these subordinate securities issued during the six months ended June 30, 2018 and 2017.

### Resecuritization Trusts

The Corporation transfers securities, typically MBS, into resecuritization VIEs at the request of customers seeking securities with specific characteristics. Generally, there are no

significant ongoing activities performed in a resecuritization trust, and no single investor has the unilateral ability to liquidate the trust.

The Corporation resecuritized \$6.8 billion and \$13.6 billion of securities during the three and six months ended June 30, 2018 compared to \$7.3 billion and \$15.1 billion for the same periods in 2017. Securities transferred into resecuritization VIEs during the three and six months ended June 30, 2018 and 2017 were measured at fair value with changes in fair value recorded in trading account profits prior to the resecuritization and no gain or loss on sale was recorded. Resecuritization proceeds included securities with an initial fair value of \$910 million and \$2.2 billion during the three and six months ended June 30, 2018 compared to \$1.1 billion and \$1.8 billion for the same periods in 2017. Substantially all of the other securities received as resecuritization proceeds were classified as trading securities and were categorized as Level 2 within the fair value hierarchy.

### Municipal Bond Trusts

The Corporation administers 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 or other short-term basis to third-party investors.

The Corporation's liquidity commitments to unconsolidated municipal bond trusts, including those for which the Corporation was transferor, totaled \$1.7 billion and \$1.6 billion at June 30, 2018 and December 31, 2017. The weighted-average remaining life of bonds held in the trusts at June 30, 2018 was 6.1 years. There were no material write-downs or downgrades of assets or issuers during the six months ended June 30, 2018 and 2017.

### Other Variable Interest Entities

The table below summarizes select information related to other VIEs in which the Corporation held a variable interest at June 30, 2018 and December 31, 2017.

### Other VIEs

(Dollars in millions)	Consolidated			Unconsolidated			Total					
	June 30, 2018			December 31, 2017								
<b>Maximum loss exposure</b>	\$	4,369	\$	21,209	\$	25,578	\$	4,660	\$	19,785	\$	24,445
On-balance sheet assets												
Trading account assets	\$	2,472	\$	656	\$	3,128	\$	2,709	\$	346	\$	3,055
Debt securities carried at fair value		—		61		61		—		160		160
Loans and leases		2,024		4,667		6,691		2,152		3,596		5,748
Allowance for loan and lease losses		(3)		(29)		(32)		(3)		(32)		(35)
Loans held-for-sale		3		388		391		27		940		967
All other assets		55		15,018		15,073		62		14,276		14,338
<b>Total</b>	\$	4,551	\$	20,761	\$	25,312	\$	4,947	\$	19,286	\$	24,233
On-balance sheet liabilities												
Long-term debt	\$	174	\$	—	\$	174	\$	270	\$	—	\$	270
All other liabilities		9		3,982		3,991		18		3,417		3,435
<b>Total</b>	\$	183	\$	3,982	\$	4,165	\$	288	\$	3,417	\$	3,705
<b>Total assets of VIEs</b>	\$	4,551	\$	86,070	\$	90,621	\$	4,947	\$	69,746	\$	74,693

### **Customer VIEs**

Customer VIEs include credit-linked, equity-linked and commodity-linked note VIEs, repackaging VIEs, and asset acquisition VIEs, which are typically created on behalf of customers who wish to obtain market or credit exposure to a specific company, index, commodity or financial instrument.

The Corporation's maximum loss exposure to consolidated and unconsolidated customer VIEs totaled \$2.2 billion and \$2.3 billion at June 30, 2018 and December 31, 2017, including the notional amount of derivatives to which the Corporation is a counterparty, net of losses previously recorded, and the Corporation's investment, if any, in securities issued by the VIEs.

### **Collateralized Debt Obligation VIEs**

The Corporation receives fees for structuring CDO VIEs, which hold diversified pools of fixed-income securities, typically corporate debt or ABS, which the CDO VIEs fund by issuing multiple tranches of debt and equity securities. CDOs are generally managed by third-party portfolio managers. The Corporation typically transfers assets to these CDOs, holds securities issued by the CDOs and may be a derivative counterparty to the CDOs. The Corporation's maximum loss exposure to consolidated and unconsolidated CDOs totaled \$444 million and \$358 million at June 30, 2018 and December 31, 2017.

### **Investment VIEs**

The Corporation sponsors, invests in or provides financing, which may be in connection with the sale of assets, to a variety of investment VIEs that hold loans, real estate, debt securities or other financial instruments and are designed to provide the desired investment profile to investors or the Corporation. At June 30, 2018 and December 31, 2017, the Corporation's consolidated investment VIEs had total assets of \$243 million and \$249 million. The Corporation also held investments in unconsolidated VIEs with total assets of \$33.8 billion and \$20.3 billion at June 30, 2018 and December 31, 2017. The Corporation's maximum loss exposure associated with both consolidated and unconsolidated investment VIEs totaled \$6.0 billion and \$5.7 billion at June 30, 2018 and December 31, 2017 comprised primarily of on-balance sheet assets less non-recourse liabilities.

### **Leveraged Lease Trusts**

The Corporation's net investment in consolidated leveraged lease trusts totaled \$1.9 billion and \$2.0 billion at June 30, 2018 and December 31, 2017. The trusts hold long-lived equipment such as rail cars, power generation and distribution equipment, and commercial aircraft. The Corporation structures the trusts and holds a significant residual interest. 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 non-recourse to the Corporation.

### **Tax Credit VIEs**

The Corporation holds investments in unconsolidated limited partnerships and similar entities that construct, own and operate affordable housing, wind and solar projects. An unrelated third party is typically the general partner or managing member and has control over the significant activities of the VIE. The Corporation earns a return primarily through the receipt of tax credits allocated to the projects. The maximum loss exposure included in the Other VIEs table was \$14.6 billion and \$13.8 billion at June 30, 2018 and December 31, 2017. The Corporation's risk of loss is generally mitigated by policies requiring that the project qualify for the expected tax credits prior to making its investment.

The Corporation's investments in affordable housing partnerships, which are reported in other assets on the Consolidated Balance Sheet, totaled \$8.4 billion and \$8.0 billion, including unfunded commitments to provide capital contributions of \$3.6 billion and \$3.1 billion at June 30, 2018 and December 31, 2017. The unfunded commitments are expected to be paid over the next five years. The Corporation recognized tax credits and other tax benefits from investments in affordable housing partnerships of \$237 million and \$485 million, and reported pretax losses in other noninterest income of \$217 million and \$425 million for the three and six months ended June 30, 2018. For the same period in 2017, the Corporation recognized tax credits and other tax benefits of \$281 million and \$532 million, and pretax losses of \$207 million and \$403 million. Tax credits are recognized as part of the Corporation's annual effective tax rate used to determine tax expense in a given quarter. Accordingly, the portion of a year's expected tax benefits recognized in any given quarter may differ from 25 percent. The Corporation may from time to time be asked to invest additional amounts to support a troubled affordable housing project. Such additional investments have not been and are not expected to be significant.

## NOTE 8 Goodwill and Intangible Assets

### Goodwill

The table below presents goodwill balances by reporting unit and *All Other* at June 30, 2018 and December 31, 2017. The reporting units utilized for goodwill impairment testing are the operating segments or one level below.

#### Goodwill

(Dollars in millions)	June 30 2018	December 31 2017
Deposits	\$ 18,414	\$ 18,414
Consumer Lending	11,709	11,709
Consumer Banking	30,123	30,123
U.S. Trust	2,917	2,917
Merrill Lynch Global Wealth Management	6,760	6,760
Global Wealth & Investment Management	9,677	9,677
Global Commercial Banking	16,146	16,146
Global Corporate and Investment Banking	6,231	6,231
Business Banking	1,546	1,546
Global Banking	23,923	23,923
Global Markets	5,182	5,182
All Other	46	46
<b>Total goodwill</b>	<b>\$ 68,951</b>	<b>\$ 68,951</b>

For the goodwill impairment test as of June 30, 2018, the Corporation used qualitative assessments. For additional information, see *Note 1 – Summary of Significant Accounting Principles*. The Corporation completed its annual goodwill impairment test as of June 30, 2018 for all applicable reporting units. Based on the results of the annual goodwill impairment test, the Corporation determined there was no impairment.

### Intangible Assets

The table below presents the gross and net carrying values and accumulated amortization for intangible assets at June 30, 2018 and December 31, 2017.

#### Intangible Assets (1, 2)

(Dollars in millions)	Gross Carrying Value	Accumulated Amortization	Net Carrying Value	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
	June 30, 2018			December 31, 2017		
Purchased credit card and affinity relationships	\$ 5,919	\$ 5,682	\$ 237	\$ 5,919	\$ 5,604	\$ 315
Core deposit and other intangibles (3)	3,835	2,181	1,654	3,835	2,140	1,695
Customer relationships	3,886	3,735	151	3,886	3,584	302
<b>Total intangible assets</b>	<b>\$ 13,640</b>	<b>\$ 11,598</b>	<b>\$ 2,042</b>	<b>\$ 13,640</b>	<b>\$ 11,328</b>	<b>\$ 2,312</b>

(1) Excludes fully amortized intangible assets.

(2) At June 30, 2018 and December 31, 2017, none of the intangible assets were impaired.

(3) Includes \$1.6 billion at both June 30, 2018 and December 31, 2017 of intangible assets associated with trade names that have an indefinite life and, accordingly, are not amortized.

Amortization of intangibles expense was \$135 million and \$269 million for the three and six months ended June 30, 2018 compared to \$160 million and \$322 million for the same periods in 2017. The Corporation estimates aggregate amortization expense will be \$268 million for the remainder of 2018, \$105 million for 2019, \$53 million for 2020 and none for the years thereafter.

## NOTE 9 Federal Funds Sold or Purchased, Securities Financing Agreements, Short-term Borrowings and Restricted Cash

The table below presents federal funds sold or purchased, securities financing agreements (which include securities borrowed or purchased under agreements to resell and securities loaned or sold under agreements to repurchase) and short-term borrowings. The Corporation elects to account for certain securities financing agreements and short-term borrowings under the fair value option. For more information on the election of the fair value option, see *Note 15 – Fair Value Option*.

(Dollars in millions)	Amount		Rate		Amount		Rate		
	Three Months Ended June 30				Six Months Ended June 30				
	2018		2017		2018		2017		
<b>Federal funds sold and securities borrowed or purchased under agreements to resell</b>									
Average during period	\$	251,880	1.13%	\$	226,700	0.77%	\$	221,579	0.72%
Maximum month-end balance during period		264,923	n/a		237,064	n/a		237,064	n/a
<b>Federal funds purchased and securities loaned or sold under agreements to repurchase</b>									
Average during period	\$	194,298	1.85%	\$	208,760	1.21%	\$	200,265	1.08%
Maximum month-end balance during period		199,419	n/a		218,017	n/a		218,017	n/a
<b>Short-term borrowings</b>									
Average during period		40,542	5.61		42,881	2.65		41,468	2.39
Maximum month-end balance during period		44,382	n/a		46,202	n/a		46,202	n/a

n/a = not applicable

### Offsetting of Securities Financing Agreements

The Corporation enters into securities financing agreements to accommodate customers (also referred to as “matched-book transactions”), obtain securities to cover short positions, and to finance inventory positions. Substantially all of the Corporation’s securities financing activities are transacted under legally enforceable master repurchase agreements or legally enforceable master securities lending agreements that give the Corporation, in the event of default by the counterparty, the right to liquidate securities held and to offset receivables and payables with the same counterparty. The Corporation offsets securities financing transactions with the same counterparty on the Consolidated Balance Sheet where it has such a legally enforceable master

netting agreement and the transactions have the same maturity date.

The Securities Financing Agreements table presents securities financing agreements included on the Consolidated Balance Sheet in federal funds sold and securities borrowed or purchased under agreements to resell, and in federal funds purchased and securities loaned or sold under agreements to repurchase at June 30, 2018 and December 31, 2017. Balances are presented on a gross basis, prior to the application of counterparty netting. Gross assets and liabilities are adjusted on an aggregate basis to take into consideration the effects of legally enforceable master netting agreements. For more information on the offsetting of derivatives, see *Note 3 – Derivatives*.

### Securities Financing Agreements

(Dollars in millions)	Gross Assets/Liabilities (1)		Amounts Offset	Net Balance Sheet Amount		Financial Instruments (2)		Net Assets/Liabilities		
	June 30, 2018									
	Securities borrowed or purchased under agreements to resell (3)	\$	353,551	\$	(127,065)	\$	226,486	\$	(186,805)	\$
Securities loaned or sold under agreements to repurchase	\$	304,968	\$	(127,065)	\$	177,903	\$	(147,798)	\$	30,105
Other (4)		21,063		—		21,063		(21,063)		—
<b>Total</b>	<b>\$</b>	<b>326,031</b>	<b>\$</b>	<b>(127,065)</b>	<b>\$</b>	<b>198,966</b>	<b>\$</b>	<b>(168,861)</b>	<b>\$</b>	<b>30,105</b>
December 31, 2017										
Securities borrowed or purchased under agreements to resell (3)	\$	348,472	\$	(135,725)	\$	212,747	\$	(165,720)	\$	47,027
Securities loaned or sold under agreements to repurchase	\$	312,582	\$	(135,725)	\$	176,857	\$	(146,205)	\$	30,652
Other (4)		22,711		—		22,711		(22,711)		—
<b>Total</b>	<b>\$</b>	<b>335,293</b>	<b>\$</b>	<b>(135,725)</b>	<b>\$</b>	<b>199,568</b>	<b>\$</b>	<b>(168,916)</b>	<b>\$</b>	<b>30,652</b>

(1) Includes activity where uncertainty exists as to the enforceability of certain master netting agreements under bankruptcy laws in some countries or industries.

(2) Includes securities collateral received or pledged under repurchase or securities lending agreements where there is a legally enforceable master netting agreement. These amounts are not offset on the Consolidated Balance Sheet, but are shown as a reduction to derive a net asset or liability. Securities collateral received or pledged where the legal enforceability of the master netting agreements is uncertain is excluded from the table.

(3) Excludes repurchase activity of \$11.5 billion and \$10.2 billion reported in loans and leases on the Consolidated Balance Sheet at June 30, 2018 and December 31, 2017.

(4) Balance is reported in accrued expenses and other liabilities on the Consolidated Balance Sheet and relates to transactions where the Corporation acts as the lender in a securities lending agreement and receives securities that can be pledged as collateral or sold. In these transactions, the Corporation recognizes an asset at fair value, representing the securities received, and a liability, representing the obligation to return those securities.

## Repurchase Agreements and Securities Loaned Transactions Accounted for as Secured Borrowings

The following tables present securities sold under agreements to repurchase and securities loaned by remaining contractual term to maturity and class of collateral pledged. Included in "Other" are transactions where the Corporation acts as the lender in a

securities lending agreement and receives securities that can be pledged as collateral or sold. Certain agreements contain a right to substitute collateral and/or terminate the agreement prior to maturity at the option of the Corporation or the counterparty. Such agreements are included in the table below based on the remaining contractual term to maturity.

### Remaining Contractual Maturity

(Dollars in millions)	June 30, 2018					Total
	Overnight and Continuous	30 Days or Less	After 30 Days Through 90 Days	Greater than 90 Days (1)		
Securities sold under agreements to repurchase	\$ 125,778	\$ 81,805	\$ 32,591	\$ 44,612	\$	284,786
Securities loaned	12,671	236	2,353	4,922		20,182
Other	21,063	—	—	—		21,063
<b>Total</b>	<b>\$ 159,512</b>	<b>\$ 82,041</b>	<b>\$ 34,944</b>	<b>\$ 49,534</b>	<b>\$</b>	<b>326,031</b>

(Dollars in millions)	December 31, 2017					Total
	Overnight and Continuous	30 Days or Less	After 30 Days Through 90 Days	Greater than 90 Days (1)		
Securities sold under agreements to repurchase	\$ 125,956	\$ 79,913	\$ 46,091	\$ 38,935	\$	290,895
Securities loaned	9,853	5,658	2,043	4,133		21,687
Other	22,711	—	—	—		22,711
<b>Total</b>	<b>\$ 158,520</b>	<b>\$ 85,571</b>	<b>\$ 48,134</b>	<b>\$ 43,068</b>	<b>\$</b>	<b>335,293</b>

(1) No agreements have maturities greater than three years.

### Class of Collateral Pledged

(Dollars in millions)	June 30, 2018				Total
	Securities Sold Under Agreements to Repurchase	Securities Loaned	Other		
U.S. government and agency securities	\$ 153,756	\$ —	\$ —	\$	153,756
Corporate securities, trading loans and other	13,093	2,246	348		15,687
Equity securities	19,408	14,288	20,663		54,359
Non-U.S. sovereign debt	94,054	3,648	52		97,754
Mortgage trading loans and ABS	4,475	—	—		4,475
<b>Total</b>	<b>\$ 284,786</b>	<b>\$ 20,182</b>	<b>\$ 21,063</b>	<b>\$</b>	<b>326,031</b>

(Dollars in millions)	December 31, 2017				Total
	Securities Sold Under Agreements to Repurchase	Securities Loaned	Other		
U.S. government and agency securities	\$ 158,299	\$ —	\$ 409	\$	158,708
Corporate securities, trading loans and other	12,787	2,669	624		16,080
Equity securities	23,975	13,523	21,628		59,126
Non-U.S. sovereign debt	90,857	5,495	50		96,402
Mortgage trading loans and ABS	4,977	—	—		4,977
<b>Total</b>	<b>\$ 290,895</b>	<b>\$ 21,687</b>	<b>\$ 22,711</b>	<b>\$</b>	<b>335,293</b>

The Corporation is required to post collateral with a market value equal to or in excess of the principal amount borrowed under repurchase agreements. For securities loaned transactions, the Corporation receives collateral in the form of cash, letters of credit or other securities. To determine whether the market value of the underlying collateral remains sufficient, collateral is generally valued daily, and the Corporation may be required to deposit additional collateral or may receive or return collateral pledged when appropriate. Repurchase agreements and securities loaned transactions are generally either overnight, continuous (i.e., no stated term) or short-term. The Corporation manages liquidity risks

related to these agreements by sourcing funding from a diverse group of counterparties, providing a range of securities collateral and pursuing longer durations, when appropriate.

### Restricted Cash

At both June 30, 2018 and December 31, 2017, the Corporation held restricted cash included within cash and cash equivalents on the Consolidated Balance Sheet of \$18.8 billion, predominantly related to cash segregated in compliance with securities regulations and cash held on deposit with the Federal Reserve and non-U.S. central banks to meet reserve requirements.



## NOTE 10 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 Consolidated Balance Sheet. For more information on commitments and contingencies, see *Note 12 – Commitments and Contingencies* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

### 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 following table includes the notional amount of unfunded legally binding lending commitments net of amounts distributed (i.e., syndicated or participated) to other financial institutions. The distributed amounts were \$10.7 billion and \$11.0 billion at June 30, 2018 and December 31, 2017. At June 30, 2018, the carrying value of

these commitments, excluding commitments accounted for under the fair value option, was \$803 million, including deferred revenue of \$16 million and a reserve for unfunded lending commitments of \$787 million. At December 31, 2017, the comparable amounts were \$793 million, \$16 million and \$777 million, respectively. The carrying value of these commitments is classified in accrued expenses and other liabilities on the Consolidated Balance Sheet.

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 borrower's ability to pay.

The following table also includes the notional amount of commitments of \$3.4 billion and \$4.8 billion at June 30, 2018 and December 31, 2017 that are accounted for under the fair value option. However, the following table excludes cumulative net fair value of \$114 million and \$120 million at June 30, 2018 and December 31, 2017 on these commitments, which is classified in accrued expenses and other liabilities. For more information regarding the Corporation's loan commitments accounted for under the fair value option, see *Note 15 – Fair Value Option*.

### Credit Extension Commitments

	June 30, 2018				Total
	Expire in One Year or Less	Expire After One Year Through Three Years	Expire After Three Years Through Five Years	Expire After Five Years	
(Dollars in millions)					
<b>Notional amount of credit extension commitments</b>					
Loan commitments	\$ 85,580	\$ 147,418	\$ 151,105	\$ 20,103	\$ 404,206
Home equity lines of credit	3,862	3,048	2,717	33,805	43,432
Standby letters of credit and financial guarantees (1)	20,794	10,190	2,537	627	34,148
Letters of credit	1,378	164	168	50	1,760
Legally binding commitments	111,614	160,820	156,527	54,585	483,546
Credit card lines (2)	370,646	—	—	—	370,646
<b>Total credit extension commitments</b>	<b>\$ 482,260</b>	<b>\$ 160,820</b>	<b>\$ 156,527</b>	<b>\$ 54,585</b>	<b>\$ 854,192</b>

	December 31, 2017				Total
	Expire in One Year or Less	Expire After One Year Through Three Years	Expire After Three Years Through Five Years	Expire After Five Years	
(Dollars in millions)					
<b>Notional amount of credit extension commitments</b>					
Loan commitments	\$ 85,804	\$ 140,942	\$ 147,043	\$ 21,342	\$ 395,131
Home equity lines of credit	6,172	4,457	2,288	31,250	44,167
Standby letters of credit and financial guarantees (1)	19,976	11,261	3,420	1,144	35,801
Letters of credit	1,291	117	129	87	1,624
Legally binding commitments	113,243	156,777	152,880	53,823	476,723
Credit card lines (2)	362,030	—	—	—	362,030
<b>Total credit extension commitments</b>	<b>\$ 475,273</b>	<b>\$ 156,777</b>	<b>\$ 152,880</b>	<b>\$ 53,823</b>	<b>\$ 838,753</b>

(1) The notional amounts of SBLCs 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 \$26.3 billion and \$7.4 billion at June 30, 2018, and \$27.3 billion and \$8.1 billion at December 31, 2017. Amounts in the table include consumer SBLCs of \$401 million and \$421 million at June 30, 2018 and December 31, 2017.

(2) Includes business card unused lines of credit.

### Other Commitments

At June 30, 2018 and December 31, 2017, the Corporation had commitments to purchase loans (e.g., residential mortgage and commercial real estate) of \$455 million and \$344 million, and commitments to purchase commercial loans of \$473 million and \$994 million, which upon settlement will be included in loans or LHFS.

At both June 30, 2018 and December 31, 2017, the Corporation had commitments to purchase commodities, primarily liquefied natural gas, of \$1.5 billion, which upon settlement will be included in trading account assets.

At June 30, 2018 and December 31, 2017, the Corporation had commitments to enter into resale and forward-dated resale and securities borrowing agreements of \$76.4 billion and \$56.8 billion, and commitments to enter into forward-dated repurchase and securities lending agreements of \$45.8 billion and \$34.3

billion. These commitments expire primarily within the next 18 months.

At both June 30, 2018 and December 31, 2017, the Corporation had a commitment to originate or purchase up to \$3.0 billion of auto loans and leases from a strategic partner on a rolling 12-month basis. This commitment extends through November 2022 and can be terminated with 12 months prior notice. In addition, at December 31, 2017, the Corporation had a maximum commitment to purchase \$345 million of retail automobile loans from certain auto loan originators, which was terminated in the first quarter of 2018.

The Corporation is a party to operating leases for certain of its premises and equipment. Commitments under these leases are approximately \$1.1 billion, \$2.2 billion, \$2.1 billion, \$1.8 billion and \$1.5 billion for the remainder of 2018 and the years through 2022, respectively, and \$6.2 billion in the aggregate for all years thereafter.

## Other Guarantees

### **Bank-owned Life Insurance Book Value Protection**

The Corporation sells products that offer book value protection to insurance carriers who offer group life insurance policies to corporations, primarily banks. At both June 30, 2018 and December 31, 2017, the notional amount of these guarantees totaled \$10.4 billion, and the Corporation's maximum exposure related to these guarantees totaled \$1.6 billion at both period ends, with estimated maturity dates between 2033 and 2039.

### **Merchant Services**

In accordance with credit and debit card association rules, the Corporation sponsors merchant processing servicers that process credit and debit card transactions on behalf of various merchants. If the merchant processor fails to meet its obligation to reimburse the cardholder for disputed transactions, then the Corporation, as the sponsor, could be held liable for the disputed amount. For the three and six months ended June 30, 2018, the sponsored entities processed and settled \$226.1 billion and \$426.8 billion of transactions and recorded losses of \$9 million and \$17 million. For the same periods in 2017, the sponsored entities processed and settled \$204.6 billion and \$391.4 billion of transactions and recorded losses of \$8 million and \$15 million. A significant portion of this activity was processed by a joint venture in which the Corporation holds a 49 percent ownership. The carrying value of the Corporation's investment in the merchant services joint venture was \$2.8 billion and \$2.9 billion at June 30, 2018 and December 31, 2017, and is recorded in other assets on the Consolidated Balance Sheet and in *All Other*.

At June 30, 2018 and December 31, 2017, the maximum potential exposure for sponsored transactions totaled \$346.8 billion and \$346.4 billion. However, the Corporation believes that the maximum potential exposure is not representative of the actual potential loss exposure and does not expect to make material payments in connection with these guarantees.

### **Representations and Warranties Obligations and Corporate Guarantees**

For information on representations and warranties obligations and corporate guarantees and the related reserve and estimated range of possible loss, see *Note 7 – Representations and Warranties Obligations and Corporate Guarantees* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The reserve for representations and warranties and corporate guarantees was \$2.1 billion and \$1.9 billion at June 30, 2018 and December 31, 2017 and is included in accrued expenses and other liabilities on the Consolidated Balance Sheet and the related provision is included in other income in the Consolidated Statement of Income. The representations and warranties reserve represents the Corporation's best estimate of probable incurred losses. It is reasonably possible that future representations and warranties losses may occur in excess of the amounts recorded for these exposures.

### **Other Guarantees**

The Corporation has entered into additional guarantee agreements and commitments, including sold risk participation swaps, liquidity facilities, lease-end obligation agreements, partial credit guarantees on certain leases, real estate joint venture guarantees, divested business commitments and sold put options that require gross settlement. The maximum potential future payment under these agreements was approximately \$6.2 billion and \$5.9 billion at June 30, 2018 and December 31, 2017. The estimated maturity

dates of these obligations extend up to 2040. The Corporation has made no material payments under these guarantees.

In the normal course of business, the Corporation periodically guarantees the obligations of its affiliates in a variety of transactions including ISDA-related transactions and non-ISDA related transactions such as commodities trading, repurchase agreements, prime brokerage agreements and other transactions.

### **Payment Protection Insurance Claims Matter**

On June 1, 2017, the Corporation sold its non-U.S. consumer credit card business. Included in the calculation of the gain on sale, the Corporation recorded an obligation to indemnify the purchaser for substantially all payment protection insurance exposure above reserves assumed by the purchaser.

### **Litigation and Regulatory Matters**

The following supplements the disclosure in *Note 12 – Commitments and Contingencies* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K and in *Note 10 – Commitments and Contingencies* to the Consolidated Financial Statements of the Corporation's Quarterly Report on Form 10-Q for the quarter ended March 31, 2018 (the prior commitments and contingencies disclosure).

In the ordinary course of business, the Corporation and its subsidiaries are routinely defendants in or parties to many pending and threatened legal, regulatory and governmental actions and proceedings. In view of the inherent difficulty of predicting the outcome of such 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 generally cannot predict what the eventual outcome of pending or threatened 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 matter may be.

In accordance with applicable accounting guidance, the Corporation establishes an accrued liability when those matters present loss contingencies that are both probable and estimable. In such cases, there may be an exposure to loss in excess of any amounts accrued. Excluding expenses of internal and external legal service providers, litigation-related expense of \$86 million and \$202 million was recognized for the three and six months ended June 30, 2018 compared to \$192 million and \$466 million for the same periods in 2017.

For a limited number of the matters disclosed in this Note, and in the prior commitments and contingencies disclosure, for which a loss, whether in excess of a related accrued liability or where there is no accrued liability, is reasonably possible in future periods, the Corporation is able to estimate a range of possible loss. In cases in which the Corporation possesses sufficient appropriate information to estimate a range of possible loss, that estimate is aggregated and disclosed below. There may be other disclosed matters for which a loss is probable or reasonably possible but such an estimate of the range of possible loss may not be possible. For those matters where an estimate of the range of possible loss is reasonably possible, management currently estimates the aggregate range of possible loss is \$0 to \$1.2 billion in excess of the accrued liability, if any, related to those matters. This estimated range of possible loss is based upon currently available information and is subject to significant judgment and a variety of assumptions, and known and unknown uncertainties. The matters underlying the estimated range will change from time to time, and actual results may vary significantly from the current estimate. Therefore, this estimated range of possible loss represents what the Corporation believes to be an estimate of

possible loss only for certain matters meeting these criteria. It does not represent the Corporation's maximum loss exposure.

Based on current knowledge, management does not believe that loss contingencies arising from pending matters, including the matters described herein and in the prior commitments and contingencies disclosure, will have a material adverse effect on the consolidated financial position or liquidity of the Corporation. However, in light of the inherent uncertainties involved in these matters, some of which are beyond the Corporation's control, and the very large or indeterminate damages sought in some of these matters, an adverse outcome in one or more of these matters could be material to the Corporation's results of operations or liquidity for any particular reporting period.

#### Ambac Bond Insurance Litigation

*Ambac I*

On June 27, 2018, the New York Court of Appeals affirmed the May 16, 2017 decision of the First Department.

#### Interchange Litigation

In June 2018, Defendants reached an agreement in principle with the representatives of the putative Rule 23(b)(3) class, subject to final settlement documentation and court approval.

#### Mortgage Appraisal Litigation

On May 22, 2018, the U.S. Court of Appeals for the Ninth Circuit denied Defendants' petition for permission to file an interlocutory appeal of the District Court's ruling granting class certification.

## NOTE 11 Shareholders' Equity

### Common Stock

#### Declared Quarterly Cash Dividends on Common Stock (1)

Declaration Date	Record Date	Payment Date	Dividend Per Share
July 26, 2018	September 7, 2018	September 28, 2018	\$ 0.15
April 25, 2018	June 1, 2018	June 29, 2018	0.12
January 31, 2018	March 2, 2018	March 30, 2018	0.12

(1) In 2018, and through July 30, 2018.

On June 28, 2018, following the Federal Reserve's non-objection to the Corporation's 2018 Comprehensive Capital Analysis and Review (CCAR) capital plan, the Board of Directors (the Board) authorized the repurchase of approximately \$20.6 billion in common stock from July 1, 2018 through June 30, 2019, including approximately \$600 million to offset the effect of equity-based compensation plans during the same period. The common stock repurchase authorization includes both common stock and warrants. As part of the capital plan, on July 26, 2018, the Board declared a quarterly common stock dividend of \$0.15 per share.

During the three and six months ended June 30, 2018, in connection with the previous authorizations, the Corporation repurchased and retired 165 million and 318 million shares of

common stock, which reduced shareholders' equity by \$5.0 billion and \$9.8 billion, respectively.

The Corporation has warrants outstanding and exercisable to purchase 122 million shares of its common stock expiring on October 28, 2018, and warrants outstanding and exercisable to purchase 138 million shares of common stock expiring on January 16, 2019. These warrants were originally issued in connection with preferred stock issuances to the U.S. Department of the Treasury in 2009 and 2008, and are listed on the New York Stock Exchange. The exercise price of the warrants expiring on January 16, 2019 is subject to continued adjustment each time the quarterly cash dividend is in excess of \$0.01 per common share to compensate the holders of the warrants for dilution resulting from an increased dividend. As a result of the Corporation's second-quarter 2018 dividend of \$0.12 per common share, the exercise price of the warrants expiring on January 16, 2019 was adjusted to \$12.666 per share. The warrants expiring on October 28, 2018, which have an exercise price of \$30.79 per share, also contain this anti-dilution provision except the adjustment is triggered only when the Corporation declares quarterly dividends at a level greater than \$0.32 per common share.

During the six months ended June 30, 2018, in connection with employee stock plans, the Corporation issued 66 million shares and repurchased 25 million shares of its common stock to satisfy tax withholding obligations. At June 30, 2018, the Corporation had reserved 801 million unissued shares of common stock for future issuances under employee stock plans, common stock warrants, convertible notes and preferred stock.

#### Preferred Stock

During the three months ended March 31, 2018 and June 30, 2018, the Corporation declared \$428 million and \$318 million of cash dividends on preferred stock, or a total of \$746 million for the six months ended June 30, 2018. On May 16, 2018, the Corporation issued 54,000 shares of 6.00% Fixed Rate Non-Cumulative Preferred Stock, Series GG for \$1.35 billion. Dividends are paid quarterly commencing on August 16, 2018. The Series GG preferred stock has a liquidation preference of \$25,000 per share and is subject to certain restrictions in the event that the Corporation fails to declare and pay full dividends. On July 24, 2018, the Corporation issued 34,160 shares of 5.875% Non-Cumulative Preferred Stock, Series HH for \$854 million. Dividends are paid quarterly commencing on October 24, 2018. The Series HH preferred stock has a liquidation preference of \$25,000 per share and is subject to certain restrictions in the event the Corporation fails to declare and pay full dividends. During the three months ended June 30, 2018, the Corporation partially redeemed Series K and D for \$1.5 billion, and fully redeemed Series M for \$1.3 billion. For more information on the Corporation's preferred stock, including liquidation preference, dividend requirements and redemption period, see *Note 13 – Shareholders' Equity* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

## NOTE 12 Accumulated Other Comprehensive Income (Loss)

The table below presents the changes in accumulated OCI after-tax for the six months ended June 30, 2018 and 2017.

(Dollars in millions)	Debt and Equity Securities	Debit Valuation Adjustments	Derivatives	Employee Benefit Plans	Foreign Currency	Total
<b>Balance, December 31, 2016</b>	\$ (1,267)	\$ (767)	\$ (895)	\$ (3,480)	\$ (879)	\$ (7,288)
Net change	469	(69)	132	54	97	683
<b>Balance, June 30, 2017</b>	\$ (798)	\$ (836)	\$ (763)	\$ (3,426)	\$ (782)	\$ (6,605)
<b>Balance, December 31, 2017</b>	\$ (1,206)	\$ (1,060)	\$ (831)	\$ (3,192)	\$ (793)	\$ (7,082)
Accounting change related to certain tax effects <sup>(1)</sup>	(393)	(220)	(189)	(707)	239	(1,270)
Cumulative adjustment for hedge accounting change <sup>(2)</sup>	—	—	57	—	—	57
Net change	(4,994)	452	(367)	60	(189)	(5,038)
<b>Balance, June 30, 2018</b>	\$ (6,593)	\$ (828)	\$ (1,330)	\$ (3,839)	\$ (743)	\$ (13,333)

The table below presents the net change in fair value recorded in accumulated OCI, net realized gains and losses reclassified into earnings and other changes for each component of OCI pre- and after-tax for the six months ended June 30, 2018 and 2017.

### Changes in OCI Components Pre- and After-tax

(Dollars in millions)	2018		2017			
	Pretax	Tax effect	After-tax	Pretax	Tax effect	After-tax
	Six Months Ended June 30					
<b>Debt and equity securities:</b>						
Net increase (decrease) in fair value	\$ (6,700)	\$ 1,702	\$ (4,998)	\$ 885	\$ (330)	\$ 555
Net realized (gains) losses reclassified into earnings <sup>(3)</sup>	8	(4)	4	(140)	54	(86)
<b>Net change</b>	<b>(6,692)</b>	<b>1,698</b>	<b>(4,994)</b>	<b>745</b>	<b>(276)</b>	<b>469</b>
<b>Debit valuation adjustments:</b>						
Net increase (decrease) in fair value	576	(138)	438	(111)	33	(78)
Net realized losses reclassified into earnings <sup>(3)</sup>	18	(4)	14	14	(5)	9
<b>Net change</b>	<b>594</b>	<b>(142)</b>	<b>452</b>	<b>(97)</b>	<b>28</b>	<b>(69)</b>
<b>Derivatives:</b>						
Net increase (decrease) in fair value	(578)	169	(409)	61	(22)	39
Reclassifications into earnings:						
Net interest income	83	(21)	62	220	(83)	137
Personnel expense	(27)	7	(20)	(71)	27	(44)
Net realized losses reclassified into earnings	56	(14)	42	149	(56)	93
<b>Net change</b>	<b>(522)</b>	<b>155</b>	<b>(367)</b>	<b>210</b>	<b>(78)</b>	<b>132</b>
<b>Employee benefit plans:</b>						
Reclassifications into earnings:						
Net actuarial losses and other	78	(18)	60	85	(31)	54
Net realized losses reclassified into earnings <sup>(4)</sup>	78	(18)	60	85	(31)	54
<b>Net change</b>	<b>78</b>	<b>(18)</b>	<b>60</b>	<b>85</b>	<b>(31)</b>	<b>54</b>
<b>Foreign currency:</b>						
Net increase (decrease) in fair value	(50)	(138)	(188)	(332)	336	4
Net realized (gains) losses reclassified into earnings <sup>(3)</sup>	—	(1)	(1)	(612)	705	93
<b>Net change</b>	<b>(50)</b>	<b>(139)</b>	<b>(189)</b>	<b>(944)</b>	<b>1,041</b>	<b>97</b>
<b>Total other comprehensive income (loss)</b>	<b>\$ (6,592)</b>	<b>\$ 1,554</b>	<b>\$ (5,038)</b>	<b>\$ (1)</b>	<b>\$ 684</b>	<b>\$ 683</b>

<sup>(1)</sup> Effective January 1, 2018, the Corporation adopted the accounting standard on tax effects in accumulated OCI related to the Tax Act. Accordingly, certain tax effects were reclassified from accumulated OCI to retained earnings. For additional information, see Note 1 – Summary of Significant Accounting Principles.

<sup>(2)</sup> Reflects the Corporation's adoption of the hedge accounting standard. For additional information, see Note 1 – Summary of Significant Accounting Principles.

<sup>(3)</sup> Reclassifications of pretax debt and equity securities, DVA and foreign currency (gains) losses are recorded in other income in the Consolidated Statement of Income.

<sup>(4)</sup> Reclassifications of pretax employee benefit plan costs are recorded in other general operating expense in the Consolidated Statement of Income.

## NOTE 13 Earnings Per Common Share

The calculation of earnings per common share (EPS) and diluted EPS for the three and six months ended June 30, 2018 and 2017 is presented below. For more information on the calculation of EPS, see *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(In millions, except per share information)				
<b>Earnings per common share</b>				
Net income	\$ 6,784	\$ 5,106	\$ 13,702	\$ 10,443
Preferred stock dividends	(318)	(361)	(746)	(863)
Net income applicable to common shareholders	\$ 6,466	\$ 4,745	\$ 12,956	\$ 9,580
Average common shares issued and outstanding	10,181.7	10,013.5	10,251.7	10,056.1
<b>Earnings per common share</b>	<b>\$ 0.64</b>	<b>\$ 0.47</b>	<b>\$ 1.26</b>	<b>\$ 0.95</b>
<b>Diluted earnings per common share</b>				
Net income applicable to common shareholders	\$ 6,466	\$ 4,745	\$ 12,956	\$ 9,580
Add preferred stock dividends due to assumed conversions (1)	—	75	—	150
Net income allocated to common shareholders	\$ 6,466	\$ 4,820	\$ 12,956	\$ 9,730
Average common shares issued and outstanding	10,181.7	10,013.5	10,251.7	10,056.1
Dilutive potential common shares (2)	127.7	821.3	138.2	820.6
Total diluted average common shares issued and outstanding	10,309.4	10,834.8	10,389.9	10,876.7
<b>Diluted earnings per common share</b>	<b>\$ 0.63</b>	<b>\$ 0.44</b>	<b>\$ 1.25</b>	<b>\$ 0.89</b>

(1) Represents the Series T dividends under the "if-converted" method prior to conversion.

(2) Includes incremental dilutive shares from restricted stock units, restricted stock and warrants.

The Corporation previously issued warrants to purchase 700 million shares of the Corporation's common stock to the holders of the Series T 6% Non-cumulative preferred stock (Series T). In the third quarter of 2017, the Series T holders exercised the warrants and acquired the 700 million shares of the Corporation's common stock. For both the three and six months ended June 30, 2017, the 700 million average dilutive potential common shares were included in the diluted share count under the "if-converted" method.

For both the three and six months ended June 30, 2018 and 2017, 62 million average dilutive potential common shares associated with the Series L preferred stock were not included in the diluted share count because the result would have been antidilutive under the "if-converted" method. For the three and six months ended June 30, 2018, average options to purchase three million and six million shares of common stock were outstanding but not included in the computation of EPS because the result would have been antidilutive under the treasury stock method compared to 18 million and 24 million for the same periods in 2017. For the three and six months ended June 30, 2018, average warrants to purchase 140 million and 141 million shares of common stock were included in the diluted EPS calculation under the treasury stock method compared to 150 million shares of common stock for both periods in 2017. For both the three and six months ended June 30, 2018 and 2017, average warrants to purchase 122 million shares of common stock were outstanding

but not included in the computation of EPS because the result would have been antidilutive under the treasury stock method.

## NOTE 14 Fair Value Measurements

Under applicable accounting standards, fair value is defined 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 under applicable accounting standards and conducts a review of its fair value hierarchy classifications on a quarterly basis. Transfers into or out of fair value hierarchy classifications are considered to be effective as of the beginning of the quarter in which they occur. During the six months ended June 30, 2018, there were no changes to valuation approaches or techniques that had, or are expected to have, a material impact on the Corporation's consolidated financial position or results of operations.

For more information regarding the fair value hierarchy and how the Corporation measures fair value and valuation processes and techniques, see *Note 1 – Summary of Significant Accounting Principles* and *Note 20 – Fair Value Measurements* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K. The Corporation accounts for certain financial instruments under the fair value option. For additional information, see *Note 15 – Fair Value Option*.

## Recurring Fair Value

Assets and liabilities carried at fair value on a recurring basis at June 30, 2018 and December 31, 2017, including financial instruments which the Corporation accounts for under the fair value option, are summarized in the following tables.

(Dollars in millions)	June 30, 2018					
	Fair Value Measurements			Netting Adjustments (1)	Assets/Liabilities at Fair Value	
	Level 1	Level 2	Level 3			
<b>Assets</b>						
Federal funds sold and securities borrowed or purchased under agreements to resell	\$ —	\$ 59,763	\$ —	\$ —	\$ —	\$ 59,763
Trading account assets:						
U.S. Treasury and agency securities (2)	32,923	747	—	—	—	33,670
Corporate securities, trading loans and other	—	29,280	1,638	—	—	30,918
Equity securities (3)	55,128	25,075	228	—	—	80,431
Non-U.S. sovereign debt	9,646	19,434	368	—	—	29,448
Mortgage trading loans, MBS and ABS:						
U.S. government-sponsored agency guaranteed (2)	—	19,341	—	—	—	19,341
Mortgage trading loans, ABS and other MBS	—	8,089	1,523	—	—	9,612
Total trading account assets (4)	97,697	101,966	3,757	—	—	203,420
Derivative assets (3)	8,951	347,112	4,511	(315,364)	—	45,210
AFS debt securities:						
U.S. Treasury and agency securities	51,173	1,561	—	—	—	52,734
Mortgage-backed securities:						
Agency	—	157,000	—	—	—	157,000
Agency-collateralized mortgage obligations	—	6,035	—	—	—	6,035
Non-agency residential	—	2,081	453	—	—	2,534
Commercial	—	13,600	—	—	—	13,600
Non-U.S. securities	747	5,915	3	—	—	6,665
Other taxable securities	—	4,387	99	—	—	4,486
Tax-exempt securities	—	19,064	1	—	—	19,065
Total AFS debt securities	51,920	209,643	556	—	—	262,119
Other debt securities carried at fair value:						
Mortgage-backed securities:						
Non-agency residential	—	2,248	287	—	—	2,535
Non-U.S. securities	9,097	1,303	—	—	—	10,400
Other taxable securities	—	202	—	—	—	202
Total other debt securities carried at fair value	9,097	3,753	287	—	—	13,137
Loans and leases	—	5,734	493	—	—	6,227
Loans held-for-sale	—	2,268	577	—	—	2,845
Other assets (5)	16,861	1,838	3,184	—	—	21,883
<b>Total assets</b>	<b>\$ 184,526</b>	<b>\$ 732,077</b>	<b>\$ 13,365</b>	<b>\$ (315,364)</b>	<b>\$ —</b>	<b>\$ 614,604</b>
<b>Liabilities</b>						
Interest-bearing deposits in U.S. offices	\$ —	\$ 513	\$ —	\$ —	\$ —	\$ 513
Federal funds purchased and securities loaned or sold under agreements to repurchase	—	32,724	—	—	—	32,724
Trading account liabilities:						
U.S. Treasury and agency securities	13,783	508	—	—	—	14,291
Equity securities (3)	37,221	3,966	—	—	—	41,187
Non-U.S. sovereign debt	12,943	10,754	—	—	—	23,697
Corporate securities and other	—	7,818	35	—	—	7,853
Total trading account liabilities	63,947	23,046	35	—	—	87,028
Derivative liabilities (3)	8,058	329,685	6,099	(310,237)	—	33,605
Short-term borrowings	—	3,396	—	—	—	3,396
Accrued expenses and other liabilities	19,159	2,019	—	—	—	21,178
Long-term debt	—	27,152	1,225	—	—	28,377
<b>Total liabilities</b>	<b>\$ 91,164</b>	<b>\$ 418,535</b>	<b>\$ 7,359</b>	<b>\$ (310,237)</b>	<b>\$ —</b>	<b>\$ 206,821</b>

(1) Amounts represent the impact of legally enforceable master netting agreements and also cash collateral held or placed with the same counterparties.

(2) Includes \$20.0 billion of GSE obligations.

(3) During the six months ended June 30, 2018, for trading account assets and liabilities, \$6.2 billion of equity securities assets and \$2.7 billion of equity securities liabilities were transferred from Level 1 to Level 2 and \$5.3 billion of equity securities assets and \$2.4 billion of equity securities liabilities were transferred from Level 2 to Level 1 based on the liquidity of the positions. In addition \$967 million of derivative assets and \$413 million of derivative liabilities were transferred from Level 1 to Level 2 and \$1.5 billion of derivative assets and \$1.0 billion of derivative liabilities were transferred from Level 2 to Level 1 based on the observability of inputs used to measure fair value. For further disaggregation of derivative assets and liabilities, see Note 3 – Derivatives

(4) Includes securities with a fair value of \$13.1 billion that were segregated in compliance with securities regulations or deposited with clearing organizations. This amount is included in the parenthetical disclosure on the Consolidated Balance Sheet.

(5) Includes MSR of \$2.2 billion.

December 31, 2017

(Dollars in millions)	Fair Value Measurements				Netting Adjustments (1)	Assets/Liabilities at Fair Value
	Level 1	Level 2	Level 3			
<b>Assets</b>						
Federal funds sold and securities borrowed or purchased under agreements to resell	\$ —	\$ 52,906	\$ —	\$ —	\$ —	\$ 52,906
Trading account assets:						
U.S. Treasury and agency securities (2, 3)	38,720	1,922	—	—	—	40,642
Corporate securities, trading loans and other	—	28,714	1,864	—	—	30,578
Equity securities (3)	60,747	23,958	235	—	—	84,940
Non-U.S. sovereign debt (3)	6,545	15,839	556	—	—	22,940
Mortgage trading loans, MBS and ABS:						
U.S. government-sponsored agency guaranteed (2)	—	20,586	—	—	—	20,586
Mortgage trading loans, ABS and other MBS	—	8,174	1,498	—	—	9,672
Total trading account assets (4)	106,012	99,193	4,153	—	—	209,358
Derivative assets (3)	6,305	341,178	4,067	(313,788)		37,762
AFS debt securities:						
U.S. Treasury and agency securities	51,915	1,608	—	—	—	53,523
Mortgage-backed securities:						
Agency	—	192,929	—	—	—	192,929
Agency-collateralized mortgage obligations	—	6,804	—	—	—	6,804
Non-agency residential	—	2,669	—	—	—	2,669
Commercial	—	13,684	—	—	—	13,684
Non-U.S. securities	772	5,880	25	—	—	6,677
Other taxable securities	—	5,261	509	—	—	5,770
Tax-exempt securities	—	20,106	469	—	—	20,575
Total AFS debt securities	52,687	248,941	1,003	—	—	302,631
Other debt securities carried at fair value:						
Mortgage-backed securities:						
Agency-collateralized mortgage obligations	—	5	—	—	—	5
Non-agency residential	—	2,764	—	—	—	2,764
Non-U.S. securities	8,191	1,297	—	—	—	9,488
Other taxable securities	—	229	—	—	—	229
Total other debt securities carried at fair value	8,191	4,295	—	—	—	12,486
Loans and leases	—	5,139	571	—	—	5,710
Loans held-for-sale	—	1,466	690	—	—	2,156
Other assets (5)	19,367	789	2,425	—	—	22,581
<b>Total assets</b>	<b>\$ 192,562</b>	<b>\$ 753,907</b>	<b>\$ 12,909</b>	<b>\$ (313,788)</b>		<b>\$ 645,590</b>
<b>Liabilities</b>						
Interest-bearing deposits in U.S. offices	\$ —	\$ 449	\$ —	\$ —	\$ —	\$ 449
Federal funds purchased and securities loaned or sold under agreements to repurchase	—	36,182	—	—	—	36,182
Trading account liabilities:						
U.S. Treasury and agency securities	17,266	734	—	—	—	18,000
Equity securities (3)	33,019	3,885	—	—	—	36,904
Non-U.S. sovereign debt (3)	11,976	7,382	—	—	—	19,358
Corporate securities and other	—	6,901	24	—	—	6,925
Total trading account liabilities	62,261	18,902	24	—	—	81,187
Derivative liabilities (3)	6,029	334,261	5,781	(311,771)		34,300
Short-term borrowings	—	1,494	—	—	—	1,494
Accrued expenses and other liabilities	21,887	945	8	—	—	22,840
Long-term debt	—	29,923	1,863	—	—	31,786
<b>Total liabilities</b>	<b>\$ 90,177</b>	<b>\$ 422,156</b>	<b>\$ 7,676</b>	<b>\$ (311,771)</b>		<b>\$ 208,238</b>

(1) Amounts represent the impact of legally enforceable master netting agreements and also cash collateral held or placed with the same counterparties.

(2) Includes \$21.3 billion of GSE obligations.

(3) During 2017, for trading account assets and liabilities, \$1.1 billion of U.S. Treasury and agency securities assets, \$5.3 billion of equity securities assets, \$3.1 billion of equity securities liabilities, \$3.3 billion of non-U.S. sovereign debt assets and \$1.5 billion of non-U.S. sovereign debt liabilities were transferred from Level 1 to Level 2 based on the liquidity of the positions. In addition, \$14.1 billion of equity securities assets and \$4.3 billion of equity securities liabilities were transferred from Level 2 to Level 1. Also in 2017, \$4.2 billion of derivative assets and \$3.0 billion of derivative liabilities were transferred from Level 1 to Level 2 and \$758 million of derivative assets and \$608 million of derivative liabilities were transferred from Level 2 to Level 1 based on the observability of inputs used to measure fair value. For further disaggregation of derivative assets and liabilities, see Note 3 – Derivatives.

(4) Includes securities with a fair value of \$16.8 billion that were segregated in compliance with securities regulations or deposited with clearing organizations. This amount is included in the parenthetical disclosure on the Consolidated Balance Sheet.

(5) Includes MSRs of \$2.3 billion.

The following tables present a reconciliation of all assets and liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) during the three and six months ended June 30, 2018 and 2017, including net realized and unrealized gains (losses) included in earnings and accumulated OCI.

**Level 3 – Fair Value Measurements for the Three Months Ended June 30, 2018 (1)**

(Dollars in millions)	Balance April 1 2018	Total Realized/Unrealized Gains (Losses) (2)	Gains (Losses) in OCI (3)	Gross				Gross Transfers into Level 3	Gross Transfers out of Level 3	Balance June 30 2018	Change in Unrealized Gains (Losses) Related to Financial Instruments Still Held (2)
				Purchases	Sales	Issuances	Settlements				
<b>Trading account assets:</b>											
Corporate securities, trading loans and other	\$ 1,716	\$ (37)	\$ (1)	\$ 81	\$ (75)	\$ —	\$ (74)	\$ 145	\$ (117)	\$ 1,638	\$ (67)
Equity securities	212	1	—	2	(4)	—	(4)	29	(8)	228	(3)
Non-U.S. sovereign debt	401	13	(44)	7	—	—	—	8	(17)	368	13
Mortgage trading loans, ABS and other MBS	1,372	42	—	192	(256)	—	(38)	256	(45)	1,523	32
<b>Total trading account assets</b>	<b>3,701</b>	<b>19</b>	<b>(45)</b>	<b>282</b>	<b>(335)</b>	<b>—</b>	<b>(116)</b>	<b>438</b>	<b>(187)</b>	<b>3,757</b>	<b>(25)</b>
Net derivative assets (4)	(1,138)	(239)	—	195	(591)	—	175	(4)	14	(1,588)	(251)
<b>AFS debt securities:</b>											
Non-agency residential MBS	—	8	(14)	—	—	—	—	459	—	453	—
Non-U.S. securities	23	—	(1)	—	(10)	—	(12)	3	—	3	—
Other taxable securities	43	1	(2)	—	—	—	(3)	60	—	99	—
Tax-exempt securities	—	—	—	—	—	—	—	1	—	1	—
<b>Total AFS debt securities</b>	<b>66</b>	<b>9</b>	<b>(17)</b>	<b>—</b>	<b>(10)</b>	<b>—</b>	<b>(15)</b>	<b>523</b>	<b>—</b>	<b>556</b>	<b>—</b>
Other debt securities carried at fair value – Non-agency residential MBS	—	(4)	—	—	(7)	—	—	298	—	287	5
Loans and leases (5, 6)	526	(4)	—	—	(5)	—	(24)	—	—	493	(4)
Loans held-for-sale (5)	685	(12)	(27)	—	—	—	(37)	—	(32)	577	(16)
Other assets (6, 7)	3,295	76	—	2	(8)	23	(169)	—	(35)	3,184	8
Trading account liabilities – Corporate securities and other	(26)	1	—	—	(9)	(1)	—	—	—	(35)	1
Accrued expenses and other liabilities (5)	(8)	—	—	—	—	—	8	—	—	—	—
Long-term debt (5)	(1,351)	63	2	4	—	(53)	151	(114)	73	(1,225)	66

(1) Assets (liabilities). For assets, increase (decrease) to Level 3 and for liabilities, (increase) decrease to Level 3.

(2) Includes gains (losses) reported in earnings in the following income statement line items: Trading account assets/liabilities - predominantly trading account profits; Net derivative assets - primarily trading account profits and other income; Loans held-for-sale - other income; Other assets - primarily other income related to MSR; Long-term debt - trading account profits. For MSRs, the amounts reflect the changes in modeled MSR fair value due to observed changes in interest rates, volatility, spreads and the shape of the forward swap curve, and periodic adjustments to the valuation model to reflect changes in the modeled relationships between inputs and projected cash flows, as well as changes in cash flow assumptions including cost to service.

(3) Includes unrealized gains (losses) in OCI on AFS debt securities, foreign currency translation adjustments and the impact of changes in the Corporation's credit spreads on long-term debt accounted for under the fair value option. For additional information, see Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

(4) Net derivative assets include derivative assets of \$4.5 billion and derivative liabilities of \$6.1 billion.

(5) Amounts represent instruments that are accounted for under the fair value option.

(6) Issuances represent loan originations and MSRs recognized following securitizations or whole-loan sales.

(7) Settlements primarily represent the net change in fair value of the MSR asset due to the recognition of modeled cash flows and the passage of time.

Transfers into Level 3, primarily due to decreased price observability, during the three months ended June 30, 2018 included \$438 million of trading account assets, \$523 million of AFS debt securities, \$298 million of other debt securities carried at fair value and \$114 million of long-term debt. Transfers occur on a regular basis for long-term debt instruments due to changes

in the impact of unobservable inputs on the value of the embedded derivative in relation to the instrument as a whole.

Transfers out of Level 3, primarily due to increased price observability, during the three months ended June 30, 2018 included \$187 million of trading account assets.



**Level 3 – Fair Value Measurements for the Three Months Ended June 30, 2017 (1)**

(Dollars in millions)	Balance April 1 2017	Total Realized/Unrealized Gains (Losses) (2)	Gains (Losses) in OCI (3)	Gross				Gross Transfers into Level 3	Gross Transfers out of Level 3	Balance June 30 2017	Change in Unrealized Gains (Losses) Related to Financial Instruments Still Held (2)
				Purchases	Sales	Issuances	Settlements				
<b>Trading account assets:</b>											
Corporate securities, trading loans and other	\$ 2,029	\$ 64	\$ —	\$ 119	\$ (120)	\$ —	\$ (108)	\$ 143	\$ (350)	\$ 1,777	\$ 30
Equity securities	288	3	—	22	(47)	—	—	30	(67)	229	—
Non-U.S. sovereign debt	527	12	(16)	26	(50)	—	(62)	69	—	506	12
Mortgage trading loans, ABS and other MBS	1,215	78	(1)	258	(314)	—	(69)	76	(11)	1,232	53
<b>Total trading account assets</b>	<b>4,059</b>	<b>157</b>	<b>(17)</b>	<b>425</b>	<b>(531)</b>	<b>—</b>	<b>(239)</b>	<b>318</b>	<b>(428)</b>	<b>3,744</b>	<b>95</b>
Net derivative assets (4)	(1,665)	(372)	—	208	(229)	—	274	—	(19)	(1,803)	(368)
<b>AFS debt securities:</b>											
Non-U.S. securities	207	1	9	22	—	—	(100)	—	—	139	—
Other taxable securities	579	—	1	5	—	—	(8)	—	(94)	483	—
Tax-exempt securities	520	—	(2)	—	—	—	—	—	—	518	—
<b>Total AFS debt securities</b>	<b>1,306</b>	<b>1</b>	<b>8</b>	<b>27</b>	<b>—</b>	<b>—</b>	<b>(108)</b>	<b>—</b>	<b>(94)</b>	<b>1,140</b>	<b>—</b>
Other debt securities carried at fair value – Non-agency residential MBS	24	—	—	—	—	—	(1)	—	—	23	—
Loans and leases (5, 6)	702	6	—	—	—	—	(34)	—	(7)	667	6
Loans held-for-sale (5)	792	42	(9)	2	(19)	—	(128)	100	(14)	766	26
Other assets (6, 7)	2,841	2	12	2	1	63	(190)	64	—	2,795	(71)
Federal funds purchased and securities loaned or sold under agreements to repurchase (5)	(226)	(6)	—	—	—	(10)	8	(58)	157	(135)	(6)
Trading account liabilities – Corporate securities and other	(35)	10	—	4	—	(1)	—	—	—	(22)	(1)
Accrued expenses and other liabilities (5)	(9)	—	—	—	—	—	—	—	—	(9)	—
Long-term debt (5)	(1,660)	10	(18)	7	—	(20)	124	(108)	19	(1,646)	10

(1) Assets (liabilities). For assets, increase (decrease) to Level 3 and for liabilities, (increase) decrease to Level 3.

(2) Includes gains (losses) reported in earnings in the following income statement line items: Trading account assets/liabilities - predominantly trading account profits; Net derivative assets - primarily trading account profits and other income; Loans held-for-sale - other income; Other assets - primarily other income related to MSRs; Long-term debt - trading account profits. For MSRs, the amounts reflect the changes in modeled MSR fair value due to observed changes in interest rates, volatility, spreads and the shape of the forward swap curve, and periodic adjustments to the valuation model to reflect changes in the modeled relationships between inputs and projected cash flows, as well as changes in cash flow assumptions including cost to service.

(3) Includes unrealized gains (losses) in OCI on AFS debt securities, foreign currency translation adjustments and the impact of changes in the Corporation's credit spreads on long-term debt accounted for under the fair value option. For additional information, see Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

(4) Net derivative assets include derivative assets of \$4.0 billion and derivative liabilities of \$5.5 billion.

(5) Amounts represent instruments that are accounted for under the fair value option.

(6) Issuances represent loan originations and MSRs recognized following securitizations or whole-loan sales.

(7) Settlements primarily represent the net change in fair value of the MSR asset due to the recognition of modeled cash flows and the passage of time.

Transfers into Level 3, primarily due to decreased price observability, during the three months ended June 30, 2017 included \$318 million of trading account assets, \$100 million of LHFS and \$108 million of long-term debt. Transfers occur on a regular basis for long-term debt instruments due to changes in the impact of unobservable inputs on the value of the embedded derivative in relation to the instrument as a whole.

Transfers out of Level 3, primarily due to increased price observability, during the three months ended June 30, 2017 included \$428 million of trading account assets and \$157 million of federal funds purchased and securities loaned or sold under agreements to repurchase.

**Level 3 – Fair Value Measurements for the Six Months Ended June 30, 2018 (1)**

(Dollars in millions)	Gross								Gross Transfers into Level 3	Gross Transfers out of Level 3	Balance June 30 2018	Change in Unrealized Gains (Losses) Related to Financial Instruments Still Held (2)
	Balance January 1 2018	Total Realized/Unrealized Gains (Losses) (2)	Gains (Losses) in OCI (3)	Purchases	Sales	Issuances	Settlements					
<b>Trading account assets:</b>												
Corporate securities, trading loans and other	\$ 1,864	\$ (28)	\$ (1)	\$ 274	\$ (211)	\$ —	\$ (213)	\$ 248	\$ (295)	\$ 1,638	\$ (76)	
Equity securities	235	9	—	8	(11)	—	(4)	30	(39)	228	9	
Non-U.S. sovereign debt	556	29	(42)	7	(50)	—	(8)	8	(132)	368	28	
Mortgage trading loans, ABS and other MBS	1,498	141	3	317	(576)	—	(107)	350	(103)	1,523	81	
<b>Total trading account assets</b>	<b>4,153</b>	<b>151</b>	<b>(40)</b>	<b>606</b>	<b>(848)</b>	<b>—</b>	<b>(332)</b>	<b>636</b>	<b>(569)</b>	<b>3,757</b>	<b>42</b>	
Net derivative assets (4)	(1,714)	256	—	348	(853)	—	377	67	(69)	(1,588)	325	
<b>AFS debt securities:</b>												
Non-agency residential MBS	—	8	(14)	—	—	—	—	459	—	453	—	
Non-U.S. securities	25	—	(1)	—	(10)	—	(14)	3	—	3	—	
Other taxable securities	509	2	(2)	—	—	—	(10)	60	(460)	99	—	
Tax-exempt securities	469	—	—	—	—	—	—	1	(469)	1	—	
<b>Total AFS debt securities (5)</b>	<b>1,003</b>	<b>10</b>	<b>(17)</b>	<b>—</b>	<b>(10)</b>	<b>—</b>	<b>(24)</b>	<b>523</b>	<b>(929)</b>	<b>556</b>	<b>—</b>	
Other debt securities carried at fair value – Non-agency residential MBS	—	(4)	—	—	(7)	—	—	298	—	287	5	
Loans and leases (6, 7)	571	(20)	—	—	(9)	—	(49)	—	—	493	(19)	
Loans held-for-sale (6)	690	12	(27)	12	—	—	(78)	—	(32)	577	5	
Other assets (5, 7, 8)	2,425	268	—	2	(46)	52	(411)	929	(35)	3,184	145	
Trading account liabilities – Corporate securities and other	(24)	2	—	—	(11)	(2)	—	—	—	(35)	1	
Accrued expenses and other liabilities (6)	(8)	—	—	—	—	—	8	—	—	—	—	
Long-term debt (6)	(1,863)	86	3	9	—	(120)	323	(147)	484	(1,225)	51	

(1) Assets (liabilities). For assets, increase (decrease) to Level 3 and for liabilities, (increase) decrease to Level 3.

(2) Includes gains (losses) reported in earnings in the following income statement line items: Trading account assets/liabilities - predominantly trading account profits; Net derivative assets - primarily trading account profits and other income; Loans held-for-sale - other income; Other assets - primarily other income related to MSR; Long-term debt - primarily trading account profits. For MSR, the amounts reflect the changes in modeled MSR fair value due to observed changes in interest rates, volatility, spreads and the shape of the forward swap curve, and periodic adjustments to the valuation model to reflect changes in the modeled relationships between inputs and projected cash flows, as well as changes in cash flow assumptions including cost to service.

(3) Includes unrealized gains (losses) in OCI on AFS debt securities, foreign currency translation adjustments and the impact of changes in the Corporation's credit spreads on long-term debt accounted for under the fair value option. For additional information, see Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

(4) Net derivative assets include derivative assets of \$4.5 billion and derivative liabilities of \$6.1 billion.

(5) Transfer relates to the reclassification of certain securities.

(6) Amounts represent instruments that are accounted for under the fair value option.

(7) Issuances represent loan originations and MSR recognized following securitizations or whole-loan sales.

(8) Settlements primarily represent the net change in fair value of the MSR asset due to the recognition of modeled cash flows and the passage of time.

Transfers into Level 3, primarily due to decreased price observability, during the six months ended June 30, 2018 included \$636 million of trading account assets, \$523 million of AFS debt securities, \$298 million of other debt securities carried at fair value and \$147 million of long-term debt. Transfers occur on a regular basis for long-term debt instruments due to changes in the

impact of unobservable inputs on the value of the embedded derivative in relation to the instrument as a whole.

Transfers out of Level 3, primarily due to increased price observability, during the six months ended June 30, 2018 included \$569 million of trading account assets and \$484 million of long-term debt.

**Level 3 – Fair Value Measurements for the Six Months Ended June 30, 2017 (1)**

(Dollars in millions)	Balance January 1 2017	Total Realized/Unrealized Gains (Losses) (2)	Gains (Losses) in OCI (3)	Gross				Gross Transfers into Level 3	Gross Transfers out of Level 3	Balance June 30 2017	Change in Unrealized Gains (Losses) Related to Financial Instruments Still Held (2)
				Purchases	Sales	Issuances	Settlements				
<b>Trading account assets:</b>											
Corporate securities, trading loans and other	\$ 2,777	\$ 148	\$ —	\$ 318	\$ (600)	\$ —	\$ (235)	\$ 218	\$ (849)	\$ 1,777	\$ 57
Equity securities	281	15	—	42	(64)	—	(10)	102	(137)	229	(1)
Non-U.S. sovereign debt	510	31	(6)	26	(59)	—	(68)	72	—	506	27
Mortgage trading loans, ABS and other MBS	1,211	185	(1)	597	(689)	—	(123)	104	(52)	1,232	117
<b>Total trading account assets</b>	<b>4,779</b>	<b>379</b>	<b>(7)</b>	<b>983</b>	<b>(1,412)</b>	<b>—</b>	<b>(436)</b>	<b>496</b>	<b>(1,038)</b>	<b>3,744</b>	<b>200</b>
Net derivative assets (4)	(1,313)	(846)	—	408	(476)	—	444	29	(49)	(1,803)	(773)
<b>AFS debt securities:</b>											
Non-U.S. securities	229	1	12	42	—	—	(145)	—	—	139	—
Other taxable securities	594	3	5	5	—	—	(30)	—	(94)	483	—
Tax-exempt securities	542	—	—	—	(56)	—	(3)	35	—	518	—
<b>Total AFS debt securities</b>	<b>1,365</b>	<b>4</b>	<b>17</b>	<b>47</b>	<b>(56)</b>	<b>—</b>	<b>(178)</b>	<b>35</b>	<b>(94)</b>	<b>1,140</b>	<b>—</b>
Other debt securities carried at fair value – Non-agency residential MBS	25	(1)	—	—	—	—	(1)	—	—	23	—
Loans and leases (5, 6)	720	18	—	—	—	—	(64)	—	(7)	667	16
Loans held-for-sale (5)	656	71	(3)	2	(155)	—	(188)	415	(32)	766	71
Other assets (6, 7)	2,986	(31)	12	2	6	138	(382)	64	—	2,795	(194)
Federal funds purchased and securities loaned or sold under agreements to repurchase (5)	(359)	(5)	—	—	—	(12)	36	(58)	263	(135)	(3)
Trading account liabilities – Corporate securities and other	(27)	12	—	4	(10)	(1)	—	—	—	(22)	(1)
Accrued expenses and other liabilities (5)	(9)	—	—	—	—	—	—	—	—	(9)	—
Long-term debt (5)	(1,514)	(73)	(11)	18	—	(150)	283	(286)	87	(1,646)	(38)

(1) Assets (liabilities). For assets, increase (decrease) to Level 3 and for liabilities, (increase) decrease to Level 3.

(2) Includes gains (losses) reported in earnings in the following income statement line items: Trading account assets/liabilities - predominantly trading account profits; Net derivative assets - primarily trading account profits and other income; Loans held-for-sale - other income; Other assets - primarily other income related to MSR; Long-term debt - primarily trading account profits. For MSRs, the amounts reflect the changes in modeled MSR fair value due to observed changes in interest rates, volatility, spreads and the shape of the forward swap curve, and periodic adjustments to the valuation model to reflect changes in the modeled relationships between inputs and projected cash flows, as well as changes in cash flow assumptions including cost to service.

(3) Includes unrealized gains (losses) in OCI on AFS debt securities, foreign currency translation adjustments and the impact of changes in the Corporation's credit spreads on long-term debt accounted for under the fair value option. For additional information, see Note 1 – Summary of Significant Accounting Principles to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

(4) Net derivative assets include derivative assets of \$4.0 billion and derivative liabilities of \$5.8 billion.

(5) Amounts represent instruments that are accounted for under the fair value option.

(6) Issuances represent loan originations and MSRs recognized following securitizations or whole-loan sales.

(7) Settlements primarily represent the net change in fair value of the MSR asset due to the recognition of modeled cash flows and the passage of time.

Transfers into Level 3, primarily due to decreased price observability, during the six months ended June 30, 2017 included \$496 million of trading account assets, \$415 million of LHFS and \$286 million of long-term debt. Transfers occur on a regular basis for long-term debt instruments due to changes in the impact of unobservable inputs on the value of the embedded derivative in relation to the instrument as a whole.

Transfers out of Level 3, primarily due to increased price observability, during the six months ended June 30, 2017 included \$1.0 billion of trading account assets and \$263 million of federal funds purchased and securities loaned or sold under agreements to repurchase.

The following tables present information about significant unobservable inputs related to the Corporation's material categories of Level 3 financial assets and liabilities at June 30, 2018 and December 31, 2017.

**Quantitative Information about Level 3 Fair Value Measurements at June 30, 2018**

(Dollars in millions)

Financial Instrument	Fair Value	Valuation Technique	Inputs		
			Significant Unobservable Inputs	Ranges of Inputs	Weighted Average
<b>Loans and Securities (1)</b>					
<b>Instruments backed by residential real estate assets</b>	<b>\$ 1,656</b>				
Trading account assets – Mortgage trading loans, ABS and other MBS	320	Discounted cash flow, Market comparables	Yield	0% to 25%	7%
Loans and leases	492		Prepayment speed	0% to 20% CPR	11%
Loans held-for-sale	1		Default rate	0% to 3% CDR	1%
AFS debt securities, primarily non-agency residential	556		Loss severity	0% to 52%	17%
Other debt securities carried at fair value - Non-agency residential	287		Price	\$0 to \$198	\$71
<b>Instruments backed by commercial real estate assets</b>	<b>\$ 355</b>				
Trading account assets – Corporate securities, trading loans and other	257	Discounted cash flow	Yield	0% to 25%	14%
Trading account assets – Mortgage trading loans, ABS and other MBS	98		Price	\$0 to \$101	\$77
<b>Commercial loans, debt securities and other</b>	<b>\$ 3,431</b>				
Trading account assets – Corporate securities, trading loans and other	1,381	Discounted cash flow, Market comparables	Yield	1% to 36%	12%
Trading account assets – Non-U.S. sovereign debt	368		Prepayment speed	10% to 20%	14%
Trading account assets – Mortgage trading loans, ABS and other MBS	1,105		Default rate	3% to 4%	4%
Loans and leases	1		Loss severity	35% to 40%	38%
Loans held-for-sale	576		Price	\$0 to \$141	\$67
<b>Other assets, primarily auction rate securities</b>	<b>\$ 955</b>	Discounted cash flow, Market comparables	Price	\$10 to \$100	\$96
<b>MSRs</b>	<b>\$ 2,229</b>	Discounted cash flow	Weighted-average life, fixed rate <sup>(4)</sup>	0 to 14 years	6 years
			Weighted-average life, variable rate <sup>(4)</sup>	0 to 10 years	3 years
			Option-adjusted spread, fixed rate	9% to 14%	10%
			Option-adjusted spread, variable rate	9% to 15%	12%
<b>Structured liabilities</b>					
<b>Long-term debt</b>	<b>\$ (1,225)</b>	Discounted cash flow, Market comparables, Industry standard derivative pricing <sup>(2)</sup>	Equity correlation	11% to 100%	62%
			Long-dated equity volatilities	4% to 75%	24%
			Yield	13% to 36%	16%
			Price	\$0 to \$100	\$74
<b>Net derivative assets</b>					
<b>Credit derivatives</b>	<b>\$ (528)</b>	Discounted cash flow, Stochastic recovery correlation model	Yield	2% to 12%	4%
			Upfront points	0 points to 100 points	70 points
			Credit correlation	70%	n/a
			Prepayment speed	15% to 20% CPR	15%
			Default rate	1% to 4% CDR	2%
			Loss severity	35%	n/a
			Price	\$0 to \$101	\$72
<b>Equity derivatives</b>	<b>\$ (1,651)</b>	Industry standard derivative pricing <sup>(2)</sup>	Equity correlation	11% to 100%	62%
			Long-dated equity volatilities	4% to 75%	24%
<b>Commodity derivatives</b>	<b>\$ (13)</b>	Discounted cash flow, Industry standard derivative pricing <sup>(2)</sup>	Natural gas forward price	\$1/MMBtu to \$7/MMBtu	\$3/MMBtu
			Correlation	62% to 93%	81%
			Volatilities	11% to 465%	122%
<b>Interest rate derivatives</b>	<b>\$ 604</b>	Industry standard derivative pricing <sup>(3)</sup>	Correlation (IR/IR)	15% to 70%	47%
			Correlation (FX/IR)	0% to 46%	1%
			Long-dated inflation rates	-18% to 34%	2%
			Long-dated inflation volatilities	0% to 1%	1%
<b>Total net derivative assets</b>	<b>\$ (1,588)</b>				

(1) The categories are aggregated based upon product type which differs from financial statement classification. The following is a reconciliation to the line items in the table on page 400: Trading account assets – Corporate securities, trading loans and other of \$1.6 billion, Trading account assets – Non-U.S. sovereign debt of \$368 million, Trading account assets – Mortgage trading loans, ABS and other MBS of \$1.5 billion, AFS debt securities of \$556 million, Other debt securities carried at fair value - Non-agency residential of \$287 million, Other assets of \$955 million, Loans and leases of \$493 million and LHFS of \$577 million.

(2) Includes models such as Monte Carlo simulation and Black-Scholes.

(3) Includes models such as Monte Carlo simulation, Black-Scholes and other methods that model the joint dynamics of interest, inflation and foreign exchange rates.

(4) The weighted-average life is a product of changes in market rates of interest, prepayment rates and other model and cash flow assumptions.

CPR = Constant Prepayment Rate

CDR = Constant Default Rate

MMBtu = Million British thermal units

IR = Interest Rate

FX = Foreign Exchange

n/a = not applicable

**Quantitative Information about Level 3 Fair Value Measurements at December 31, 2017**

(Dollars in millions)

Financial Instrument	Fair Value	Valuation Technique	Inputs		
			Significant Unobservable Inputs	Ranges of Inputs	Weighted Average
<b>Loans and Securities (1)</b>					
<b>Instruments backed by residential real estate assets</b>	<b>\$ 871</b>				
Trading account assets – Mortgage trading loans, ABS and other MBS	298	Discounted cash flow	Yield	0% to 25%	6%
Loans and leases	570		Prepayment speed	0% to 22% CPR	12%
Loans held-for-sale	3		Default rate	0% to 3% CDR	1%
			Loss severity	0% to 53%	17%
<b>Instruments backed by commercial real estate assets</b>	<b>\$ 286</b>				
Trading account assets – Corporate securities, trading loans and other	244	Discounted cash flow	Yield	0% to 25%	9%
Trading account assets – Mortgage trading loans, ABS and other MBS	42		Price	\$0 to \$100	\$67
<b>Commercial loans, debt securities and other</b>	<b>\$ 4,023</b>				
Trading account assets – Corporate securities, trading loans and other	1,613	Discounted cash flow, Market comparables	Yield	0% to 12%	5%
Trading account assets – Non-U.S. sovereign debt	556		Prepayment speed	10% to 20%	16%
Trading account assets – Mortgage trading loans, ABS and other MBS	1,158		Default rate	3% to 4%	4%
AFS debt securities – Other taxable securities	8		Loss severity	35% to 40%	37%
Loans and leases	1		Price	\$0 to \$145	\$63
Loans held-for-sale	687				
<b>Auction rate securities</b>	<b>\$ 977</b>				
Trading account assets – Corporate securities, trading loans and other	7	Discounted cash flow, Market comparables	Price	\$10 to \$100	\$94
AFS debt securities – Other taxable securities	501				
AFS debt securities – Tax-exempt securities	469				
<b>MSRs</b>	<b>\$ 2,302</b>				
		Discounted cash flow	Weighted-average life, fixed rate (4)	0 to 14 years	5 years
			Weighted-average life, variable rate (4)	0 to 10 years	3 years
			Option-adjusted spread, fixed rate	9% to 14%	10%
			Option-adjusted spread, variable rate	9% to 15%	12%
<b>Structured liabilities</b>					
<b>Long-term debt</b>	<b>\$ (1,863)</b>				
		Discounted cash flow, Market comparables, Industry standard derivative pricing (2)	Equity correlation	15% to 100%	63%
			Long-dated equity volatilities	4% to 84%	22%
			Yield	7.5%	n/a
			Price	\$0 to \$100	\$66
<b>Net derivative assets</b>					
<b>Credit derivatives</b>	<b>\$ (282)</b>				
		Discounted cash flow, Stochastic recovery correlation model	Yield	1% to 5%	3%
			Upfront points	0 points to 100 points	71 points
			Credit correlation	35% to 83%	42%
			Prepayment speed	15% to 20% CPR	16%
			Default rate	1% to 4% CDR	2%
			Loss severity	35%	n/a
			Price	\$0 to \$102	\$82
<b>Equity derivatives</b>	<b>\$ (2,059)</b>				
		Industry standard derivative pricing (2)	Equity correlation	15% to 100%	63%
			Long-dated equity volatilities	4% to 84%	22%
<b>Commodity derivatives</b>	<b>\$ (3)</b>				
		Discounted cash flow, Industry standard derivative pricing (2)	Natural gas forward price	\$1/MMBtu to \$5/MMBtu	\$3/MMBtu
			Correlation	71% to 87%	81%
			Volatilities	26% to 132%	57%
<b>Interest rate derivatives</b>	<b>\$ 630</b>				
		Industry standard derivative pricing (3)	Correlation (IR/IR)	15% to 92%	50%
			Correlation (FX/IR)	0% to 46%	1%
			Long-dated inflation rates	-14% to 38%	4%
			Long-dated inflation volatilities	0% to 1%	1%
<b>Total net derivative assets</b>	<b>\$ (1,714)</b>				

(1) The categories are aggregated based upon product type which differs from financial statement classification. The following is a reconciliation to the line items in the table on page 01: Trading account assets – Corporate securities, trading loans and other of \$1.9 billion, Trading account assets – Non-U.S. sovereign debt of \$556 million, Trading account assets – Mortgage trading loans, ABS and other MBS of \$1.5 billion, AFS debt securities – Other taxable securities of \$509 million, AFS debt securities – Tax-exempt securities of \$469 million, Loans and leases of \$571 million and LHFS of \$690 million.

(2) Includes models such as Monte Carlo simulation and Black-Scholes.

(3) Includes models such as Monte Carlo simulation, Black-Scholes and other methods that model the joint dynamics of interest, inflation and foreign exchange rates.

(4) The weighted-average life is a product of changes in market rates of interest, prepayment rates and other model and cash flow assumptions.

CPR = Constant Prepayment Rate

CDR = Constant Default Rate

MMBtu = Million British thermal units

IR = Interest Rate

FX = Foreign Exchange

n/a = not applicable

**Sensitivity of Fair Value Measurements to Changes in Unobservable Inputs**

For more information on the types of instruments, valuation approaches and the impact of changes in unobservable inputs used in Level 3 measurements, see [Note 20 – Fair Value Measurements](#) to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K

### Mortgage Servicing Rights

The weighted-average lives and fair value of MSR are sensitive to changes in modeled assumptions. The weighted-average life is a product of changes in market rates of interest, prepayment rates and other model and cash flow assumptions. The weighted-average life represents the average period of time that the MSR's cash flows are expected to be received. Absent other changes, an increase (decrease) to the weighted-average life would generally result in an increase (decrease) in the fair value of the MSR. For example, a 10 percent or 20 percent decrease in prepayment rates, which impacts the weighted-average life, could result in an increase in fair value of \$67 million or \$139 million, while a 10 percent or 20 percent increase in prepayment rates could result in a decrease in fair value of \$62 million or \$120 million. A 100 bp or 200 bp decrease in option-adjusted spread (OAS) levels could result in an increase in fair value of \$68 million or \$142 million, while a 100

bp or 200 bp increase in OAS levels could result in a decrease in fair value of \$64 million or \$124 million. These sensitivities are hypothetical and actual amounts may vary materially. For more information on variations in assumptions and sensitivities on MSR, see *Note 20 – Fair Value Measurements* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K

### Nonrecurring Fair Value

The Corporation holds certain assets that are measured at fair value, but only in certain situations (e.g., impairment) and these measurements are referred to herein as nonrecurring. The amounts below represent assets still held as of the reporting date for which a nonrecurring fair value adjustment was recorded during the three and six months ended June 30, 2018 and 2017.

### Assets Measured at Fair Value on a Nonrecurring Basis

(Dollars in millions)	June 30, 2018		Three Months Ended June 30, 2018		Six Months Ended June 30, 2018	
	Level 2	Level 3	Gains (Losses)			
<b>Assets</b>						
Loans held-for-sale	\$ 179	\$ 1	\$ —	\$ —	\$ (2)	\$ (2)
Loans and leases (1)	—	420	(80)			(156)
Foreclosed properties (2, 3)	15	77	(25)			(32)
Other assets	243	5	(31)			(35)
	June 30, 2017		Three Months Ended June 30, 2017		Six Months Ended June 30, 2017	
<b>Assets</b>						
Loans held-for-sale	\$ 64	\$ —	\$ —	\$ —	\$ —	\$ —
Loans and leases (1)	—	609	(105)			(201)
Foreclosed properties (2, 3)	—	83	(26)			(35)
Other assets	309	—	(55)			(137)

(1) Includes \$31 million and \$64 million of losses on loans that were written down to a collateral value of zero during the three and six months ended June 30, 2018, compared to losses of \$43 million and \$78 million for the same periods in 2017.

(2) Amounts are included in other assets on the Consolidated Balance Sheet and represent the carrying value of foreclosed properties that were written down subsequent to their initial classification as foreclosed properties. Losses on foreclosed properties include losses recorded during the first 90 days after transfer of a loan to foreclosed properties.

(3) Excludes \$573 million and \$1.0 billion of properties acquired upon foreclosure of certain government-guaranteed loans (principally FHA-insured loans) at June 30, 2018 and 2017.

The table below presents information about significant unobservable inputs related to the Corporation's nonrecurring Level 3 financial assets and liabilities at June 30, 2018 and December 31, 2017. Loans and leases backed by residential real estate assets represent residential mortgages where the loan has been written down to the fair value of the underlying collateral.

### Quantitative Information about Nonrecurring Level 3 Fair Value Measurements

Financial Instrument	Fair Value	Valuation Technique	Inputs		
			Significant Unobservable Inputs	Ranges of Inputs	Weighted Average
			June 30, 2018		
Loans and leases backed by residential real estate assets	\$ 420	Market comparables	OREO discount	13% to 59%	25%
			Costs to sell	8% to 26%	9%
			December 31, 2017		
Loans and leases backed by residential real estate assets	\$ 894	Market comparables	OREO discount	15% to 58%	23%
			Costs to sell	5% to 49%	7%

### NOTE 15 Fair Value Option

The Corporation elects to account for certain financial instruments under the fair value option. For more information on the primary financial instruments for which the fair value option elections have been made, see *Note 21 – Fair Value Option* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

The following tables provide information about the fair value carrying amount and the contractual principal outstanding of assets and liabilities accounted for under the fair value option at June 30, 2018 and December 31, 2017, and information about where changes in the fair value of assets and liabilities accounted for under the fair value option are included in the Consolidated Statement of Income for the three and six months ended June 30, 2018 and 2017.

## Fair Value Option Elections

	June 30, 2018			December 31, 2017		
	Fair Value Carrying Amount	Contractual Principal Outstanding	Fair Value Carrying Amount Less Unpaid Principal	Fair Value Carrying Amount	Contractual Principal Outstanding	Fair Value Carrying Amount Less Unpaid Principal
(Dollars in millions)						
Federal funds sold and securities borrowed or purchased under agreements to resell	\$ 59,763	\$ 59,666	\$ 97	\$ 52,906	\$ 52,907	\$ (1)
Loans reported as trading account assets (1)	5,816	12,876	(7,060)	5,735	11,804	(6,069)
Trading inventory – other	13,983	n/a	n/a	12,027	n/a	n/a
Consumer and commercial loans	6,227	6,270	(43)	5,710	5,744	(34)
Loans held-for-sale	2,845	4,190	(1,345)	2,156	3,717	(1,561)
Other assets	3	n/a	n/a	3	n/a	n/a
Long-term deposits	513	483	30	449	421	28
Federal funds purchased and securities loaned or sold under agreements to repurchase	32,724	32,735	(11)	36,182	36,187	(5)
Short-term borrowings	3,396	3,396	—	1,494	1,494	—
Unfunded loan commitments	114	n/a	n/a	120	n/a	n/a
Long-term debt (2)	28,377	29,057	(680)	31,786	31,512	274

(1) A significant portion of the loans reported as trading account assets are distressed loans that trade and were purchased at a deep discount to par, and the remainder are loans with a fair value near contractual principal outstanding.

(2) Includes structured liabilities with a fair value of \$28.0 billion and \$31.4 billion, and contractual principal outstanding of \$28.7 billion and \$31.1 billion at June 30, 2018 and December 31, 2017.

n/a = not applicable

## Gains (Losses) Relating to Assets and Liabilities Accounted for Under the Fair Value Option

	Three Months Ended June 30			Three Months Ended June 30		
	Trading Account Profits	Other Income	Total	Trading Account Profits	Other Income	Total
(Dollars in millions)						
	2018			2017		
Loans reported as trading account assets	\$ (32)	\$ —	\$ (32)	\$ 47	\$ —	\$ 47
Trading inventory – other (1)	1,361	—	1,361	522	—	522
Consumer and commercial loans	19	(11)	8	4	20	24
Loans held-for-sale (2)	—	(1)	(1)	(1)	76	75
Long-term debt (3, 4)	535	(15)	520	107	(34)	73
Other (5)	6	15	21	5	(1)	4
<b>Total</b>	<b>\$ 1,889</b>	<b>\$ (12)</b>	<b>\$ 1,877</b>	<b>\$ 684</b>	<b>\$ 61</b>	<b>\$ 745</b>

	Six Months Ended June 30			Six Months Ended June 30		
	Trading Account Profits	Other Income	Total	Trading Account Profits	Other Income	Total
(Dollars in millions)						
	2018			2017		
Loans reported as trading account assets	\$ 71	\$ —	\$ 71	\$ 197	\$ —	\$ 197
Trading inventory – other (1)	1,956	—	1,956	1,673	—	1,673
Consumer and commercial loans	125	(32)	93	9	39	48
Loans held-for-sale (2)	1	2	3	—	170	170
Long-term debt (3, 4)	1,354	(56)	1,298	(55)	(71)	(126)
Other (5)	13	23	36	(53)	42	(11)
<b>Total</b>	<b>\$ 3,520</b>	<b>\$ (63)</b>	<b>\$ 3,457</b>	<b>\$ 1,771</b>	<b>\$ 180</b>	<b>\$ 1,951</b>

(1) The gains in trading account profits are primarily offset by losses on trading liabilities that hedge these assets.

(2) Includes the value of IRLCs on funded loans, including those sold during the period.

(3) The majority of the net gains (losses) in trading account profits relate to the embedded derivatives in structured liabilities and are offset by gains (losses) on derivatives and securities that hedge these liabilities.

(4) For the cumulative impact of changes in the Corporation's own credit spreads and the amount recognized in accumulated OCI, see Note 12 – Accumulated Other Comprehensive Income (Loss) For additional information on how the Corporation's own credit spread is determined, see Note 20 – Fair Value Measurements to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

(5) Includes gains (losses) on federal funds sold and securities borrowed or purchased under agreements to resell, long-term deposits, federal funds purchased and securities loaned or sold under agreements to repurchase, short-term borrowings and unfunded loan commitments.

## Gains (Losses) Related to Borrower-specific Credit Risk for Assets Accounted for Under the Fair Value Option

	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
(Dollars in millions)				
Loans reported as trading account assets	\$ (2)	\$ 7	\$ 11	\$ 20
Consumer and commercial loans	(10)	22	(27)	41
Loans held-for-sale	4	(1)	1	(1)

## NOTE 16 Fair Value of Financial Instruments

The following disclosures include financial instruments that are not carried at fair value or only a portion of the ending balance at June 30, 2018 and December 31, 2017 is carried at fair value on the Consolidated Balance Sheet. Certain loans, deposits, long-term debt





and loan commitments are accounted for under the fair value option. For additional information, see *Note 21 – Fair Value Option* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K.

## Fair Value of Financial Instruments

The carrying values and fair values by fair value hierarchy of certain financial instruments where only a portion of the ending balance was carried at fair value at June 30, 2018 and December 31, 2017 are presented in the following table.

### Fair Value of Financial Instruments

(Dollars in millions)	Carrying Value	Fair Value		Total
		Level 2	Level 3	
		June 30, 2018		
<b>Financial assets</b>				
Loans	\$ 901,569	\$ 61,161	\$ 845,632	\$ 906,793
Loans held-for-sale	6,511	5,121	1,446	6,567
<b>Financial liabilities</b>				
Deposits (1)	1,309,691	1,309,332	—	1,309,332
Long-term debt	226,595	230,268	1,225	231,493
Commercial unfunded lending commitments (2)	901	114	4,668	4,782
		December 31, 2017		
<b>Financial assets</b>				
Loans	\$ 904,399	\$ 68,586	\$ 849,576	\$ 918,162
Loans held-for-sale	11,430	10,521	909	11,430
<b>Financial liabilities</b>				
Deposits (1)	1,309,545	1,309,398	—	1,309,398
Long-term debt	227,402	235,126	1,863	236,989
Commercial unfunded lending commitments (2)	897	120	3,908	4,028

(1) Includes demand deposits of \$515.6 billion and \$519.6 billion with no stated maturities at June 30, 2018 and December 31, 2017.

(2) The carrying value is included in accrued expenses and other liabilities on the Consolidated Balance Sheet. For more information on commitments, see *Note 10 – Commitments and Contingencies*.

## NOTE 17 Business Segment Information

The Corporation reports its results of operations through the following four business segments: *Consumer Banking*, *GWIM*, *Global Banking* and *Global Markets*, with the remaining operations recorded in *All Other*. For additional information, see *Note 23 – Business Segment Information* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K. The following tables present net income (loss) and the components thereto (with net interest income on an FTE basis) for the three and six months

ended June 30, 2018 and 2017 and total assets at June 30, 2018 and 2017 for each business segment, as well as *All Other*, including a reconciliation of the four business segments' total revenue, net

of interest expense, on an FTE basis, and net income to the Consolidated Statement of Income, and total assets to the Consolidated Balance Sheet.

## Results of Business Segments and All Other

At and for the three months ended June 30 (Dollars in millions)	Total Corporation (1)		Consumer Banking		Global Wealth & Investment Management	
	2018	2017	2018	2017	2018	2017
	Net interest income (FTE basis)	\$ 11,804	\$ 11,223	\$ 6,620	\$ 5,961	\$ 1,543
Noninterest income	10,959	11,843	2,591	2,548	3,166	3,098
Total revenue, net of interest expense (FTE basis)	22,763	23,066	9,211	8,509	4,709	4,695
Provision for credit losses	827	726	944	834	12	11
Noninterest expense	13,284	13,982	4,397	4,411	3,399	3,392
Income before income taxes (FTE basis)	8,652	8,358	3,870	3,264	1,298	1,292
Income tax expense (FTE basis)	1,868	3,252	987	1,233	330	488
<b>Net income</b>	<b>\$ 6,784</b>	<b>\$ 5,106</b>	<b>\$ 2,883</b>	<b>\$ 2,031</b>	<b>\$ 968</b>	<b>\$ 804</b>
<b>Period-end total assets</b>	<b>\$ 2,291,670</b>	<b>\$ 2,254,714</b>	<b>\$ 768,187</b>	<b>\$ 735,176</b>	<b>\$ 270,913</b>	<b>\$ 274,746</b>

	Global Banking		Global Markets		All Other	
	2018	2017	2018	2017	2018	2017
	Net interest income (FTE basis)	\$ 2,711	\$ 2,541	\$ 801	\$ 864	\$ 129
Noninterest income (loss)	2,211	2,498	3,420	3,083	(429)	616
Total revenue, net of interest expense (FTE basis)	4,922	5,039	4,221	3,947	(300)	876
Provision for credit losses	(23)	15	(1)	25	(105)	(159)
Noninterest expense	2,154	2,154	2,715	2,650	619	1,375
Income (loss) before income taxes (FTE basis)	2,791	2,870	1,507	1,272	(814)	(340)
Income tax expense (benefit) (FTE basis)	727	1,084	391	442	(567)	5
<b>Net income (loss)</b>	<b>\$ 2,064</b>	<b>\$ 1,786</b>	<b>\$ 1,116</b>	<b>\$ 830</b>	<b>\$ (247)</b>	<b>\$ (345)</b>
<b>Period-end total assets</b>	<b>\$ 424,971</b>	<b>\$ 410,580</b>	<b>\$ 637,110</b>	<b>\$ 633,188</b>	<b>\$ 190,489</b>	<b>\$ 201,024</b>

(1) There were no material intersegment revenues.

## Results of Business Segments and All Other

At and for the six months ended June 30 (Dollars in millions)	Total Corporation (1)		Consumer Banking		Global Wealth & Investment Management	
	2018	2017	2018	2017	2018	2017
	Net interest income (FTE basis)	\$ 23,562	\$ 22,478	\$ 13,130	\$ 11,741	\$ 3,137
Noninterest income	22,476	23,033	5,113	5,051	6,428	6,130
Total revenue, net of interest expense (FTE basis)	46,038	45,511	18,243	16,792	9,565	9,287
Provision for credit losses	1,661	1,561	1,879	1,672	50	34
Noninterest expense	27,181	28,075	8,877	8,820	6,827	6,721
Income before income taxes (FTE basis)	17,196	15,875	7,487	6,300	2,688	2,532
Income tax expense (FTE basis)	3,494	5,432	1,909	2,377	685	955
<b>Net income</b>	<b>\$ 13,702</b>	<b>\$ 10,443</b>	<b>\$ 5,578</b>	<b>\$ 3,923</b>	<b>\$ 2,003</b>	<b>\$ 1,577</b>
<b>Period-end total assets</b>	<b>\$ 2,291,670</b>	<b>\$ 2,254,714</b>	<b>\$ 768,187</b>	<b>\$ 735,176</b>	<b>\$ 270,913</b>	<b>\$ 274,746</b>

	Global Banking		Global Markets		All Other	
	2018	2017	2018	2017	2018	2017
	Net interest income (FTE basis)	\$ 5,351	\$ 5,143	\$ 1,671	\$ 1,913	\$ 273
Noninterest income (loss)	4,505	4,851	7,336	6,741	(906)	260
Total revenue, net of interest expense (FTE basis)	9,856	9,994	9,007	8,654	(633)	784
Provision for credit losses	(7)	32	(4)	8	(257)	(185)
Noninterest expense	4,349	4,317	5,533	5,406	1,595	2,811
Income (loss) before income taxes (FTE basis)	5,514	5,645	3,478	3,240	(1,971)	(1,842)
Income tax expense (benefit) (FTE basis)	1,434	2,130	904	1,113	(1,438)	(1,143)
<b>Net income (loss)</b>	<b>\$ 4,080</b>	<b>\$ 3,515</b>	<b>\$ 2,574</b>	<b>\$ 2,127</b>	<b>\$ (533)</b>	<b>\$ (699)</b>
<b>Period-end total assets</b>	<b>\$ 424,971</b>	<b>\$ 410,580</b>	<b>\$ 637,110</b>	<b>\$ 633,188</b>	<b>\$ 190,489</b>	<b>\$ 201,024</b>

(1) There were no material intersegment revenues.

## Business Segment Reconciliations

(Dollars in millions)	Three Months Ended June 30		Six Months Ended June 30	
	2018	2017	2018	2017
Segments' total revenue, net of interest expense (FTE basis)	\$ 23,063	\$ 22,190	\$ 46,671	\$ 44,727
Adjustments (1):				
ALM activities	(271)	104	(155)	59
Liquidating businesses, eliminations and other	(29)	772	(478)	725
FTE basis adjustment	(154)	(237)	(304)	(434)
<b>Consolidated revenue, net of interest expense</b>	<b>\$ 22,609</b>	<b>\$ 22,829</b>	<b>\$ 45,734</b>	<b>\$ 45,077</b>
Segments' total net income	7,031	5,451	14,235	11,142
Adjustments, net-of-taxes (1):				
ALM activities	(328)	(86)	(382)	(265)
Liquidating businesses, eliminations and other	81	(259)	(151)	(434)
<b>Consolidated net income</b>	<b>\$ 6,784</b>	<b>\$ 5,106</b>	<b>\$ 13,702</b>	<b>\$ 10,443</b>

	June 30	
	2018	2017
Segments' total assets	\$ 2,101,181	\$ 2,053,690
Adjustments (1):		
ALM activities, including securities portfolio	631,777	620,507
Other	80,901	98,178
Elimination of segment asset allocations to match liabilities	(522,189)	(517,661)
<b>Consolidated total assets</b>	<b>\$ 2,291,670</b>	<b>\$ 2,254,714</b>

(1) Adjustments include consolidated income, expense and asset amounts not specifically allocated to individual business segments.

The tables below present noninterest income and the components thereto for the three and six months ended June 30, 2018 and 2017 for each business segment, as well as *All Other*. For additional information, see Note 1 – Summary of Significant Accounting Principles and Note 2 – Noninterest Income.

**Noninterest Income by Business Segment and All Other**

	Total Corporation		Consumer Banking		Global Wealth & Investment Management	
	Three Months Ended June 30					
	2018	2017	2018	2017	2018	2017
(Dollars in millions)						
<b>Card income</b>						
Interchange fees	\$ 1,070	\$ 983	\$ 882	\$ 800	\$ 27	\$ 24
Other card income	472	486	460	448	11	10
Total card income	1,542	1,469	1,342	1,248	38	34
<b>Service charges</b>						
Deposit-related fees	1,680	1,696	1,072	1,061	17	19
Lending-related fees	274	281	—	—	—	—
Total service charges	1,954	1,977	1,072	1,061	17	19
<b>Investment and brokerage services</b>						
Asset management fees	2,513	2,288	37	31	2,476	2,257
Brokerage fees	945	1,172	43	46	461	572
Total investment and brokerage services	3,458	3,460	80	77	2,937	2,829
<b>Investment banking income</b>						
Underwriting income	719	709	—	—	73	95
Syndication fees	400	340	—	—	—	—
Financial advisory services	303	483	—	—	—	1
Total investment banking income	1,422	1,532	—	—	73	96
<b>Trading account profits</b>	2,315	1,956	2	1	27	33
<b>Other income</b>	268	1,449	95	161	74	87
<b>Total noninterest income</b>	\$ 10,959	\$ 11,843	\$ 2,591	\$ 2,548	\$ 3,166	\$ 3,098

	Global Banking		Global Markets		All Other (1)	
	Three Months Ended June 30					
	2018	2017	2018	2017	2018	2017
<b>Card income</b>						
Interchange fees	\$ 136	\$ 131	\$ 25	\$ 24	\$ —	\$ 4
Other card income	2	3	—	—	(1)	25
Total card income	138	134	25	24	(1)	29
<b>Service charges</b>						
Deposit-related fees	540	571	45	40	6	5
Lending-related fees	229	238	45	43	—	—
Total service charges	769	809	90	83	6	5
<b>Investment and brokerage services</b>						
Asset management fees	—	—	—	—	—	—
Brokerage fees	19	38	430	521	(8)	(5)
Total investment and brokerage services	19	38	430	521	(8)	(5)
<b>Investment banking income</b>						
Underwriting income	99	143	592	554	(45)	(83)
Syndication fees	375	321	25	19	—	—
Financial advisory services	269	465	35	17	(1)	—
Total investment banking income	743	929	652	590	(46)	(83)
<b>Trading account profits</b>	63	54	2,184	1,743	39	125
<b>Other income</b>	479	534	39	122	(419)	545
<b>Total noninterest income</b>	\$ 2,211	\$ 2,498	\$ 3,420	\$ 3,083	\$ (429)	\$ 616

(1) *All Other* Includes eliminations of intercompany transactions.

## Noninterest Income by Business Segment and All Other

(Dollars in millions)	Total Corporation		Consumer Banking		Global Wealth & Investment Management	
	Six Months Ended June 30					
	2018	2017	2018	2017	2018	2017
<b>Card income</b>						
Interchange fees	\$ 2,041	\$ 1,941	\$ 1,686	\$ 1,584	\$ 38	\$ 50
Other card income	958	977	935	889	21	20
Total card income	2,999	2,918	2,621	2,473	59	70
<b>Service charges</b>						
Deposit-related fees	3,326	3,349	2,116	2,112	36	38
Lending-related fees	549	546	—	—	—	—
Total service charges	3,875	3,895	2,116	2,112	36	38
<b>Investment and brokerage services</b>						
Asset management fees	5,077	4,488	73	64	5,004	4,424
Brokerage fees	2,045	2,389	89	95	973	1,196
Total investment and brokerage services	7,122	6,877	162	159	5,977	5,620
<b>Investment banking income</b>						
Underwriting income	1,460	1,488	—	—	157	146
Syndication fees	716	740	—	—	—	—
Financial advisory services	599	888	—	—	—	1
Total investment banking income	2,775	3,116	—	—	157	147
<b>Trading account profits</b>	5,014	4,287	4	1	56	91
<b>Other income</b>	691	1,940	210	306	143	164
<b>Total noninterest income</b>	<b>\$ 22,476</b>	<b>\$ 23,033</b>	<b>\$ 5,113</b>	<b>\$ 5,051</b>	<b>\$ 6,428</b>	<b>\$ 6,130</b>

	Global Banking		Global Markets		All Other (1)	
	Six Months Ended June 30					
	2018	2017	2018	2017	2018	2017
<b>Card income</b>						
Interchange fees	\$ 270	\$ 252	\$ 47	\$ 46	\$ —	\$ 9
Other card income	3	7	—	—	(1)	61
Total card income	273	259	47	46	(1)	70
<b>Service charges</b>						
Deposit-related fees	1,078	1,116	85	73	11	10
Lending-related fees	454	459	95	87	—	—
Total service charges	1,532	1,575	180	160	11	10
<b>Investment and brokerage services</b>						
Asset management fees	—	—	—	—	—	—
Brokerage fees	44	54	918	1,052	21	(8)
Total investment and brokerage services	44	54	918	1,052	21	(8)
<b>Investment banking income</b>						
Underwriting income	269	299	1,163	1,185	(129)	(142)
Syndication fees	673	700	43	40	—	—
Financial advisory services	545	856	55	30	(1)	1
Total investment banking income	1,487	1,855	1,261	1,255	(130)	(141)
<b>Trading account profits</b>	124	87	4,887	3,920	(57)	188
<b>Other income</b>	1,045	1,021	43	308	(750)	141
<b>Total noninterest income</b>	<b>\$ 4,505</b>	<b>\$ 4,851</b>	<b>\$ 7,336</b>	<b>\$ 6,741</b>	<b>\$ (906)</b>	<b>\$ 260</b>

(1) All Other includes eliminations of intercompany transactions.

## Glossary

**Alt-A Mortgage** – A type of U.S. mortgage that is considered riskier than A-paper, or “prime,” and less risky than “subprime,” the riskiest category. Typically, Alt-A mortgages are characterized by borrowers with less than full documentation, lower credit scores and higher LTVs.

**Assets Under Management (AUM)** – The total market value of assets under the investment advisory and/or discretion of *GWIM* which generate asset management fees based on a percentage of the assets’ market values. 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.

**Banking Book** – All on- and off-balance sheet financial instruments of the Corporation except for those positions that are held for trading purposes.

**Brokerage and Other Assets** – Non-discretionary client assets which are held in brokerage accounts or held for safekeeping.

**Committed Credit Exposure** – Any funded portion of a facility plus the unfunded portion of a facility on which the lender is legally bound to advance funds during a specified period under prescribed conditions.

**Credit Derivatives** – Contractual agreements that provide protection against a specified credit event on one or more referenced obligations.

**Credit Valuation Adjustment (CVA)** – A portfolio adjustment required to properly reflect the counterparty credit risk exposure as part of the fair value of derivative instruments.

**Debit Valuation Adjustment (DVA)** – A portfolio adjustment required to properly reflect the Corporation’s own credit risk exposure as part of the fair value of derivative instruments and/or structured liabilities.

**Funding Valuation Adjustment (FVA)** – A portfolio adjustment required to include funding costs on uncollateralized derivatives and derivatives where the Corporation is not permitted to use the collateral it receives.

**Interest Rate Lock Commitment (IRLC)** – Commitment with a loan applicant in which the loan terms are guaranteed for a designated period of time subject to credit approval.

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

**Loan-to-value (LTV)** – A commonly used credit quality metric. LTV is calculated as the outstanding carrying value of the loan divided by the estimated value of the property securing the loan.

**Margin Receivable** – An extension of credit secured by eligible securities in certain brokerage accounts.

**Matched Book** – Repurchase and resale agreements or securities borrowed and loaned transactions where the overall asset and liability position is similar in size and/or maturity. Generally, these are entered into to accommodate customers where the Corporation earns the interest rate spread.

**Mortgage Servicing Rights (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.

**Nonperforming Loans and Leases** – Includes loans and leases that have been placed on nonaccrual status, including nonaccruing loans whose contractual terms have been restructured in a manner that grants a concession to a borrower experiencing financial difficulties.

**Operating Margin** – Income before income taxes divided by total revenue, net of interest expense.

**Prompt Corrective Action (PCA)** – A framework established by the U.S. banking regulators requiring banks to maintain certain levels of regulatory capital ratios, comprised of five categories of capitalization: “well capitalized,” “adequately capitalized,” “undercapitalized,” “significantly undercapitalized” and “critically undercapitalized.” Insured depository institutions that fail to meet certain of these capital levels are subject to increasingly strict limits on their activities, including their ability to make capital distributions, pay management compensation, grow assets and take other actions.

**Subprime Loans** – Although a standard industry definition for subprime loans (including subprime mortgage loans) does not exist, the Corporation defines subprime loans as specific product offerings for higher risk borrowers.

**Troubled Debt Restructurings (TDRs)** – Loans whose contractual terms have been restructured in a manner that grants a concession to a borrower experiencing financial difficulties. Certain consumer loans for which a binding offer to restructure has been extended are also classified as TDRs.

**Value-at-Risk (VaR)** – VaR is a model that simulates the value of a portfolio under a range of hypothetical scenarios in order to generate a distribution of potential gains and losses. VaR represents the loss the portfolio is expected to experience with a given confidence level based on historical data. A VaR model is an effective tool in estimating ranges of potential gains and losses on our trading portfolios.

## Acronyms

<b>ABS</b>	Asset-backed securities	<b>IRLC</b>	Interest rate lock commitment
<b>AFS</b>	Available-for-sale	<b>ISDA</b>	International Swaps and Derivatives Association, Inc.
<b>ALM</b>	Asset and liability management	<b>LCR</b>	Liquidity Coverage Ratio
<b>AUM</b>	Assets under management	<b>LHFS</b>	Loans held-for-sale
<b>BANA</b>	Bank of America, National Association	<b>LIBOR</b>	London InterBank Offered Rate
<b>BHC</b>	Bank holding company	<b>LTV</b>	Loan-to-value
<b>bps</b>	basis points	<b>MBS</b>	Mortgage-backed securities
<b>CCAR</b>	Comprehensive Capital Analysis and Review	<b>MD&amp;A</b>	Management's Discussion and Analysis of Financial Condition and Results of Operations
<b>CDO</b>	Collateralized debt obligation	<b>MLGWM</b>	Merrill Lynch Global Wealth Management
<b>CET1</b>	Common equity tier 1	<b>MLI</b>	Merrill Lynch International
<b>CLTV</b>	Combined loan-to-value	<b>MLPCC</b>	Merrill Lynch Professional Clearing Corp
<b>CVA</b>	Credit valuation adjustment	<b>MLPF&amp;S</b>	Merrill Lynch, Pierce, Fenner & Smith Incorporated
<b>DVA</b>	Debit valuation adjustment	<b>MSA</b>	Metropolitan Statistical Area
<b>EPS</b>	Earnings per common share	<b>MSR</b>	Mortgage servicing right
<b>FASB</b>	Financial Accounting Standards Board	<b>OAS</b>	Option-adjusted spread
<b>FHA</b>	Federal Housing Administration	<b>OCI</b>	Other comprehensive income
<b>FHLB</b>	Federal Home Loan Bank	<b>OREO</b>	Other real estate owned
<b>FHLMC</b>	Freddie Mac	<b>OTC</b>	Over-the-counter
<b>FICC</b>	Fixed-income, currencies and commodities	<b>OTTI</b>	Other-than-temporary impairment
<b>FICO</b>	Fair Isaac Corporation (credit score)	<b>PCA</b>	Prompt Corrective Action
<b>FNMA</b>	Fannie Mae	<b>PCI</b>	Purchased credit-impaired
<b>FTE</b>	Fully taxable-equivalent	<b>RMBS</b>	Residential mortgage-backed securities
<b>FVA</b>	Funding valuation adjustment	<b>SBLC</b>	Standby letter of credit
<b>GAAP</b>	Accounting principles generally accepted in the United States of America	<b>SCCL</b>	Single-counterparty credit limits
<b>GLS</b>	Global Liquidity Sources	<b>SEC</b>	Securities and Exchange Commission
<b>GNMA</b>	Government National Mortgage Association	<b>SLR</b>	Supplementary leverage ratio
<b>GSE</b>	Government-sponsored enterprise	<b>TDR</b>	Troubled debt restructurings
<b>G-SIB</b>	Global systemically important bank	<b>TLAC</b>	Total loss-absorbing capacity
<b>GWIM</b>	Global Wealth & Investment Management	<b>TTF</b>	Time-to-required funding
<b>HELOC</b>	Home equity line of credit	<b>VaR</b>	Value-at-Risk
<b>HQLA</b>	High Quality Liquid Assets	<b>VIE</b>	Variable interest entity
<b>HTM</b>	Held-to-maturity		

## Part II. Other Information

### Bank of America Corporation and Subsidiaries

#### Item 1. Legal Proceedings

See Litigation and Regulatory Matters in *Note 10 – Commitments and Contingencies* to the Consolidated Financial Statements, which is incorporated by reference in this Item 1, for litigation and regulatory disclosure that supplements the disclosure in *Note 12 – Commitments and Contingencies* to the Consolidated Financial Statements of the Corporation's 2017 Annual Report on Form 10-K and in *Note 10 – Commitments and Contingencies* to the Consolidated Financial Statements of the Corporation's Quarterly Report on Form 10-Q for the quarter ended March 31, 2018.

#### Item 1A. Risk Factors

There are no material changes from the risk factors set forth under Part 1, Item 1A. Risk Factors of the Corporation's 2017 Annual Report on Form 10-K.

#### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The table below presents share repurchase activity for the three months ended June 30, 2018. The primary source of funds for cash distributions by the Corporation to its shareholders is dividends received from its banking subsidiaries. Each of the banking subsidiaries is subject to various regulatory policies and requirements relating to the payment of dividends, including requirements to maintain capital above regulatory minimums. All of the Corporation's preferred stock outstanding has preference over the Corporation's common stock with respect to payment of dividends.

(Dollars in millions, except per share information; shares in thousands)	Common Shares Repurchased (1)	Weighted-Average Per Share Price	Shares Purchased as Part of Publicly Announced Programs	Remaining Buyback Authority Amounts (2, 3)
April 1 - 30, 2018	40,510	\$ 30.10	40,494	\$ 3,983
May 1 - 31, 2018	78,753	30.16	78,749	1,608
June 1 - 30, 2018	46,382	29.56	46,381	236
<b>Three months ended June 30, 2018</b>	<b>165,645</b>	<b>29.98</b>		

(1) Includes shares of the Corporation's common stock acquired by the Corporation in connection with satisfaction of tax withholding obligations on vested restricted stock or restricted stock units and certain forfeitures and terminations of employment-related awards and for potential re-issuance to certain employees under equity incentive plans.

(2) On December 5, 2017, the Corporation announced that the Board approved the repurchase of an additional \$5.0 billion of common stock through June 30, 2018. Amounts shown in this column include shares repurchased under this additional repurchase authority in addition to the previously announced repurchases associated with the 2017 CCAR capital plan. During the three months ended June 30, 2018, pursuant to the Board's authorization, the Corporation repurchased approximately \$0.9 billion of common stock, which included common stock to offset equity-based compensation awards. For additional information, see Capital Management – CCAR and Capital Planning on page 22 and *Note 11 – Shareholders' Equity* to the Consolidated Financial Statements.

(3) The remaining buyback authority amounts in this column expired on June 30, 2018.

The Corporation did not have any unregistered sales of securities during the three months ended June 30, 2018.





## Item 6. Exhibits

Exhibit No.	Description	Notes	Incorporated by Reference			
			Form	Exhibit	Filing Date	File No.
3(a)	<a href="#">Amended and Restated Certificate of Incorporation as in effect on the date hereof</a>	1				
3(b)	<a href="#">Amended and Restated Bylaws of the Corporation as in effect on the date hereof</a>		8-K	3.1	3/20/15	1-6523
4(a)	<a href="#">Indenture dated as of June 27, 2018 between the registrant and the Bank of New York Mellon Trust Company, N.A.</a>		S-3	4.3	6/27/18	1-6523
4(b)	<a href="#">Form of Global Senior Medium-Term Note, Series N</a>		S-3	4.4	6/27/18	1-6523
4(c)	<a href="#">Form of Master Global Senior Medium-Term Note, Series N</a>		S-3	4.5	6/27/18	1-6523
4(d)	<a href="#">Indenture dated as of June 27, 2018 between the registrant and the Bank of New York Mellon Trust Company, N.A.</a>		S-3	4.6	6/27/18	1-6523
4(e)	<a href="#">Form of Global Subordinated Medium-Term Note, Series N</a> Registrant and its subsidiaries have other long-term debt agreements, but these are omitted pursuant to Item 601(b)(4)(iii) of Regulation S-K. Copies of these agreements will be furnished to the Commission on request		S-3	4.7	6/27/18	1-6523
10	<a href="#">Amended and Restated Aircraft Time Sharing Agreement dated June 26, 2018 between Bank of America, N.A. and Brian T. Moynihan</a>	1, 2				
11	<a href="#">Earnings Per Share Computation – included in Note 13 – Earnings Per Common Share to the Consolidated Financial Statements</a>	1				
12	<a href="#">Ratio of Earnings to Fixed Charges</a> <a href="#">Ratio of Earnings to Fixed Charges and Preferred Dividends</a>	1				
31(a)	<a href="#">Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>	1				
31(b)	<a href="#">Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>	1				
32(a)	<a href="#">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</a>	1				
32(b)	<a href="#">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</a>	1				
101.INS	XBRL Instance Document	1				
101.SCH	XBRL Taxonomy Extension Schema Document	1				
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	1				
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	1				
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	1				
101.DEF	XBRL Taxonomy Extension Definitions Linkbase Document	1				

(1) Filed herewith.

(2) Exhibit is a management contract or a compensatory plan or arrangement.

## Signature

Pursuant to the requirements 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.

**Bank of America Corporation**  
Registrant

Date: July 30, 2018

/s/ Rudolf A. Bless

Rudolf A. Bless  
Chief Accounting Officer

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:

<u>Class</u>	<u>Number of Shares</u>
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(1), 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(1), 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(1)) 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(1) 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.  
Name: Hugh L. McColl, Jr.  
Title: 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:

<u>Class</u>	<u>Number of Shares</u>
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.

<b>Redemption Period</b>	<b>Redemption Price Per Share</b>	<b>Redemption Price Per Depository Share</b>
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.

<b>Redemption Period</b>	<b>Redemption Price Per Share</b>	<b>Redemption Price Per Depositary Share</b>
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:

<u>Name</u>	<u>State of Incorporation</u>
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 31 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:
- | <u>Name:</u>                | <u>State of Incorporation</u> |
|-----------------------------|-------------------------------|
| Bank of America Corporation | Delaware                      |
| MBNA Corporation            | Maryland                      |
- 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.
- SECOND:**
- The name of the surviving corporation of the Merger (the "Surviving Corporation") is Bank of America Corporation.
- THIRD:**
- 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.
- FOURTH:**
- 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.
- FIFTH:**
- 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.
- SIXTH:**
- 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 15(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.

BANKAMERICA 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.

“*Depository 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 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 *apro 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 "*Depository 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 Depository 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.

“*Depository 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 *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 "*Depository 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

Depository 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.

“*Depository 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 *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 "*Depository 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 Depository 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.

“*Depository 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 *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 "*Depository 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 Depository 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.

“*Depository 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 *apro 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 "*Depository 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.

“*Depository 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 *apro 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 "*Depository 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

By:           /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).

“*Depository 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 *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 "*Depository 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

By:           /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.

“*spin-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 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
	5.00	4.79	4.61	4.20	3.68	3.25	2.14	1.04	0.51	0.27	0.14
1/24/2008	0	93	90	23	51	40	50	50	64	65	68
	5.00	4.75	4.46	4.13	3.57	3.17	2.03	0.95	0.46	0.24	0.12
1/30/2009	0	12	43	86	2	60	17	63	82	80	85
	5.00	4.64	4.29	3.98	3.38	2.93	1.76	0.64	0.22	0.10	0.03
1/30/2010	0	39	29	86	30	0	17	62	87	33	90
	5.00	4.60	4.24	3.92	3.31	2.80	1.56	0.53	0.19	0.10	0.05
1/30/2011	0	49	29	50	70	40	50	0	64	67	0
	5.00	4.57	4.24	3.83	3.25	2.58	1.26	0.23	0.07	0.04	0.02
1/30/2012	0	80	5	86	96	40	67	13	55	29	6
	5.00	4.53	4.22	3.79	3.16	2.52	1.02				
1/30/2013	0	66	14	32	60	60	17	—	—	—	—
	5.00	4.53	4.22	3.79	3.16	2.52	1.02				
Thereafter	0	66	14	32	60	60	17	—	—	—	—

(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<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or distribution.

OS<sub>1</sub> = 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<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the effective date of such share subdivision, split, or combination.

OS<sub>1</sub> = 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<sub>0</sub> = 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<sub>0</sub> = 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<sub>0</sub> = 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<sub>s</sub> = 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<sub>0</sub> = 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:

$$\frac{AC + (SP_0 \times OS_T)}{OS_{0x} SP_0}$$

Where,

SP<sub>0</sub> = the VWAP per share of Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer.

OS<sub>0</sub> = 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*”).

OS1 = 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).

“*Depository 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 *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 "*Depository 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 Depository 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.

“*Depository 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 *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 “*Depository 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 Depository 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.

(c) 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:

<u>Class</u>	<u>Number of Shares</u>
Common	10000000000
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 9<sup>th</sup> 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 commenced 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 31<sup>st</sup> 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 I]*

**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 31<sup>st</sup> 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 2]*

**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 arrear 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 31<sup>st</sup> 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 3]*

**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 31<sup>st</sup> 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 4]*

**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 31<sup>st</sup> 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 5]*

**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 31<sup>st</sup> 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 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 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 31<sup>st</sup> 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 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

[Signature Page to Certificate of Designations, Series 8]



**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.

(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 7<sup>th</sup> day of January, 2009.

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 (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.

(c) 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 vesting 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 <sup>2</sup>/<sub>3</sub>% 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 16<sup>th</sup> day of January, 2009.

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) “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.

**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**COMMON EQUIVALENT JUNIOR PREFERRED STOCK, SERIES S**  
**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 November 16, 2009, November 17, 2009, December 1, 2009 and December 3, 2009, the Board 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 Securities 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 December 3, 2009, 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 Common Equivalent Junior Preferred Stock, Series S, 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 3rd day of December, 2009.

BANK OF AMERICA CORPORATION

By: /s/ TERESA M. BRENNER  
Name: Teresa M. Brenner  
Title: Associate General Counsel

**CERTIFICATE OF DESIGNATIONS****OF****COMMON EQUIVALENT JUNIOR  
PREFERRED STOCK, SERIES S****OF****BANK OF AMERICA CORPORATION**

Pursuant to the authority vested in the Board of Directors (the “Board”) by the Amended and Restated Certificate of Incorporation of the Corporation the (Certificate of Incorporation”), the Board does hereby designate, create, authorize and provide for the issue of a series of preferred stock, \$0.01 par value per share, which shall be designated as Common Equivalent Junior Preferred Stock, Series S (the “Series S Junior Preferred Stock”) consisting of 1,286,000 shares having the following voting powers, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof as follows:

**COMMON EQUIVALENT JUNIOR  
PREFERRED STOCK, SERIES S****Section I. Definitions**

“Adjusted Conversion Rate” means, for each share of Series S Junior Preferred Stock, that number of shares of Common Stock determined by reference to the Initial Conversion Rate (as adjusted pursuant to Section II(d), as applicable) multiplied by an amount equal to one less a fraction, the numerator of which is 200,000,000 and the denominator of which is the Initial Conversion Rate in effect on the Closing Date (without adjustment pursuant to Section II(d)) multiplied by the number of shares of Series S Junior Preferred Stock then outstanding, the amount resulting from such calculation being rounded, if necessary, to the nearest one ten-thousandth, with five one-hundred thousandths rounded upwards.

“Adjusted Liquidation Preference” means, for each share of Series S Junior Preferred Stock, \$12,667.19.

“Amendment” means an Amendment to the Certificate of Incorporation increasing the number of shares of Common Stock the Corporation is authorized to issue from 10 billion to such amount as is authorized by the Board, which amount shall be not less than an amount sufficient to effect conversion of the Series S Junior Preferred Stock in full.

“Applicable Conversion Rate” means the Initial Conversion Rate, unless the Triggering Date has occurred, in which case it shall be the Adjusted Conversion Rate, in each case subject to adjustment pursuant to Section II(d), as applicable, for any such event occurring subsequent to the initial determination of such rate.

“Applicable Liquidation Preference” means the Initial Liquidation Preference unless the Triggering Date has occurred, in which case it shall be the Adjusted Liquidation Preference.

“As Converted Liquidation Amount” has the meaning specified in Section V(c).

“Board” means the Board of Directors of Bank of America Corporation.

“Certificate of Incorporation” has the meaning specified in the preamble.

“Closing Date” means the date that the Series S Junior Preferred Stock is first issued.

“Common Dividend Equivalent Amount” has the meaning specified in Section III(a).

“Common Stock” means the Common Stock, \$.01 par value per share, of the Corporation.

“Conversion Date” means the first business day following the receipt of Stockholder Approval and the filing and acceptance of the Amendment with the Office of the Secretary of State of the State of Delaware.

“Corporation” means Bank of America Corporation.

“Exchange Property” has the meaning specified in Section VI(a).

“Holder” means the Person in whose name the shares of Series S Junior Preferred Stock are registered, which may be treated by the Corporation as the absolute owner of the shares of Series S Junior Preferred Stock for the purpose of making payment and settling conversion and for all other purposes.

“Initial Conversion Rate” means, for each share of Series S Junior Preferred Stock, 1,000 shares of Common Stock.

“Initial Liquidation Preference” means, for each share of Series S Junior Preferred Stock, \$15,000.

“Junior Preferred Director” has the meaning specified in Section IV(b).

“Liquidation Participation Amount” has the meaning specified in Section V(c).

“Nonpayment” has the meaning specified in Section IV(b).

“Parity Stock” has the meaning specified in Section III(d).

“Person” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company or trust.

“Record Date” means, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or other applicable security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board or a duly authorized committee of the Board or by statute, contract or otherwise).

“Reorganization Event” has the meaning specified in Section VI(a).

“Series S Junior Preferred Stock” has the meaning specified in the preamble.

“Special Dividend Payment Date” has the meaning specified in Section III(b).

“Special Dividend Rate” has the meaning specified in Section III(b).

“Special Dividend” has the meaning specified in Section III(b).

“Stockholder Approval” means the requisite approval by the stockholders of the Corporation of the Amendment.

“Triggering Date” means the earlier of (i) the date on which any meeting of the stockholders of the Corporation called for the purpose of obtaining Stockholder Approval is finally adjourned and at which the Amendment is rejected by the Corporation's stockholders and (ii) the date that is 105 days from the Closing Date.

“Voting Parity Securities” has the meaning specified in Section IV(b).

## **Section II. Automatic Conversion**



(a) Upon the terms and in the manner set forth in this Section II and subject to the provisions for adjustment in Section II (b) below, at 9:30 a.m., New York City time, on the Conversion Date, each share of Series S Junior Preferred Stock will automatically convert into an amount of fully-paid and non-assessable shares of Common Stock, without any action on the part of Holders or the Corporation, based on the Applicable Conversion Rate. The shares of Series S Junior Preferred Stock so converted will be cancelled as described in paragraph (c) below.

(b) If the Corporation fails to obtain Stockholder Approval on or before the Triggering Date, then at 9:30 a.m., New York City time, on the first business day after the Triggering Date, the Series S Junior Preferred Stock shall automatically partially convert into Common Stock, to be effected by the Corporation's issuance of 200,000,000 shares of Common Stock (as adjusted pursuant to Section II(d)) to the Holders of the Series S Junior Preferred Stock, pro rata based on the number of shares of Series S Junior Preferred Stock held of record by each such Holder on such date, without any action on the part of Holders, and the Applicable Conversion Rate shall thereafter be the Adjusted Conversion Rate. Following the issuance of such Common Stock, all shares of the Series S Junior Preferred Stock will remain outstanding.

(c) As promptly as practicable after the Conversion Date, the Corporation shall (i) provide notice of the conversion to each Holder stating the Conversion Date, the number of shares of Common Stock issued upon conversion of each share of Series S Junior Preferred Stock held of record by such Holder and subject to conversion and the place or places where certificates representing shares of Series S Junior Preferred Stock are to be surrendered for issuance of certificates representing shares of Common Stock and (ii) upon proper surrender (including but not limited to furnishing appropriate endorsements and transfer documents) of such certificates by such Holder, issue and deliver, in exchange for the certificates representing the shares of Series S Junior Preferred Stock held by such Holder, to each Holder a certificate or certificates for the number of full shares of Common Stock to which such Holder is entitled. Immediately upon conversion, the rights of the Holders as such with respect to the shares of Series S Junior Preferred Stock so converted shall cease and the persons entitled to receive the shares of Common Stock upon the conversion of such shares of Series S Junior Preferred Stock shall be treated for all purposes as having become the record and beneficial owners of such shares of Common Stock. 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 S Junior 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.

(d) If at any time prior to the Conversion Date, the Corporation issues to all holders of the Common Stock shares of Common Stock or other securities or assets of the Corporation (other than cash) as a dividend or distribution on the Common Stock, or the Corporation effects a share split or share combination of the Corporation's Common Stock, or the Corporation issues to all holders of the Common Stock certain rights or warrants entitling them for a period of 60 days or less to purchase shares of Common Stock at less than the current market value of the Common Stock at that time, or the Corporation purchases shares of Common Stock pursuant to a tender offer or exchange offer at above the current market value at that time, and in each such case the Record Date with respect to such event (or the date such event is effective, as the case may be) occurs on or after the Closing Date and prior to the Conversion Date (each, an "Adjustment Event"), then the Corporation will make such provision as is necessary so that the Holder receives the same dividend, distribution or other asset or property, if any, as it would have received in connection with such Adjustment Event if it had been the holder on the Record Date (or the date such event is effective, as the case may be) of the number of shares of Common Stock into which the shares of Series S Junior Preferred Stock held by such Holder are then convertible, or, to the extent that it is not reasonably practicable for the Corporation to make such provision, the Corporation shall make such adjustment to the Applicable Conversion Rate or other terms of the Series S Junior Preferred Stock to provide the Holder with an economic benefit comparable to that which it would have received had such provision been made; it being understood that this paragraph (d) shall not apply to the extent that any Holder participates on a pro rata basis with the holders of Common Stock.

(e) No fractional shares of Common Stock or scrip shall be issued upon conversion of shares of Series S Junior Preferred Stock. If more than one share of Series S Junior Preferred Stock shall be surrendered for conversion at any one time by 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 Series S Junior Preferred Stock so surrendered. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of any shares of Series S Junior Preferred Stock, the Corporation shall pay a cash adjustment in respect of such fractional interest equal to the value of such fractional interest as based on the closing sales price of the Common Stock on the business day immediately preceding the Conversion Date.

(f) The Corporation shall not be required to reserve or keep available, out of its authorized but unissued Common Stock, or have sufficient authorized Common Stock to cover, the shares of Common Stock deliverable upon the conversion of the Series S Junior Preferred Stock prior to the Stockholder Approval.

(g) All shares of Common Stock which may be issued upon conversion of the shares of Series S Junior Preferred Stock or pursuant to Section II(b) hereof will, upon issuance by the Corporation, be validly issued, fully paid and nonassessable.

(h) Effective immediately prior to the Conversion Date, dividends shall no longer be declared on the shares of Series S Junior Preferred Stock and such shares of Series S Junior Preferred Stock shall cease to be outstanding, in each case, subject to the rights of Holders of such Series S Junior Preferred Stock to receive any declared and unpaid dividends on such shares and any other payments to which they are otherwise entitled pursuant to Section II(d), Section III or Section VI.

### Section III. Dividend Rights

(a) From and after the Closing Date to but excluding the Conversion Date, (i) the Holders 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 therefor, all cash dividends or distributions (including, but not limited to, regular quarterly dividends) declared and paid or made in respect of the shares of Common Stock, at the same time and on the same terms as holders of Common Stock, in an amount per share of Series S Junior Preferred Stock equal to the product of (i) the Applicable Conversion Rate then in effect and (ii) any per share dividend or distribution, as applicable, declared and paid or made in respect of each share of Common Stock (the "Common Equivalent Dividend Amount"), and (ii) the Board may not declare and pay any such cash dividend or make any such cash distribution in respect of Common Stock unless the Board or any duly authorized committee of the Board declares and pays to the Holders of the Series S Junior Preferred Stock, at the same time and on the same terms as holders of Common Stock, the Common Equivalent Dividend Amount per share. Notwithstanding any provision in this Section III(a) to the contrary, (i) the Holders of the Series S Junior Preferred Stock shall not be entitled to receive any cash dividend or distribution made with respect to the Common Stock after the Closing Date where the Record Date for determination of holders of Common Stock entitled to receive such dividend or distribution occurs prior to the Closing Date, and (ii) to the extent an automatic partial conversion pursuant to Section II(b) has occurred in a calendar quarter, the Common Equivalent Dividend Amount payable, if any, shall be determined as if the Initial Conversion Rate were in effect for the entire calendar quarter, unless the Record Date for payment of any such Common Equivalent Dividend Amount occurs after the issuance of such Common Stock, in which case the Common Equivalent Dividend Amount payable, if any, shall be determined as if the Adjusted Conversion Rate were in effect for the entire calendar quarter.

(b) From and after the date immediately following the Triggering Date to but excluding the Conversion Date, in addition to dividends payable under Section III(a), the Holders of the Series S Junior 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 therefor, non-cumulative cash dividends on the Adjusted Liquidation Preference per share of Series S Junior Preferred Stock, payable quarterly in arrears, on each date that regular quarterly cash dividends are paid with respect to the Common Stock or, if no regular quarterly cash dividends are paid with respect to the Common Stock during such calendar quarter, the last Friday of such calendar quarter (or if such Friday is not a business day, the immediately preceding business day) (each, a "Special Dividend Payment Date"). Dividends payable pursuant to this Section III(b) (the "Special Dividend") will accrue on the Adjusted Liquidation Preference per share of Series S Junior Preferred Stock at a rate per annum equal to the Special Dividend Rate (as defined below) for each calendar quarter from the Triggering Date to the Conversion Date. The amount of Special 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. No interest or sum of money in lieu of interest will be paid with respect to any Special Dividend paid later than the scheduled Special Dividend Payment Date. The "Special Dividend Rate" shall initially be 10% per annum and shall increase by two (2) percentage points on each subsequent Special Dividend Payment Date, subject to a maximum rate of 16% per annum. For purposes of dividends payable pursuant to this Section III(b), the Series S Junior Preferred Stock will rank prior to the Common Stock.

(c) Each dividend or distribution pursuant to (a) or (b) above will be payable to Holders of record of Series S Junior Preferred Stock as they appear in the records of the Corporation at the close of business on the same day as the Record Date for the corresponding dividend or distribution to the holders of shares of Common Stock (or, in the case of a Special Dividend Payment Date where there is no corresponding quarterly cash dividend with respect to the Common Stock during such calendar quarter, the fifteenth day of the calendar month in which the Special Dividend Payment Date falls).

(d) The cash dividends on the Series S Junior Preferred Stock are noncumulative. To the extent that any dividends payable on the shares of Series S Junior Preferred Stock for a calendar quarter are not declared and paid, in full or otherwise, on the applicable dividend payment date, then such unpaid dividends shall not cumulate and shall cease to be payable, and the Corporation shall have no obligation to pay, and the holders of Series S Junior Preferred Stock shall have no right to receive, dividends for such calendar quarter on the related dividend payment date or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent calendar quarter or dividend period with respect to Series S Junior Preferred Stock, Parity Stock (as defined below) or any other class or series of authorized preferred stock of the Corporation. So long as any share of the Series S Junior 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 Common Stock (other than a dividend payable solely in

shares of Common Stock), (ii) no shares of Common 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 Common Stock for or into other Common Stock, or the exchange or conversion of one share of Common Stock for or into another share of Common Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Common Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common 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 S Junior Preferred Stock and such Parity Stock except by conversion into or exchange for Common Stock, during a dividend period, unless, in each case, the full dividends payable pursuant to Section III(b) for the then-current calendar quarter on all outstanding shares of the Series S Junior Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside (except for (w) dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of Common Stock, (x) redemptions or purchases of any rights pursuant to a stockholder rights plan or by conversion or exchange of Parity Stock for or into other Parity Stock of the Corporation, (y) purchases by the Corporation or its affiliates as a broker, dealer, advisor, fiduciary, trustee or comparable capacity 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 and (z) acquisitions of Common Stock in respect of exercises of employee equity awards and any related tax withholding and any purchases or acquisitions of Common 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 next succeeding sentence, for so long as any shares of Series S Junior 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 payable pursuant to Section III(b) on all outstanding shares of Series S Preferred Stock for the then-current calendar quarter 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 S Junior 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 S Junior Preferred Stock and the holders of any Parity Stock then outstanding. For purposes of calculating the allocation of partial dividend payments, the Corporation will allocate dividend payments on a pro rata basis among the Holders of the Series S Junior Preferred Stock and the holders of any Parity Stock so that the amount of dividends paid per share on the Series S Junior Preferred Stock and such Parity Stock shall in all cases bear to each other the same ratio that payable dividends per share on the shares of the Series S Junior Preferred Stock and such Parity Stock (but without, in the case of any noncumulative preferred stock, accumulation of dividends for prior dividend periods) bear to each other. The foregoing right shall not be cumulative and shall not in any way create any claim or right in favor of Holders in the event that dividends have not been declared or paid in respect of any prior calendar quarter. As used herein, "Parity Stock" shall mean each class or series of equity securities of the Corporation issued after the Closing Date (other than Common Stock) that does not by its terms rank senior to the Series S Junior Preferred Stock with respect to payment of dividends or rights upon liquidation, dissolution or winding up of the affairs of the Corporation (including options, warrants or rights to subscribe for or purchase shares of such equity securities).

(e) No interest or sum of money in lieu of interest will be payable in respect of any dividend payment or payments on Series S Junior Preferred Stock or on such Parity Stock that may be in arrears.

(f) Holders of Series S Junior 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 Series S Junior Preferred Stock as specified in this Section III. Notwithstanding any provision in this Certificate of Designations to the contrary, Holders of the Series S Junior Preferred Stock shall not be entitled to receive any dividends for any calendar quarter in which the Conversion Date occurs, except to the extent that any such dividends have been declared by the Board or any duly authorized committee of the Board and the Record Date for such dividend occurs prior to the Conversion Date.

#### **Section IV. Voting**

(a) Prior to the Conversion Date, Holders are entitled to vote (i) on all matters presented to the holders of Common Stock for approval, voting together with the holders of common stock as one class, as if, on the record date for determining the holders of the Corporation's securities entitled to vote with respect to such matter, the Holders in fact held the shares of Common Stock into which the Series S Junior Preferred Stock are then convertible based on the Applicable Conversion Rate then in effect or (ii) whenever the approval or other action of Holders is required by applicable law or by the Certificate of Incorporation; provided, however that Holders shall not be entitled to vote either together with the Common Stock or as a separate class with respect to the Amendment at any meeting of the stockholders of the Corporation at which the Amendment is presented for approval.

(b) If and whenever any Special Dividend payable to Holders of the Series S Junior Preferred Stock or any other dividend payable to holders of any other class or series of preferred stock ranking equally with Series S Junior Preferred Stock as to payment of dividends and upon which voting rights equivalent to those granted by this Section IV have been conferred ("Voting Parity Securities") and are exercisable, have not been declared and paid for the equivalent of at least six or more calendar quarters (other than the calendar quarter in which the Series S Junior Preferred Stock is issued) (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 S Junior Preferred Stock voting as a class with holders of any Voting Parity Securities, whether or not the holders of such Voting Parity Securities would be entitled to vote for the election of directors if such Nonpayment 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 S Junior Preferred Stock and any Voting Parity Securities is a "Junior Preferred Director." Any Junior Preferred Director elected by the holders of the Series S Junior Preferred Stock and any Voting Parity Securities may only be removed by the vote of the holders of record of the outstanding Series S Junior Preferred Stock and any such Voting Parity Securities, 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 Junior Preferred Director may be filled only by the vote of the holders of the outstanding Series S Junior Preferred Stock and any such Voting Parity Securities, voting together as a single and separate class.

(c) The election of the Junior Preferred Directors will take place at any annual meeting of stockholders or any special meeting of the holders of the Series S Junior Preferred Stock and any Voting Parity Securities, called as provided herein. At any time after the special voting right has vested pursuant to Section IV(b) above, the secretary of the Corporation may, and upon the written request of any Holder of Series S Junior 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 S Junior Preferred Stock and any Voting Parity Securities, for the election of the two directors to be elected by them as provided in Section IV(d) below. The Junior Preferred Directors shall each be entitled to one vote per director on any matter.

(d) 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 S Junior Preferred Stock may (at the Corporation's expense) call such meeting, upon notice as provided in this Section IV(d), and for that purpose will have access to the stock register of the Corporation. The Junior Preferred Directors elected at any such special meeting will hold office until the next annual meeting of the Corporation's stockholders unless they have been previously terminated or removed pursuant to Section IV(e). In case any vacancy in the office of a Junior Preferred Director occurs (other than prior to the initial election of the Junior Preferred Directors), the vacancy may be filled by the written consent of the Junior Preferred Director remaining in office, or if none remains in office, by the vote of the Holders of the Series S Junior 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 Nonpayment did not exist) to serve until the next annual meeting of the stockholders.

(e) The voting rights described in Section IV(b) above will terminate, except as provided by law, upon the earlier of (A) the conversion of all of the Series S Junior Preferred Stock on the Conversion Date or (B) the payment of full Special Dividends on the Series S Junior Preferred Stock and any Voting Parity Securities, for the equivalent of at least four quarterly 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 S Junior Preferred Stock and any Voting Parity Securities. Upon termination of the special voting right described above, the terms of office of the Junior Preferred Directors will immediately terminate, and the number of directors constituting the Board will be reduced accordingly. Any Junior 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 S Junior 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 Nonpayment did not exist).

## Section V. Liquidation

(a) In the event of any liquidation, dissolution or winding up of the affairs of the Corporation prior to the Conversion Date, whether voluntary or involuntary, Holders of Series S Junior Preferred Stock shall be entitled to receive for each share of Series S Junior 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 and the holders of any other stock of the Corporation ranking senior as to such distributions to the Series S Junior Preferred Stock, and before any distribution of such assets or proceeds is made to or set aside for the holders of Common Stock or other stock of the Corporation ranking junior to Series S Junior Preferred Stock as to such distribution, a liquidating distribution in an amount equal to the Applicable Liquidation Preference, plus any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation.

(b) If in any distribution described in Section V(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 Series S Junior Preferred Stock and the corresponding amounts payable with respect to any other stock of the Corporation ranking equally with Series S Junior Preferred Stock as to such distribution, Holders of Series S Junior 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) If the liquidating distribution provided in Section V(a) above has been paid in full to all Holders of Series S Junior Preferred Stock and the corresponding amounts payable with respect to any other stock of the Corporation ranking equally with Series S Junior Preferred Stock as to such distribution have 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; provided that if the amount of such assets or proceeds to be distributed with respect to a number of shares of Common Stock equal to the Applicable Conversion Rate then in effect (the "As Converted Liquidation Amount") exceeds the Applicable Liquidation Preference, Holders of Series S Junior Preferred Stock shall be entitled to receive, for each share of Series S Junior Preferred Stock, an additional amount (the "Liquidation Participation Amount") out of such assets or proceeds such that the As-Converted Liquidation Amount equals the sum of the Applicable Liquidation Preference plus the Liquidation Participation Amount, after making appropriate adjustment such that the holders of Series S Junior Preferred Stock receive the same amount on an as-converted basis as the holders of a number of shares of Common Stock equal to the Applicable Conversion Rate then in effect.

(d) For purposes of this Section V, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) or 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 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 VI. Adjustments For Reorganization Events

(a) Upon the occurrence of a Reorganization Event (as defined herein) prior to the Conversion Date, each share of Series S Junior Preferred Stock outstanding immediately prior to such Reorganization Event shall, without the consent of Holders, become convertible into the types and amounts of securities, cash, and other property that is or was receivable in such Reorganization Event by a holder of the number of shares of Common Stock into which such share of Series S Junior Preferred Stock was convertible immediately prior to such Reorganization Event in exchange for such shares of Common Stock (such securities, cash, and other property, the "Exchange Property"). The Holders shall not have any separate class vote on any Reorganization Event. A "Reorganization Event" shall mean:

(i) any consolidation or merger of the Corporation 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 consolidated assets of the Corporation and its subsidiaries, taken as a whole, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property;

(iii) any reclassification of the Common Stock into securities other than the Common Stock; or



(iv) any statutory exchange of the Corporation's securities for those of another person (other than in connection with a merger or acquisition).

(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 Reorganization Event, the consideration that the Holders are entitled to receive upon conversion shall be deemed to be (i) the types and amounts of consideration received by a majority of the holders of shares of Common Stock that affirmatively make such an election or (ii) if no holders of shares of Common Stock affirmatively make such an election, the types and amounts of consideration actually received by such holders.

(c) 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 type 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 VI.

#### **Section VII. Reports as to Adjustments**

Whenever the number of shares of Common Stock into which the shares of the Series S Junior Preferred Stock are convertible is adjusted as provided in Section I(e) or Section VI, the Corporation shall promptly compute such adjustment and furnish to the Holders a certificate, signed by the principal financial officer or treasurer of the Corporation, setting forth the number of shares of Common Stock into which each share of the Series S Junior Preferred Stock is convertible as a result of such adjustment, a brief statement of the facts requiring such adjustment and the computation thereof and when such adjustment will become effective.

#### **Section VIII. Exclusion of Other Rights**

Except as may otherwise be required by law, the shares of Series S Junior Preferred Stock shall not have any voting powers, preferences or relative, participating, optional or other special rights, other than those specifically set forth herein (as this Certificate of Designations may be amended from time to time) and in the Certificate of Incorporation. The shares of Series S Junior Preferred Stock shall have no preemptive or subscription rights.

#### **Section IX. Severability of Provisions**

If any voting powers, preferences or relative, participating, optional or other special rights of the Series S Junior Preferred Stock and qualifications, limitations and restrictions thereof set forth in this Certificate of Designations (as this Certificate of Designations may be amended from time to time) is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers, preferences and relative, participating, optional and other special rights of Series S Junior Preferred Stock and qualifications, limitations and restrictions thereof set forth in this Certificate of Designations (as so amended) which can be given effect without the invalid, unlawful or unenforceable voting powers, preferences or relative, participating, optional or other special rights of Series S Junior Preferred Stock and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no voting powers, preferences or relative, participating, optional or other special rights of Series S Junior Preferred Stock or qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such voting powers, preferences or relative, participating, optional or other special rights of Series S Junior Preferred Stock or qualifications, limitations and restrictions thereof unless so expressed herein.

#### **Section X. Reissuance of Series S Junior Preferred Stock**

Shares of Series S Junior Preferred Stock that have been issued and reacquired in any manner, including shares purchased by the Corporation or exchanged or converted, shall (upon compliance with any applicable provisions of the laws of the State of Delaware) have the status of authorized but unissued shares of preferred stock of the Corporation undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Corporation. The Corporation may from time to time take such appropriate action as may be necessary to reduce the authorized number of shares of Series S Junior Preferred Stock.

**Section XI. Rank**

Notwithstanding anything set forth in the Certificate of Incorporation or this Certificate of Designations to the contrary, the Board or any authorized committee of the Board, without the vote of the Holders of the Series S Junior Preferred Stock, may authorize and issue additional shares of stock ranking junior or senior to, or on parity with, the Series S Junior 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 XII. Determinations**

The Corporation shall be solely responsible for making all calculations called for hereunder. Such calculations include, but are not limited to, the calculations under Section I hereof. The Corporation covenants to make all such calculations in good faith. Absent manifest error, such calculations shall be final and binding on all Holders of shares of the Series S Junior Preferred Stock. The Corporation shall have the power to resolve any ambiguity and its action in so doing, as evidenced by a resolution of the Board, shall be final and conclusive unless clearly inconsistent with the intent hereof. Amounts resulting from any calculation will be rounded, if necessary, to the nearest one ten-thousandth, with five one-hundred thousandths being rounded upwards.

**Section XIII. No Redemption**

The Corporation may not, at any time, redeem the outstanding shares of the Series S Junior Preferred Stock.

**Section XIV. Repurchases**

Subject to the limitations imposed herein, the Corporation may purchase and sell shares of Series S Junior 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 XV. No Sinking Fund**

Shares of Series S Junior Preferred Stock are not subject to the operation of a sinking fund.

**Section XVI. Notices**

All notices, requests and other communications to the Holder of Series S Junior Preferred Stock shall be in writing (including facsimile transmission) and shall be given at the address of such Holder as shown on the books of the Corporation. A Holder of Series S Junior Preferred Stock may waive any notice required hereunder by a writing signed before or after the time required for notice or the action in question. Notice shall be deemed given on the earlier of the date received or three business days after the date such notice is mailed by first-class mail, postage prepaid.

**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 "Corporation"), does hereby certify that:

1. The Amended and Restated Certificate of Incorporation of the Corporation is hereby amended by changing the number of shares of stock the Corporation is authorized to issue, so that, the first sentence of Article 3 thereof shall read as follows:

"3. The number of shares, par value \$.01 per share, the Corporation is authorized to issue is Eleven Billion Four Hundred Million (11,400,000,000), divided into the following classes:

<u>Class</u>	<u>Number of Shares</u>
Common	11,300,000,000
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.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be executed by a duly authorized officer on this 23rd day of February, 2010.

By: /s/ TERESA M. BRENNER  
Name: Teresa M. Brenner  
Title: Associate General Counsel

**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 "Corporation"), does hereby certify that:

1. The Amended and Restated Certificate of Incorporation of the Corporation is hereby amended by changing the number of shares of stock the Corporation is authorized to issue, so that, the first sentence of Article 3 thereof shall read as follows:

"3. The number of shares, par value \$.01 per share, the Corporation is authorized to issue is Twelve Billion Nine Hundred Million (12,900,000,000), divided into the following classes:

<u>Class</u>	<u>Number of Shares</u>
Common	12,800,000,000
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.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be executed by a duly authorized officer on this 28<sup>th</sup> day of April, 2010.

By:           /s/ TERESA M. BRENNER            
Name: Teresa M. Brenner  
Title: Associate General Counsel

**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**6% CUMULATIVE PERPETUAL PREFERRED STOCK, SERIES T**  
**OF**  
**BANK OF AMERICA CORPORATION**

**BANK OF AMERICA CORPORATION**, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), in accordance with the provisions of Sections 103 and 151 thereof, DOES HEREBY CERTIFY:

The board of directors of the Corporation (the "Board of Directors"), in accordance with the provisions of the amended and restated certificate of incorporation of the Corporation and applicable law, at a meeting duly called and held on August 25, 2011, adopted the following resolution creating a series of 50,000 shares of Preferred Stock of the Corporation designated as "6% Cumulative Perpetual Preferred Stock, Series T".

**RESOLVED**, that pursuant to the authority vested in the Board of Directors, the provisions of the amended and restated certificate of incorporation 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, of the shares of such series, are as follows:

Section 1. Designation. The distinctive serial designation of such series of Preferred Stock is "6% Cumulative Perpetual Preferred Stock, Series T" ("Series T"). Each share of Series T shall be identical in all respects to every other share of Series T.

Section 2. Number of Shares. The authorized number of shares of Series T shall be 50,000. Shares of Series T that are redeemed, purchased or otherwise acquired by the Corporation shall revert to authorized but unissued shares of Preferred Stock (*provided* that any such cancelled shares of Series T may be reissued only as shares of any now or hereafter designated series other than Series T).

Section 3. Definitions. As used herein with respect to Series T:

- (a) "Bylaws" means the amended and restated bylaws of the Corporation, as they may be amended from time to time.
- (b) "Business Day" means a day that is a Monday, Tuesday, Wednesday, Thursday or Friday and is not a day on which banking institutions in New York City generally are authorized or obligated by law, regulation or executive order to close.
- (c) "Certificate of Designations" means this Certificate of Designations relating to the Series T, as it may be amended from time to time.
- (d) "Certification of Incorporation" shall mean the amended and restated certificate of incorporation of the Corporation, as it may be amended from time to time, and shall include this Certificate of Designations.
- (e) "Common Stock" means the common stock, par value \$0.01 per share, of the Corporation.
- (f) "Junior Stock" means the Common Stock and any other class or series of stock of the Corporation (other than Series T) that ranks junior to Series T either or both as to the payment of dividends and/or as to the distribution of assets on any liquidation, dissolution or winding up of the Corporation.
- (g) "Original Issue Date" means September 1, 2011.

(h) "Parity Stock" means any class or series of stock of the Corporation (other than Series T) that ranks equally with Series T both in the payment of dividends and in the distribution of assets on any 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, (v) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (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) Fixed Rate Cumulative Perpetual Preferred Stock, Series Q, (xiv) Fixed Rate Cumulative Perpetual Preferred Stock, Series R, (xv) Floating Rate Non-Cumulative Preferred Stock, Series 1, (xvi) Floating Rate Non-Cumulative Preferred Stock, Series 2, (xvii) 6.375% Non-Cumulative Preferred Stock, Series 3, (xviii) Floating Rate Non-Cumulative Preferred Stock, Series 4, (xix) Floating Rate Non-Cumulative Preferred Stock, Series 5, (xx) 6.70% Noncumulative Perpetual Preferred Stock, Series 6, (xxi) 6.25% Noncumulative Perpetual Preferred Stock, Series 7 and (xxii) 8.625% Non-Cumulative Preferred Stock, Series 8.

(i) "Preferred Stock" means any and all series of preferred stock of the Corporation, including the Series T.

(j) "Voting Parity Stock" means, with regard to any matter as to which the holders of Series T are entitled to vote as specified in Section 8 of this 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.

(k) "Voting Preferred Stock" means, with regard to any matter as to which the holders of Series T are entitled to vote as specified in Section 8 of this Certificate of Designations, any and all series of Preferred Stock (other than Series T) that rank equally with Series T either as to the payment of dividends or as to the distribution of assets upon liquidation, dissolution or winding up of the Corporation and upon which like voting rights have been conferred and are exercisable with respect to such matter.

#### Section 4. Dividends.

(a) Rate. Holders of Series T shall be entitled to receive, on each share of Series T, out of funds legally available for the payment of dividends under Delaware law, cumulative cash dividends with respect to each Dividend Period (as defined below) at a per annum rate of 6% (as such may be adjusted pursuant to this Section 4(a), the "Dividend Rate") on (i) the amount of \$100,000 per share of Series T and (ii) the amount of accrued and unpaid dividends on such share of Series T, if any (giving effect to (A) any dividends paid through the Dividend Payment Date (as defined below) that begins such Dividend Period (other than the initial Dividend Period) and (B) any dividends (including dividends thereon at a per annum rate equal to the Dividend Rate to the date of payment) paid during such Dividend Period); *provided* that if, on any Dividend Payment Date, the holder of record (for such Dividend Payment Date) of a share of Series T shall not have received in cash the full amount of any dividend required to be paid on such share on such Dividend Payment Date pursuant to this Section 4(a), then the Dividend Rate shall automatically be at a per annum rate of 8% with respect to the Dividend Period for which the full amount of any dividend required to be paid on such share on such Dividend Payment Date pursuant to this Section 4(a) was not made and for all Dividend Periods thereafter. Dividends shall begin to accrue and be cumulative from the Original Issue Date, shall compound on each 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 in arrears (as provided below in this Section 4(a)), but only when, as and if declared by the Board of Directors (or a duly authorized committee of the Board of Directors) on each October 10, January 10, April 10 and July 10 (each, a "Dividend Payment Date"), commencing on October 10, 2011; *provided* that if any such Dividend Payment Date would otherwise occur on a day that is not a Business Day, such Dividend Payment Date shall instead be (and any dividend payable on Series T on such Dividend Payment Date shall instead be payable on) the immediately succeeding Business Day. Dividends payable on the Series T 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 the Series T 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 Series T on any Dividend Payment Date will be payable to holders of record of Series T as they appear on the stock register of the Corporation on the applicable record date, which shall be the 15th calendar day before such Dividend Payment Date (as originally scheduled) or such other record date fixed by the Board of Directors (or a 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.

Each dividend period (a “Dividend Period”) shall commence on and include a Dividend Payment Date (other than the initial Dividend Period, which shall commence on and include the Original Issue Date of the Series T) and shall end on and include the calendar day next preceding the next Dividend Payment Date. Dividends payable in respect of a Dividend Period shall be payable in arrears on the first Dividend Payment Date after such Dividend Period.

Holders of Series T shall not be entitled to any dividends, whether payable in cash, securities or other property, other than dividends (if any) declared and payable on the Series T as specified in this Section 4 (subject to the other provisions of this Certificate of Designations).

(b) Priority of Dividends. So long as any share of Series T remains outstanding, no dividend shall be declared or paid on the Common Stock or any other shares of Junior Stock (other than a dividend payable solely in Junior Stock), and no Common Stock, Junior Stock or Parity Stock shall be purchased, 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 of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation amount) or Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock or of one share of Parity Stock for or into another share of Parity Stock (with the same or lesser per share liquidation amount) or Junior Stock) during a Dividend Period, unless all accrued and unpaid dividends for all past Dividend Periods, including the latest completed Dividend Period (including, if applicable as provided in Section 4(a) above, dividends on such amount), on all outstanding shares of Series T have been or are contemporaneously declared and paid in full (or declared and a sum sufficient for the payment thereof has been set aside for the benefit of the holders of shares of Series T on the applicable record date). The foregoing provision shall not apply to (i) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with the cashless exercises and similar actions under any employee benefit plan in the ordinary course of business and consistent with past practice prior to the Original Issuance Date; (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) in connection with the issuance of Junior Stock or Parity Stock, ordinary sale and repurchase transactions to facilitate the distribution of such Junior Stock or Parity Stock; and (iv) the acquisition by the Corporation or any of its subsidiaries of record ownership in Junior Stock or Parity Stock for the beneficial ownership of, and at the ultimate cost of, any other persons (other than the Corporation or any of its subsidiaries), including as trustees or custodians.

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 the Series T and any shares of Parity Stock, all dividends declared on the Series T 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 Series T (including, if applicable as provided in Section 4(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) bear to each other.

Subject to the foregoing, such dividends (payable in cash, securities or other property) as may be determined by the Board of Directors (or a 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 the Series T shall not be entitled to participate in any such dividends.



## Section 5. 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 Series T shall be entitled to receive for each share of Series T, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to stockholders of the Corporation, and after satisfaction of all liabilities and obligations to 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 the Series T as to such distribution, payment in full in an amount equal to the sum of (i) \$100,000 per share and (ii) the accrued and unpaid dividends thereon (including, if applicable as provided in Section 4(a) above, dividends on such amount), whether or not declared, to the date of payment. Furthermore, without limiting in any way the obligation of the Corporation to make the payments specified in the immediately preceding sentence, in connection with the payment of the amounts specified in clause (ii) of the immediately preceding sentence, the Corporation shall use its best efforts to ensure that, immediately prior to any such liquidation, dissolution or winding up, the Corporation shall declare and pay any accrued and unpaid dividends (including, if applicable as provided in Section 4(a) above, dividends on such amount) outstanding as of such time.

(b) Partial Payment. If in any distribution described in Section 5(a) above the assets of the Corporation or proceeds thereof are not sufficient to pay the Liquidation Preferences (as defined below) in full to all holders of Series T and all holders of any stock of the Corporation ranking equally with the Series T as to such distribution, the amounts paid to the holders of Series T and to the holders of all such other stock shall be paid *pro rata* in accordance with the respective aggregate Liquidation Preferences of the holders of Series T and the holders of all such other stock. In any such distribution, the "Liquidation Preference" of any holder of stock of the Corporation shall mean the amount otherwise payable to such holder in such distribution (assuming no limitation on the assets of the Corporation available for such distribution), including an amount equal to any declared but unpaid dividends (and, in the case of any holder of stock, including the Series T, on which dividends accrue on a cumulative basis, an amount equal to any accrued and unpaid dividends (including, if applicable, dividends on such amount), whether or not declared, as applicable), *provided* that the Liquidation Preference for any share of Series T shall be determined in accordance with Section 5(a) above.

(c) Residual Distributions. If the Liquidation Preference has been paid in full to all holders of Series T, 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 5, the merger or consolidation of the Corporation with any other corporation or other entity, including a merger or consolidation in which the holders of Series T 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 6. Redemption.

(a) Optional Redemption. The Corporation, at its option, subject to the approval of the Board of Governors of the Federal Reserve System, may redeem, in whole at any time or in part from time to time, the shares of Series T at the time outstanding, upon notice given as provided in Section 6(c) below, at a redemption price equal to the sum of (i) \$105,000 per share and (ii) the accrued and unpaid dividends thereon (including, if applicable as provided in Section 4(a) above, dividends on such amount), whether or not declared, to the redemption date. Without limiting in any way the obligation of the Corporation to make the payments specified in the immediately preceding sentence, in connection with the payment of the amounts specified in clause (ii) of the immediately preceding sentence, the Corporation shall use its best efforts to ensure that, immediately prior to any such redemption, the Corporation shall declare and pay any accrued and unpaid dividends (including, if applicable as provided in Section 4(a) above, dividends on such amount) outstanding as of such time. The minimum number of shares of Series T redeemable at any time is the lesser of (x) 10,000 shares of Series T and (y) the number of shares of Series T outstanding. The redemption price for any shares of Series T 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 4 above.

(b) No Sinking Fund. The Series T will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series T will have no right to require redemption of any shares of Series T.

(c) Notice of Redemption. Notice of every redemption of shares of Series T 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 Series T designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series T. Notwithstanding the foregoing, if the Series T 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 Series T 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 Series T 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. Notwithstanding anything to the contrary herein, upon receipt of any notice of redemption hereunder, the holder of any share of Series T outstanding at such time shall have five (5) Business Days to deliver to the Corporation written notice of its election to pay some or all of the applicable exercise price with respect to an exercise, in whole or in part, of such holder's rights under any warrant to purchase Common Stock of the Corporation originally issued by the Corporation in connection with the issuance of the Series T by means of a surrender to the Corporation of shares of the Series T in accordance with the terms and conditions hereof and of any such warrant, and the Corporation's right to redeem the shares of Series T specified in such notice of redemption shall be (x) tolled during such five (5) Business Day period and (y) if the holder so elects to exercise such warrant and surrender such shares of Series T, in whole or in part, automatically terminated only with respect to such shares of Series T to be so surrendered.

(d) Partial Redemption. In case of any redemption of part of the shares of Series T at the time outstanding, the shares to be redeemed shall be selected either *pro rata* or in such other manner as the Corporation may determine to be fair and equitable. Subject to the provisions hereof, the Corporation shall have full power and authority to prescribe the terms and conditions upon which shares of Series T 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 \$50 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.

Section 7. Conversion. Holders of Series T shares shall have no right to exchange or convert such shares into any other securities, except in connection with the surrender to the Corporation of shares of the Series T to satisfy any portion of the applicable exercise price with respect to an exercise, in whole or in part, of any warrant to purchase Common Stock of the Corporation issued in connection with the original issuance of the Series T by the Corporation.

#### Section 8. Voting Rights.

(a) General. The holders of Series T shall not have any voting rights except as set forth below or as otherwise from time to time required by law.

(b) Class Voting Rights as to Particular Matters. So long as any shares of Series T are outstanding, in addition to any other vote or consent of stockholders required by law or by the Certificate of Incorporation, the vote or consent of the holders of at least 66 2/3% of the shares of Series T and any Voting Preferred Stock at the time outstanding and entitled to vote thereon,

voting together as a single 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 Incorporation to authorize or create, or increase the authorized amount of, any shares of any class or series of capital stock of the Corporation ranking senior to the Series T 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 Series T. Any amendment, alteration or repeal of any provision of the Certificate of Incorporation so as to materially and adversely affect the special rights, preferences, privileges or voting powers of the Series T, taken as a whole; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Series T, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Series T 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 the Series T immediately prior to such consummation, taken as a whole; *provided, however*, that for all purposes of this Section 8(b), any increase in the amount of the authorized Preferred Stock, or the creation and issuance, or an increase in the authorized or issued amount, of any other series of Preferred Stock ranking equally with and/or junior to the Series T with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or 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 of the Series T.

If any amendment, alteration, repeal, share exchange, reclassification, merger or consolidation specified in this Section 8 (b) would adversely affect the Series T and one or more but not all other series of Preferred Stock, then only the Series T and such series of Preferred Stock as are adversely affected by and entitled to vote on the matter shall vote on the matter together as a single class (in lieu of all other series of Preferred Stock).

If any amendment, alteration, repeal, share exchange, reclassification, merger or consolidation specified in this Section 8 (b) would adversely affect the Series T but would not similarly adversely affect all other series of Voting Parity Stock, then only the Series T and each other series of Voting Parity Stock as is similarly adversely affected by and entitled to vote on the matter, if any, shall vote on the matter together as a single class (in lieu of all other series of Preferred Stock).

(c) Series T Voting Rights as to Particular Matters. In addition to any other vote or consent of stockholders required by law or by the Certificate of Incorporation, so long as at least 10,000 shares of Series T are outstanding, the vote or consent of the holders of at least 50.1% of the shares of Series T at the time outstanding, voting 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 or Issuance of Senior Stock. Any amendment or alteration of the Certificate of Incorporation to authorize or create, or increase the authorized amount of, any shares of any class or series of capital stock of the Corporation, or the issuance of any shares of any class or series of capital stock of the Corporation, in each case, ranking senior to the Series T 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 Series T. Any amendment, alteration or repeal of any provision of the Certificate of Incorporation so as to affect or change the rights, preferences, privileges or voting powers of the Series T so as not to be substantially similar to those in effect immediately prior to such amendment, alteration or repeal; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Series T, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Series T 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 as are substantially similar to the rights, preferences, privileges and voting powers, and limitations and restrictions of the Series T immediately prior to such consummation; *provided, however*, that for all purposes of this Section 8 (c), the creation and issuance, or an increase in the authorized or issued amount, of any other series of Preferred Stock ranking equally with and/or junior to the Series T with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or 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 of the Series T.

(d) Changes after Provision for Redemption. No vote or consent of the holders of Series T shall be required pursuant to Section 8(b) or (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 Series T (or, in the case of Section 8(c), more than 40,000 shares of Series T) 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 6 above.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Series T (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 a 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 Certificate of Incorporation, the Bylaws, and applicable law and the rules of any national securities exchange or other trading facility on which the Series T is listed or traded at the time. Whether the vote or consent of the holders of a plurality, majority or other portion of the shares of Series T and any Voting Preferred Stock has been cast or given on any matter on which the holders of shares of Series T are entitled to vote shall be determined by the Corporation by reference to the specified liquidation amount of the shares voted or covered by the consent (*provided* that the specified liquidation amount for any share of Series T shall be the Liquidation Preference for such share) as if the Corporation were liquidated on the record date for such vote or consent, if any, or, in the absence of a record date, on the date for such vote or consent.

Section 9. Record Holders. To the fullest extent permitted by applicable law, the Corporation and the transfer agent for the Series T may deem and treat the record holder of any share of Series T 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 10. Notices. All notices or communications in respect of Series T 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 Certificate of Incorporation or Bylaws or by applicable law. Notwithstanding the foregoing, if the Series T are issued in book-entry form through The Depository Trust Company or any similar facility, such notices may be given to the holders of Series T in any manner permitted by such facility.

Section 11. No Preemptive Rights. No share of Series T 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 12. 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 13. Surrender Rights. In connection with the exercise of any rights under any warrant to purchase Common Stock of the Corporation issued in connection with the original issuance of the Series T, a holder of shares of Series T shall have the right to pay some or all of the applicable exercise price with respect to an exercise, in whole or in part, of such holder's rights under any such warrant by means of a surrender to the Corporation of the applicable amount shares of the Series T.

Section 14. Other Rights. The shares of Series T 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 Certificate of Incorporation or as provided by applicable law.

IN WITNESS WHEREOF, BANK OF AMERICA CORPORATION has caused this certificate to be signed by its duly authorized officer this 31 day of August, 2011.

**BANK OF AMERICA CORPORATION**

By: /s/ MARK D. LINSZ

Name: Mark D. Linsz

Title: Corporate Treasurer



**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**FIXED-TO-FLOATING RATE**  
**NON-CUMULATIVE PREFERRED STOCK, SERIES U**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the "*Corporation*"), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the "*Board of Directors*") by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the Series U Final Terms Committee of the Board of Directors (the "*Committee*") in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the "*General Corporation Law*"), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on May 21, 2013, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated May 20, 2013, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be "Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U" (the "*Series U Preferred Stock*"). Each share of Series U Preferred Stock shall be identical in all respects to every other share of Series U Preferred Stock. Series U 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 U Preferred Stock shall be 40,000. 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 U Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series U Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series U Preferred Stock:

"*Business Day*" means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 U Preferred Stock during the Floating Rate Period (as defined below).

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series U Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series U Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official

pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series U Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series U Preferred Stock then outstanding as “Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series U Preferred Stock is outstanding.

“*Depository 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 U 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 the Corporation's (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) 7.25% Non-Cumulative Preferred Stock, Series J, (h) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (i) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (j) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (k) 6% Cumulative Perpetual Preferred Stock, Series T, (l) Floating Rate Non-Cumulative Preferred Stock, Series 1, (m) Floating Rate Non-Cumulative Preferred Stock, Series 2, (n) 6.375% Non-Cumulative Preferred Stock, Series 3, (o) Floating Rate Non-Cumulative Preferred Stock, Series 4, (p) Floating Rate Non-Cumulative Preferred Stock, Series 5, (q) 6.70% Noncumulative Perpetual Preferred Stock, Series 6, (r) 6.25% Noncumulative Perpetual Preferred Stock, Series 7, (s) 8.625% Non-Cumulative Preferred Stock, Series 8, and (t) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series U 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 London interbank offered rates 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 U 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 U 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with the Corporation) to provide quotations are 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 U Preferred Stock upon request and will be final and binding in the absence of manifest error.

#### **Section 4. Dividends.**

(a) **Rate.** Holders of Series U Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series U Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on June 1 and December 1 of each year, beginning on December 1, 2013, and (y) for the Floating Rate Period, quarterly in arrears on each March 1, June 1, September 1 and December 1, beginning on September 1, 2023; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to June 1, 2023, without any interest or other payment in respect of such delay, and (ii) after June 1, 2023, with dividends accruing to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). The period from, and including, the date of issuance of the Series U 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 U Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a *rate per annum* equal to (1) 5.200%, for each Dividend Period from the issue date to, but excluding, June 1, 2023 (the “*Fixed Rate Period*”), and (2) thereafter, Three-Month LIBOR plus a spread of 3.135%, for each Dividend Period from, and including, June 1, 2023 (the “*Floating Rate Period*”). The record date for payment of dividends on the Series U Preferred Stock shall be the fifteenth 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 U Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series U Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 U Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 U 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 U 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 *pro rata* portion, of the Series U 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 U Preferred Stock for the immediately preceding 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 U 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 U Preferred Stock for the immediately preceding 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 U 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 U 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 U 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 U 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series U 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 U Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 U 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 U 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 U Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series U 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 U 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 U 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series

U Preferred Stock at the time outstanding, at any time on or after the Dividend Payment Date on June 1 2023, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series U Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provide below) dividends that have accrued but



have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series U 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 U Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series U Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series U 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 U 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 U Preferred Stock at the time outstanding, the shares of Series U Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series U Preferred Stock in proportion to the number of Series U Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors or any duly authorized committee of the Board of Directors may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors 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 U 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 funds, 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 or any duly authorized committee of the Board of Directors (the "*Depository 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, 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 Depository 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 U Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series U Preferred Stock or any other class or series of preferred stock that ranks on parity with Series U 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 shall be increased by two, and the holders of the Series U 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series U Preferred Stock and any other class or series of preferred stock that ranks on parity with Series U Preferred Stock as to payment of dividends 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 U Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series U 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 U 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 U Preferred Stock and any other class or series of preferred stock that ranks on parity with Series U 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 to elect the Preferred Directors 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 U 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 U 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 U Preferred Stock and any other class or series of preferred stock that ranks on parity with Series U 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 U 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 U 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).

**(c) Other Voting Rights.** So long as any shares of the Series U Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least of the voting power of the Series U Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by

proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series U Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any

obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series U Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least of the shares of the Series U Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series U Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series U Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which (A) the shares of the Series U Preferred Stock remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series U Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series U Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series U Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series U Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series U Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series U Preferred Stock shall not have any rights of preemption or rights to convert such Series U 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series U Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series U Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 U 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 U Preferred Stock are not subject to the operation of a sinking fund.

IN WITNESS WHEREOF, Bank of America Corporation has caused this Certificate of Designation to be executed by its duly authorized officer on this 24 day of May, 2013.

**BANK OF AMERICA CORPORATION**

By: /s/ ROSS E. JEFFRIES JR.  
Name: Ross E. Jeffries, Jr.  
Title: Corporate Secretary and Associate General Council

**CERTIFICATE OF AMENDMENT TO THE CERTIFICATE OF DESIGNATIONS**  
**OF**  
**6% NON-CUMULATIVE PERPETUAL PREFERRED STOCK, SERIES T**  
**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 organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. The Certificate of Designations of the Corporation's 6% Cumulative Perpetual Preferred Stock, Series T, which was previously filed with the Secretary of State of the State of Delaware on August 31, 2011, is hereby amended and restated in its entirety to read as follows:

Section 1. Designation. The distinctive serial designation of such series of Preferred Stock, par value \$0.01 per share, is "6% Non-Cumulative Perpetual Preferred Stock, Series T" ("Series T"). Each share of Series T shall be identical in all respects to every other share of Series T.

Section 2. Number of Shares. The authorized number of shares of Series T shall be 50,000. Shares of Series T that are redeemed, purchased or otherwise acquired by the Corporation shall revert to authorized but unissued shares of Preferred Stock (*provided* that any such cancelled shares of Series T may be reissued only as shares of any now or hereafter designated series other than Series T).

Section 3. Definitions. As used herein with respect to Series T:

- (a) "Amendment Effective Date" means May 7, 2014.
- (b) "Bylaws" means the amended and restated bylaws of the Corporation, as they may be amended from time to time.
- (c) "Business Day" means a day that is a Monday, Tuesday, Wednesday, Thursday or Friday and is not a day on which banking institutions in New York City generally are authorized or obligated by law, regulation or executive order to close.
- (d) "Certificate of Designations" means this Certificate of Designations relating to the Series T, as it may be amended from time to time.
- (e) "Certification of Incorporation" shall mean the amended and restated certificate of incorporation of the Corporation, as it may be amended from time to time, and shall include this Certificate of Designations.

(f) "Common Stock" means the common stock, par value \$0.01 per share, of the Corporation.

(g) "Junior Stock" means the Common Stock and any other class or series of stock of the Corporation (other than Series T) that ranks junior to Series T either or both as to the payment of dividends and/or as to the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

(h) "Original Issue Date" means September 1, 2011.



(i) "Parity Stock" means any class or series of stock of the Corporation (other than Series T) that ranks equally with Series T both in the payment of dividends and in the distribution of assets on any 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, (v) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (vi) 6.625% Non-Cumulative Preferred Stock, Series I, (vii) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (viii) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (ix) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (x) Fixed-to-Floating Rate Semi-Annual Non-Cumulative Preferred Stock, Series U, (xi) Floating Rate Non-Cumulative Preferred Stock, Series 1, (xii) Floating Rate Non-Cumulative Preferred Stock, Series 2, (xiii) 6.375% Non-Cumulative Preferred Stock, Series 3, (xiv) Floating Rate Non-Cumulative Preferred Stock, Series 4 and (xv) Floating Rate Non-Cumulative Preferred Stock, Series 5.

(j) "Preferred Stock" means any and all series of preferred stock of the Corporation, including the Series T.

(k) "Voting Parity Stock" means, with regard to any matter as to which the holders of Series T are entitled to vote as specified in Section 8 of this 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.

(l) "Voting Preferred Stock" means, with regard to any matter as to which the holders of Series T are entitled to vote as specified in Section 8 of this Certificate of Designations, any and all series of Preferred Stock (other than Series T) that rank equally with Series T either as to the payment of dividends or as to the distribution of assets upon liquidation, dissolution or winding up of the Corporation and upon which like voting rights have been conferred and are exercisable with respect to such matter.

Section 4. Dividends.

(a) Rate. Holders of Series T shall be entitled to receive, on each share of Series T, out of funds legally available for the payment of dividends under Delaware law, non-cumulative cash dividends with respect to each Dividend Period (as defined below) at a per annum rate of 6% (the "Dividend Rate") on the amount of \$100,000 per share of Series T. Following the Amendment Effective Date, dividends shall be payable in arrears (as provided below in this Section 4(a)), but only when, as and if declared by the Board of Directors (or a duly authorized committee of the Board of Directors), on each October 10, January 10, April 10 and July 10 (each, a "Dividend Payment Date"), commencing on October 10, 2011; *provided* that if any such Dividend Payment Date would otherwise occur on a day that is not a Business Day, such Dividend Payment Date shall instead be (and any dividend payable on Series T on such Dividend Payment Date shall instead be payable on) the immediately succeeding Business Day. Dividends payable on the Series T 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 the Series

T 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 Series T on any Dividend Payment Date will be payable to holders of record of Series T as they appear on the stock register of the Corporation on the applicable record date, which shall be the 15th calendar day before such Dividend Payment Date (as originally scheduled) or such other record date fixed by the Board of Directors (or a 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.

Each dividend period (a "Dividend Period") shall commence on and include a Dividend Payment Date (other than the initial Dividend Period, which commenced on and included the Original Issue Date of the Series T) and shall end on and include the calendar day next preceding the next Dividend Payment Date. Dividends payable in respect of a Dividend Period shall be payable in arrears on the first Dividend Payment Date after such Dividend Period.

Holders of Series T shall not be entitled to any dividends, whether payable in cash, securities or other property, other than dividends (if any) declared and payable on the Series T as specified in this Section 4 (subject to the other provisions of this Certificate of Designations).

(b) Non-Cumulative Dividends. Dividends on shares of Series T shall be non-cumulative. To the extent that any dividends on the shares of Series T with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 T shall have no right to receive, dividends accrued for such Dividend Period on or 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 the Series T, 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 T remains outstanding, no dividend shall be declared or paid on the Common Stock or any other shares of Junior Stock (other than a dividend payable solely in Junior Stock), and no Common Stock, Junior Stock or Parity Stock shall be purchased, 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 of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation amount) or Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock or of one share of Parity Stock for or into another share of Parity Stock (with the same or lesser per share liquidation amount) or Junior Stock) in respect of or during a particular Dividend Period as the case may be, unless dividends for such Dividend Period on all outstanding shares of Series T have been or are contemporaneously declared and paid in full (or declared and a sum sufficient for the payment thereof has been set aside for the benefit of the holders of shares of Series T on the applicable record date). The foregoing provision shall not apply to (i) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with the cashless exercises and similar actions under any employee benefit plan in the ordinary course of business and consistent with past practice prior to the Original Issue Date; (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) in connection with the issuance of Junior Stock or Parity Stock,

ordinary sale and repurchase transactions to facilitate the distribution of such Junior Stock or Parity Stock; and (iv) the acquisition by the Corporation or any of its subsidiaries of record ownership in Junior Stock or Parity Stock for the beneficial ownership of, and at the ultimate cost of, any other persons (other than the Corporation or any of its subsidiaries), including as trustees or custodians.

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 the Series T and any shares of Parity Stock, all dividends declared on the Series T 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 declared and unpaid dividends per share on the Series T 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) bear to each other.

Subject to the foregoing, such dividends (payable in cash, securities or other property) as may be determined by the Board of Directors (or a 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 the Series T shall not be entitled to participate in any such dividends.

#### Section 5. 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 Series T shall be entitled to receive for each share of Series T, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to stockholders of the Corporation, and after satisfaction of all liabilities and obligations to 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 the Series T as to such distribution, payment in full in an amount equal to the sum of (i) \$100,000 per share and (ii) any declared and unpaid dividends thereon, without cumulation of any undeclared dividends, to but excluding the date of liquidation, dissolution or winding up. The Series T may be fully subordinated to interests held by the U.S. government in the event that the Corporation enters into a receivership, insolvency, liquidation or similar proceeding.

(b) Partial Payment. If in any distribution described in Section 5(a) above the assets of the Corporation or proceeds thereof are not sufficient to pay the Liquidation Preferences (as defined below) in full to all holders of Series T and all holders of any stock of the Corporation ranking equally with the Series T as to such distribution, the amounts paid to the holders of Series T and to the holders of all such other stock shall be paid *pro rata* in accordance with the respective aggregate Liquidation Preferences of the holders of Series T and the holders of all such other stock. In any such distribution, the "Liquidation Preference" of any holder of stock of the Corporation shall mean the amount otherwise payable to such holder in such distribution (assuming no limitation on the assets of the Corporation available for such distribution), including an

amount equal to any declared but unpaid dividends, *provided* that the Liquidation Preference for any share of Series T shall be determined in accordance with Section 5(a) above.

(c) Residual Distributions. If the Liquidation Preference has been paid in full to all holders of Series T, 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 5, the merger or consolidation of the Corporation with any other corporation or other entity, including a merger or consolidation in which the holders of Series

T 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 6. Redemption.

(a) Optional Redemption. The Corporation, at its option, subject to any required prior approval of the Board of Governors of the Federal Reserve System and to the satisfaction of any conditions set forth in the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System applicable to redemption of the shares of Series T, may redeem, in whole at any time or in part from time to time, but in any case no earlier than May 7, 2019 the shares of Series T at the time outstanding, upon notice given as provided in Section 6(c) below, at a redemption price equal to the sum of (i) \$105,000 per share and (ii) any declared and unpaid dividends thereon, without cumulation for any undeclared dividends, to but excluding the redemption date. The minimum number of shares of Series T redeemable at any time is the lesser of (x) 10,000 shares of Series T and (y) the number of shares of Series T outstanding. The redemption price for any shares of Series T 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 4 above.

(b) No Sinking Fund. The Series T will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series T will have no right to require redemption of any shares of Series T.

(c) Notice of Redemption. Notice of every redemption of shares of Series T 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 Series T designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series T. Notwithstanding the foregoing, if the Series T 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 Series T 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 Series T 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. Notwithstanding anything to the contrary herein, upon receipt of any notice of redemption hereunder, the

holder of any share of Series T outstanding at such time shall have five (5) Business Days to deliver to the Corporation written notice of its election to pay some or all of the applicable exercise price with respect to an exercise, in whole or in part, of such holder's rights under any warrant to purchase Common Stock of the Corporation originally issued by the Corporation in connection with the issuance of the Series T by means of a surrender to the Corporation of shares of the Series T in accordance with the terms and conditions hereof and of any such warrant, and the Corporation's right to redeem the shares of Series T specified in such notice of redemption shall be (x) tolled during such five (5) Business Day period and (y) if the holder so elects to exercise such warrant and surrender such



shares of Series T, in whole or in part, automatically terminated only with respect to such shares of Series T to be so surrendered.

(d) Partial Redemption. In case of any redemption of part of the shares of Series T at the time outstanding, the shares to be redeemed shall be selected either *pro rata* or in such other manner as the Corporation may determine to be fair and equitable. Subject to the provisions hereof, the Corporation shall have full power and authority to prescribe the terms and conditions upon which shares of Series T 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 \$50 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.

Section 7. Conversion. Holders of Series T shares shall have no right to exchange or convert such shares into any other securities, except in connection with the surrender to the Corporation of shares of the Series T to satisfy any portion of the applicable exercise price with respect to an exercise, in whole or in part, of any warrant to purchase Common Stock of the Corporation issued in connection with the original issuance of the Series T by the Corporation.

Section 8. Voting Rights.

(a) General. The holders of Series T shall not have any voting rights except as set forth below or as otherwise from time to time required by law.

(b) Class Voting Rights as to Particular Matters. So long as any shares of Series T are outstanding, in addition to any other vote or consent of stockholders required by law or by the Certificate of Incorporation, the vote or consent of the holders

of at least 66 2/3% of the shares of Series T and any Voting Preferred Stock at the time outstanding and entitled to vote thereon, voting together as a single 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 Incorporation to authorize or create, or increase the authorized amount of, any shares of any class or series of capital stock of the Corporation ranking senior to the Series T 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 Series T. Any amendment, alteration or repeal of any provision of the Certificate of Incorporation so as to materially and adversely affect the special rights, preferences, privileges or voting powers of the Series T, taken as a whole; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Series T, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Series T 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 the Series T immediately prior to such consummation, taken as a whole; *provided, however*, that for all purposes of this Section 8(b), any increase in the amount of the authorized Preferred Stock, or the creation and issuance, or an increase in the authorized or issued amount, of any other series of Preferred Stock ranking equally with and/or junior to the Series T with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or 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 of the Series T.

If any amendment, alteration, repeal, share exchange, reclassification, merger or consolidation specified in this Section 8 (b) would adversely affect the Series T and one or more but not all other series of Preferred Stock, then only the Series T and such series of Preferred Stock as are adversely affected by and entitled to vote on the matter shall vote on the matter together as a single class (in lieu of all other series of Preferred Stock).

If any amendment, alteration, repeal, share exchange, reclassification, merger or consolidation specified in this Section 8 (b) would adversely affect the Series T but would not similarly adversely affect all other series of Voting Parity Stock, then only the Series T and each other series of Voting Parity Stock as is similarly adversely affected by and entitled to vote on the matter, if any, shall vote on the matter together as a single class (in lieu of all other series of Preferred Stock).

(c) Series T Voting Rights as to Particular Matters. In addition to any other vote or consent of stockholders required by law or by the Certificate of Incorporation, so long as at least 10,000 shares of Series T are outstanding, the vote or consent of the holders of at least 50.1% of the shares of Series T at the time outstanding, voting 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 or Issuance of Senior Stock. Any amendment or alteration of the Certificate of Incorporation to authorize or create, or increase the authorized amount of, any shares of any class or series of capital stock of the Corporation, or the issuance of any shares of any class or series of capital stock of the Corporation, in each case, ranking senior to the Series T

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 Series T. Any amendment, alteration or repeal of any provision of the Certificate of Incorporation so as to affect or change the rights, preferences, privileges or voting powers of the Series T so as not to be substantially similar to those in effect immediately prior to such amendment, alteration or repeal; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Series T, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Series T 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 as are substantially similar to the rights, preferences, privileges and voting powers, and limitations and restrictions of the Series T immediately prior to such consummation; *provided, however*, that for all purposes of this Section 8(c), the creation and issuance, or an increase in the authorized or issued amount, of any other series of Preferred Stock ranking equally with and/or junior to the Series T with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or 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 of the Series T.

(d) Changes after Provision for Redemption. No vote or consent of the holders of Series T shall be required pursuant to Section 8(b) or (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 Series T (or, in the case of Section 8(c), more than 40,000 shares of Series T) 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 6 above.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Series T (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 a 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 Certificate of Incorporation, the Bylaws, and applicable law and the rules of any national securities exchange or other trading facility on which the Series T is listed or traded at the time. Whether the vote or consent of the holders of a plurality, majority or other portion of the shares of Series T and any Voting Preferred Stock has been cast or given on any matter on which the holders of shares of Series T are entitled to vote shall be determined by the Corporation by reference to the specified liquidation amount of the shares voted or covered by the consent (*provided* that the specified liquidation amount for any share of Series T shall be the Liquidation Preference for such share) as if the Corporation were liquidated on the record date for such vote or consent, if any, or, in the absence of a record date, on the date for such vote or consent.

Section 9. Record Holders. To the fullest extent permitted by applicable law, the Corporation and the transfer agent for the Series T may deem and treat the record holder of any share of Series T 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 10. Notices. All notices or communications in respect of Series T 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 Certificate of Incorporation or Bylaws or by applicable law. Notwithstanding the foregoing,

if the Series T are issued in book-entry form through The Depository Trust Company or any similar facility, such notices may be given to the holders of Series T in any manner permitted by such facility.

Section 11. No Preemptive Rights. No share of Series T 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 12. 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 13. Surrender Rights. In connection with the exercise of any rights under any warrant to purchase Common Stock of the Corporation issued in connection with the original issuance of the Series T, a holder of shares of Series T shall have the right to pay some or all of the applicable exercise price with respect to an exercise, in whole or in part, of such holder's rights under any such warrant by means of a surrender to the Corporation of the applicable amount shares of the Series T.

Section 14. Other Rights. The shares of Series T 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 Certificate of Incorporation or as provided by applicable law.

2. The foregoing amendment was duly adopted in accordance with the provision of Section 242 of the General Corporation

Law of the State of Delaware.

IN WITNESS WHEREOF, BANK OF AMERICA CORPORATION has caused this Certificate of Amendment to be signed by its duly authorized officer this 7<sup>th</sup> day of May, 2014.

**BANK OF AMERICA CORPORATION**

By: /s/ ROSS E. JEFFRIES JR.  
Name: Ross E. Jeffries, Jr.  
Title: Deputy General Counsel, and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**FIXED-TO-FLOATING RATE**  
**NON-CUMULATIVE PREFERRED STOCK, SERIES V**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the Series V Final Terms Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on June 12, 2014, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated May 7, 2014, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V” (the “*Series V Preferred Stock*”). Each share of Series V Preferred Stock shall be identical in all respects to every other share of Series V Preferred Stock. Series V 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 V Preferred Stock shall be 60,000. 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 V Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series V Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series V Preferred Stock:

“*Business Day*” means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 V Preferred Stock during the Floating Rate Period (as defined below).

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series V Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series V Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series V Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat

an amount equal to the full liquidation preference of all shares of the Series V Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series V Preferred Stock is outstanding.

“*Depository 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 V 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Floating Rate Non-Cumulative Preferred Stock, Series 1, (m) Floating Rate Non-Cumulative Preferred Stock, Series 2, (n) 6.375% Non-Cumulative Preferred Stock, Series 3, (o) Floating Rate Non-Cumulative Preferred Stock, Series 4, (p) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (q) any other class or series of stock of the Corporation

hereafter authorized that ranks on a par with the Series V 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 London interbank offered rates 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 V 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 V 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with the Corporation) to provide quotations are 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 V Preferred Stock upon request and will be final and binding in the absence of manifest error.

**Section 4. Dividends.**

(a) **Rate.** Holders of Series V Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series V Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on June 17 and December 17 of each year, beginning on December 17, 2014, and (y) for

the Floating Rate Period, quarterly in arrears on each March 17, June 17, September 17 and December 17, beginning on September 17, 2019; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to June 17, 2019, without any interest or other payment in respect of such delay, and (ii) after June 17, 2019, with dividends accruing to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). The period from, and including, the date of issuance of the Series V 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 V Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to (1) 5.125%, for each Dividend Period from the issue date to, but excluding, June 17, 2019 (the “*Fixed Rate Period*”), and (2) thereafter, Three-Month LIBOR plus a spread of 3.387%, for each Dividend Period from, and including, June 17, 2019 (the “*Floating Rate Period*”). The record date for payment of dividends on the Series V Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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. Dollar amounts resulting from that calculation shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series V Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series V Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 V Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 V 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 V 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 V 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 V Preferred Stock for the immediately preceding 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 V 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 V Preferred Stock for the immediately preceding 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 V 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 V 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 V 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 V 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series V 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 V Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 V 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 V 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 V Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series V 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 V 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 V 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series V Preferred Stock at the time outstanding, at any time on or after June 17, 2019, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series V Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series V 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 V Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series V Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series V 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 V 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 V Preferred Stock at the time outstanding, the shares of Series V Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series V Preferred Stock in proportion to the number of Series V Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors or any duly authorized committee of the Board of Directors may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors 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 V 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 funds, 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 or any duly authorized committee of the Board of Directors (the “*Depository 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, 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 Depository 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 V Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

(b) **Special Voting Right.**

(i) **Voting Right.** If and whenever dividends on the Series V Preferred Stock or any other class or series of preferred stock that ranks on parity with Series V 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 shall be increased by two, and the holders of the Series V 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series V Preferred Stock and any other class or series of preferred

stock that ranks on parity with Series V Preferred Stock as to payment of dividends 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 V Preferred Stock and any other class or series of the Corporation’s stock that ranks on parity with Series V 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 V 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 V Preferred Stock and any other class or series of preferred stock that ranks on parity with Series V 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 to elect the Preferred Directors 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 V Preferred Stock may (at the Corporation’s 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 the Corporation’s 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 V 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 V Preferred Stock and any other class or series of preferred stock that ranks on parity with Series V 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 V 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 V 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).

**(c) Other Voting Rights.** So long as any shares of the Series V Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least of the voting power of the Series V Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series V Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series V Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least of the shares of the Series V Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series V Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series V Preferred Stock as to dividends and distribution of assets upon

liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series V Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series V Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series V Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series V Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series V Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.



**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series V Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series V Preferred Stock shall not have any rights of preemption or rights to convert such Series V 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series V Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series V Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 V 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 V Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 17<sup>th</sup> day of June, 2014.

**BANK OF AMERICA CORPORATION**

By:           /s/ ROSS E. JEFFRIES, JR.            
Name: Ross E. Jeffries, Jr.  
Title: Corporate Secretary and Deputy General Counsel

**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**FIXED-TO-FLOATING RATE**  
**NON-CUMULATIVE PREFERRED STOCK, SERIES X**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on September 2, 2014, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated May 7, 2014 and July 24, 2014, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X” (the “*Series X Preferred Stock*”). Each share of Series X Preferred Stock shall be identical in all respects to every other share of Series X Preferred Stock. Series X 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 X Preferred Stock shall be 80,000. 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 X Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series X Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series X Preferred Stock:

“*Business Day*” means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 X Preferred Stock during the Floating Rate Period (as defined below).

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series X Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series X Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series X Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series X Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series X Preferred Stock is outstanding.

“*Depository 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 X 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non- Cumulative Preferred

Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) Floating Rate Non-Cumulative Preferred Stock, Series 1, (n) Floating Rate Non-Cumulative Preferred Stock, Series 2, (o) 6.375% Non-Cumulative Preferred Stock, Series 3, (p) Floating Rate Non-Cumulative Preferred Stock, Series 4, (q) Floating Rate Non-Cumulative Preferred Stock, Series 5, (r) if issued, 6.625% Non-Cumulative Preferred Stock, Series W, and (s) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series X 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 London interbank offered rates 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 X 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 X 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with the Corporation) to provide quotations are 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 X Preferred Stock upon request and will be final and binding in the absence of manifest error.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series X Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series X Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on March 5 and September 5 of each year, beginning on March 5, 2015, and (y) for the Floating Rate Period, quarterly in arrears on each March 5, June 5, September 5 and December 5, beginning on December 5, 2024; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to September 5, 2024, without any interest or other payment in respect of such delay, and (ii) after September 5, 2024, with dividends accruing to the actual payment date (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from, and including, the date of issuance of the Series X 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 X Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to (1) 6.250%, for each Dividend Period from the issue date to, but excluding, September 5, 2024 (the "*Fixed Rate Period*"), and (2) thereafter, Three-Month LIBOR plus a spread of 3.705%, for each Dividend Period from, and including, September 5, 2024 (the "*Floating Rate Period*"). The record date for payment of dividends on the Series X Preferred Stock shall be the fifteenth day of the calendar month preceding the month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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. Dollar amounts resulting from that calculation shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series X Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series X Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 X Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 X 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 X 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 X 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 X Preferred Stock for the immediately preceding 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 X 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 X Preferred Stock for the immediately preceding 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 X 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 X 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 X 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 X 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series X 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 X Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 X 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 X 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 X Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series X 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 X 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 X 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series X Preferred Stock at the time outstanding, at any time on or after September 5, 2024, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series X Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series X 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 X Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series X Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series X 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 X 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 X Preferred Stock at the time outstanding, the shares of Series X Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series X Preferred Stock in proportion to the number of Series X Preferred Stock held by such holders or by lot or in such other manner as the Board of Directors or any duly authorized committee of the Board of Directors may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors 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 X 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 funds, 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 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, 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 X Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

#### **(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series X Preferred Stock or any other class or series of preferred stock that ranks on parity with Series X 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 shall be increased by two, and the holders of the Series X 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series X Preferred Stock and any other class or series of preferred stock that ranks on parity with Series X Preferred Stock as to payment of dividends 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 X Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series X 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 X 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 X Preferred Stock and any other class or series of preferred stock that ranks on parity with Series X 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 to elect the Preferred Directors 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 X Preferred Stock may (at the Corporation's 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 the Corporation's 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 X 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 X Preferred Stock and any other class or series of preferred stock that ranks on parity with Series X 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 X 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 X 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).

**(c) Other Voting Rights.** So long as any shares of the Series X Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least of the voting power of the Series X Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series X Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series X Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least of the shares of the Series X Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series X Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series X Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series X Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series X Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series X Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series X Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have

called for redemption all outstanding shares of Series X Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series X Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By- laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series X Preferred Stock shall not have any rights of preemption or rights to convert such Series X 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series X Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series X Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 X 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 X Preferred Stock are not subject to the operation of a sinking fund.



**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**6.625% NON-CUMULATIVE PREFERRED STOCK, SERIES W**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on September 2, 2014, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated May 7, 2014 and July 24, 2014, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “6.625% Non-Cumulative Preferred Stock, Series W” (the “*Series W Preferred Stock*”). Each share of Series W Preferred Stock shall be identical in all respects to every other share of Series W Preferred Stock. Series W 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 W Preferred Stock shall be 46,000. 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 W Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series W Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series W 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.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series W Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series W Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series W Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series W Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series W Preferred Stock is outstanding.

“*Depository 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 W 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) Floating Rate Non-Cumulative Preferred Stock, Series 1, (n) Floating Rate Non-Cumulative Preferred Stock, Series 2, (o) 6.375% Non-Cumulative Preferred Stock, Series 3, (p) Floating Rate Non-Cumulative Preferred Stock, Series 4, (q) Floating Rate Non-Cumulative Preferred Stock, Series 5, (r) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X and (s) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series W 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 W 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 W Preferred Stock*” shall have the meaning set forth in Section 1 hereof.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series W Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series W Preferred Stock, and no more, payable quarterly in arrears on March 9, June 9, September 9 and December 9 of each year, beginning on December 9, 2014; 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), 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 W 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 W 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 W Preferred Stock shall be the fifteenth day of the calendar month preceding the month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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 shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series W Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series W Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 W Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 W 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 W 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 W 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 W Preferred Stock for the immediately preceding 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 W 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 W Preferred Stock for the immediately preceding 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 W 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 W 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 W 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 W 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series W 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 W Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 W 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 W 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 W Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series W 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 W 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 W 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series W Preferred Stock at the time outstanding, at any time on or after September 9, 2019 or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series W Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series W 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 W Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series W Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series W 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 W 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 W Preferred Stock at the time outstanding, the shares of Series W Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series W Preferred Stock in proportion to the number of Series W Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 W 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 funds, 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 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, 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 W Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

#### **(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series W Preferred Stock or any other class or series of preferred stock that ranks on parity with Series W 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 six or more quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors shall be increased by two, and the holders of the Series W 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 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 shall at no time include more than two such directors. Each such director elected by the

holders of shares of Series W Preferred Stock and any other class or series of preferred stock that ranks on parity with Series W Preferred Stock as to payment of dividends 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 W Preferred Stock and any other class or series of the Corporation’s stock that ranks on parity with Series W 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 W 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 W Preferred Stock and any other class or series of preferred stock that ranks on parity with Series W 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 to elect the Preferred Directors 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 W Preferred Stock may (at the Corporation’s 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 the Corporation’s 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 W 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 W Preferred Stock and any other class or series of preferred stock that ranks on parity with Series W Preferred Stock as to payment of dividends, if any, for the equivalent of at least four quarterly Dividend Periods, then the right of the holders of Series W 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 W 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).

**(c) Other Voting Rights.** So long as any shares of the Series W Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least of the voting power of the Series W Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series W Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series W Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least of the shares of the Series W Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series W Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series W Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series W Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series W Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series W Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series W Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series W Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series W Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By- laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series W Preferred Stock shall not have any rights of preemption or rights to convert such Series W 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series W Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series W Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 W 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 W Preferred Stock are not subject to the operation of a sinking fund.



**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 9<sup>th</sup> day of September, 2014.

**BANK OF AMERICA CORPORATION**

By: /s/ ROSS E. JEFFRIES, JR.  
Name: Ross E. Jeffries, Jr.  
Title: Deputy General Counsel and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS  
OF  
FIXED-TO-FLOATING RATE  
NON-CUMULATIVE PREFERRED STOCK, SERIES Z  
OF  
BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on October 20, 2014, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated May 7, 2014 and July 24, 2014, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z” (the “*Series Z Preferred Stock*”). Each share of Series Z Preferred Stock shall be identical in all respects to every other share of Series Z Preferred Stock. Series Z 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 Z Preferred Stock shall be 56,000. 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 Z Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series Z Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series Z Preferred Stock:

“*Business Day*” means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 Z Preferred Stock during the Floating Rate Period (as defined below).

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series Z Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series Z Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series Z Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series Z Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series Z Preferred Stock is outstanding.

“*Depository 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 Z 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual

Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) Floating Rate Non-Cumulative Preferred Stock, Series 1, (p) Floating Rate Non-Cumulative Preferred Stock, Series 2, (q) 6.375% Non-Cumulative Preferred Stock, Series 3, (r) Floating Rate Non-Cumulative Preferred Stock, Series 4, (s) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (t) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series Z 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 London interbank offered rates 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 Z 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 Z 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with the Corporation) to provide quotations are 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 Z Preferred Stock upon request and will be final and binding in the absence of manifest error.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series Z Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series Z Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on April 23 and October 23 of each year, beginning on April 23, 2015, and (y) for the Floating Rate Period, quarterly in arrears on each January 23, April 23, July 23 and October 23, beginning on January 23, 2025; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to October 23, 2024, without any interest or other payment in respect of such delay, and (ii) after October 23, 2024, with dividends accruing to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). The period from, and including, the date of issuance of the Series Z 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 Z Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to (1) 6.500%, for each Dividend Period from the issue date to, but excluding, October 23, 2024 (the “*Fixed Rate Period*”), and (2) thereafter, Three- Month LIBOR plus a spread of 4.174%, for each Dividend Period from, and including, October 23, 2024 (the “*Floating Rate Period*”). The record date for payment of dividends on the Series Z Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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. Dollar amounts resulting from that calculation shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series Z Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series Z Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 Z Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 Z 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 Z 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 Z 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 Z Preferred Stock for the immediately preceding 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 Z 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 Z Preferred Stock for the immediately preceding 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 Z 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 Z 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 Z 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 Z 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series Z 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 Z Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 Z 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 Z 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 Z Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series Z 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 Z 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 Z 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series Z Preferred Stock at the time outstanding, at any time on or after October 23, 2024, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Z Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

(b) **Notice of Redemption.** Notice of every redemption of shares of Series Z 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 Z Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series Z Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series Z 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 Z 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 Z Preferred Stock at the time outstanding, the shares of Series Z Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series Z Preferred Stock in proportion to the number of Series Z Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 Z 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 funds, 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 or any duly authorized committee of the Board of Directors (the “*Depository 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, 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 Depository 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 Z Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series Z Preferred Stock or any other class or series of preferred stock that ranks on parity with Series Z 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 shall be increased by two, and the holders of the Series Z 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series Z Preferred Stock and any other class or series of preferred stock that ranks on parity with Series Z Preferred Stock as to payment of dividends 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 Z Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series Z 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 Z 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 Z Preferred Stock and any other class or series of preferred stock that ranks on parity with Series Z 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 to elect the Preferred Directors 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 Z Preferred Stock may (at the Corporation's 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 the Corporation's 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 Z 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 Z Preferred Stock and any other class or series of preferred stock that ranks on parity with Series Z 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 Z 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 Z 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).

**(c) Other Voting Rights.** So long as any shares of the Series Z Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66⅔% of the voting power of the Series Z Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series Z Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series Z Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66⅔% of the shares of the Series Z Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series Z Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series Z Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series Z Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series Z Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series Z Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series Z Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series Z Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series Z Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By- laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series Z Preferred Stock shall not have any rights of preemption or rights to convert such Series Z 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series Z Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series Z Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 Z 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 Z Preferred Stock are not subject to the operation of a sinking fund.





**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**6.500% NON-CUMULATIVE PREFERRED STOCK, SERIES Y**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on January 20, 2015, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 12, 2015, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “6.500% Non-Cumulative Preferred Stock, Series Y” (the “*Series Y Preferred Stock*”). Each share of Series Y Preferred Stock shall be identical in all respects to every other share of Series Y Preferred Stock. Series Y 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 Y Preferred Stock shall be 44,000. 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 Y Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series Y Preferred Stock.

### Section 3. Definitions.

As used herein with respect to Series Y 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.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series Y Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series Y Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series Y Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series Y Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series Y Preferred Stock is outstanding.

“*Depository 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 Y 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (p) Floating Rate Non-Cumulative Preferred Stock, Series 1, (q) Floating Rate Non-Cumulative Preferred

Stock, Series 2, (r) 6.375% Non-Cumulative Preferred Stock, Series 3, (s) Floating Rate Non-Cumulative Preferred Stock, Series 4, (t) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (u) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series Y 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 Y 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 Y Preferred Stock*” shall have the meaning set forth in Section 1 hereof.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series Y Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series Y Preferred Stock, and no more, payable quarterly in arrears on January 27, April 27, July 27 and October 27 of each year, beginning on April 27, 2015; 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), 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 Y 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 Y Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to 6.500%. The record date for payment of dividends on the Series Y Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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 shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series Y Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series Y Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 Y Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 Y 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 Y 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 Y 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 Y Preferred Stock for the immediately preceding 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 Y 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 Y Preferred Stock for the immediately preceding 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 Y 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 Y 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 Y 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 Y 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series Y 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 Y Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 Y 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 Y 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 Y Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series Y 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 Y 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 Y 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series Y Preferred Stock at the time outstanding, at any time on or after January 27, 2020 or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Y Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series Y 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 Y Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series Y Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series Y 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 Y 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 Y Preferred Stock at the time outstanding, the shares of Series Y Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series Y Preferred Stock in proportion to the number of Series Y Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 Y 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 funds, 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 or any duly

authorized committee of the Board of Directors (the “*Depository 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, 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 Y Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series Y Preferred Stock or any other class or series of preferred stock that ranks on parity with Series Y 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 six or more quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors shall be increased by two, and the holders of the Series Y 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series Y Preferred Stock and any other class or series of preferred stock that ranks on parity with Series Y Preferred Stock as to payment of dividends 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 Y Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series Y 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 Y 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 Y Preferred Stock and any other class or series of preferred stock that ranks on parity with Series Y 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 to elect the Preferred Directors 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 Y Preferred Stock may (at the Corporation's 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 the Corporation's 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 Y 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 Y Preferred Stock and any other class or series of preferred stock that ranks on parity with Series Y Preferred Stock as to payment of dividends, if any, for the equivalent of at least four quarterly Dividend Periods, then the right of the holders of Series Y 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 Y 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).

**(c) Other Voting Rights.** So long as any shares of the Series Y Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66 $\frac{2}{3}$ % of the voting power of the Series Y Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock

ranking senior to the Series Y Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series Y Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66 $\frac{2}{3}$ % of the shares of the Series Y Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series Y Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series Y Preferred Stock as to dividends

and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series Y Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series Y Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series Y Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series Y Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series Y Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series Y Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series Y Preferred Stock shall not have any rights of preemption or rights to convert such Series Y 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series Y Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series Y Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 Y 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 Y 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 AA  
OF  
BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on March 12, 2015, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 12, 2015, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series AA” (the “*Series AA Preferred Stock*”). Each share of Series AA Preferred Stock shall be identical in all respects to every other share of Series AA Preferred Stock. Series AA 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 AA Preferred Stock shall be 76,000. 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 AA Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the

General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series AA Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series AA Preferred Stock:

“*Business Day*” means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 AA Preferred Stock during the Floating Rate Period (as defined below).

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series AA Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series AA Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series AA Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series AA Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series AA Preferred Stock is outstanding.

“*Depository 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 AA 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) 6.500% Non-Cumulative Preferred Stock, Series Y, (p) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (q) Floating Rate Non-Cumulative Preferred Stock, Series 1, (r) Floating Rate Non-Cumulative Preferred Stock, Series 2, (s) 6.375% Non-Cumulative Preferred Stock, Series 3, (t) Floating Rate Non-Cumulative Preferred Stock, Series 4, (u) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (v) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series AA 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 London interbank offered rates 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 AA 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 AA 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with 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 Calculation Agent (in consultation with the Corporation) to provide quotations are 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 AA Preferred Stock upon request and will be final and binding in the absence of manifest error.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series AA Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series AA Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on March 17 and September 17 of each year, beginning on September 17, 2015, and (y) for the Floating Rate Period, quarterly in arrears on each March 17, June 17, September 17 and December 17, beginning on June 17, 2025; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to March 17, 2025, without any interest or other payment in respect of such delay, and (ii) after March 17, 2025, with dividends accruing to the actual payment date (each such day on which dividends are payable a "*Dividend Payment Date*"). The period from, and including, the date of issuance of the Series AA 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 AA Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to (1) 6.100%, for each Dividend Period from the issue date to, but excluding, March 17, 2025 (the "*Fixed Rate Period*"), and (2) thereafter, Three-Month LIBOR plus a spread of 3.898%, for each Dividend Period from, and including, March 17, 2025 (the "*Floating Rate Period*"). The record date for payment of dividends on the Series AA Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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. Dollar amounts resulting from that calculation shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series AA Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series AA Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 AA Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 AA 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 AA 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 AA 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 AA Preferred Stock for the immediately preceding 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 AA 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 AA Preferred Stock for the immediately preceding 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 AA 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 AA 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 AA 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 AA 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series AA 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 AA Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 AA 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 AA 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 AA Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series AA 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 AA 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 AA 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series AA Preferred Stock at the time outstanding, at any time on or after March 17, 2025, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series AA Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

(b) **Notice of Redemption.** Notice of every redemption of shares of Series AA 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 AA Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series AA Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series AA 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 AA 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 AA Preferred Stock at the time outstanding, the shares of Series AA Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series AA Preferred Stock in proportion to the number of Series AA Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 AA 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 funds, 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 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, 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 AA Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

#### **(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series AA Preferred Stock or any other class or series of preferred stock that ranks on parity with Series AA 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 shall be increased by two, and the holders of the Series AA 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series AA Preferred Stock and any other class or series of preferred stock that ranks on parity with Series AA Preferred Stock as to payment of dividends 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 AA Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series AA 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 AA 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 AA Preferred Stock and any other class or series of preferred stock that ranks on parity with Series AA 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 to elect the Preferred Directors 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 AA Preferred Stock may (at the Corporation's 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 the Corporation's 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 AA 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 AA Preferred Stock and any other class or series of preferred stock that ranks on parity with Series AA 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 AA 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 AA 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).

**(c) Other Voting Rights.** So long as any shares of the Series AA Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66⅔% of the voting power of the Series AA Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series AA Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series AA Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66⅔% of the shares of the Series AA Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or



otherwise, so as to adversely affect the powers, preferences or special rights of the Series AA Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series AA Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series AA Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series AA Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series AA Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series AA Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series AA Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series AA Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series AA Preferred Stock shall not have any rights of preemption or rights to convert such Series AA 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series AA Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series AA Preferred Stock from time to time to such extent, in such manner, and upon

such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 AA 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 AA Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 17<sup>th</sup> day of March, 2015.

**BANK OF AMERICA CORPORATION**

By:           /s/ ROSS E. JEFFRIES, JR.            
Name: Ross E. Jeffries, Jr.  
Title: Deputy General Counsel  
          and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**6.200% NON-CUMULATIVE PREFERRED STOCK, SERIES CC**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on January 21, 2016, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 12, 2015, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “6.200% Non-Cumulative Preferred Stock, Series CC” (the “*Series CC Preferred Stock*”). Each share of Series CC Preferred Stock shall be identical in all respects to every other share of Series CC Preferred Stock. Series CC 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 CC Preferred Stock shall be 44,000. 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 CC Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series CC Preferred Stock.

### Section 3. Definitions.

As used herein with respect to Series CC 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.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series CC Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series CC Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series CC Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series CC Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series CC Preferred Stock is outstanding.

“*Depository 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 CC 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) 6.500% Non-Cumulative Preferred Stock, Series Y, (p) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (q) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series AA, (r) Floating Rate Non-Cumulative Preferred Stock, Series 1, (s) Floating Rate Non-

Cumulative Preferred Stock, Series 2, (t) 6.375% Non-Cumulative Preferred Stock, Series 3, (u) Floating Rate Non-Cumulative Preferred Stock, Series 4, (v) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (w) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series CC 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 CC 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 CC Preferred Stock*” shall have the meaning set forth in Section 1 hereof.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series CC Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series CC Preferred Stock, and no more, payable quarterly in arrears on January 29, April 29, July 29 and October 29 of each year, beginning on April 29, 2016; 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), 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 CC 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 CC Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to 6.200%. The record date for payment of dividends on the Series CC Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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 shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series CC Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series CC Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 CC Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 CC 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 CC 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 CC 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 CC Preferred Stock for the immediately preceding 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 CC 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 CC Preferred Stock for the immediately preceding 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 CC 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 CC 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 CC 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 CC 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series CC 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 CC Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 CC 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 CC 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 CC Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series CC 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 CC 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 CC 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series CC Preferred Stock at the time outstanding, at any time on or after January 29, 2021 or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series CC Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.



**(b) Notice of Redemption.** Notice of every redemption of shares of Series CC 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 CC Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series CC Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series CC 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 CC 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 CC Preferred Stock at the time outstanding, the shares of Series CC Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series CC Preferred Stock in proportion to the number of Series CC Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 CC 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 funds, 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 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, 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 CC Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

### **(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series CC Preferred Stock or any other class or series of preferred stock that ranks on parity with Series CC 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 six or more quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors shall be increased by two, and the holders of the Series CC 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series CC Preferred Stock and any other class or series of preferred stock that ranks on parity with Series CC Preferred Stock as to payment of dividends 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 CC Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series CC 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 CC 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 CC Preferred Stock and any other class or series of preferred stock that ranks on parity with Series CC 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 to elect the Preferred Directors 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 CC Preferred Stock may (at the Corporation's 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 the Corporation's 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 CC 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 CC Preferred Stock and any other class or series of preferred stock that ranks on parity with Series CC Preferred Stock as to payment of dividends, if any, for the equivalent of at least four quarterly Dividend Periods, then the right of the holders of Series CC 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 CC 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).

**(c) Other Voting Rights.** So long as any shares of the Series CC Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66⅔% of the voting power of the Series CC Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series CC Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series CC Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66⅔% of the shares of the Series CC Preferred Stock, amend, alter or repeal any provision of this Certificate of

Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series CC Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series CC Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series CC Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series CC Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series CC Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series CC Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series CC Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series CC Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series CC Preferred Stock shall not have any rights of preemption or rights to convert such Series CC 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series CC Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series CC Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 CC 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 CC Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 29th day of January, 2016.

**BANK OF AMERICA CORPORATION**

By: /s/ Ross E. Jeffries, Jr.

Ross E. Jeffries, Jr.

Deputy General Counsel and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS  
OF  
FIXED-TO-FLOATING RATE  
NON-CUMULATIVE PREFERRED STOCK, SERIES DD  
OF  
BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on March 7, 2016, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 12, 2015, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series DD” (the “*Series DD Preferred Stock*”). Each share of Series DD Preferred Stock shall be identical in all respects to every other share of Series DD Preferred Stock. Series DD 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 DD Preferred Stock shall be 40,000. 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 DD Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the

General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series DD Preferred Stock.

### **Section 3. Definitions.**

As used herein with respect to Series DD Preferred Stock:

“*Business Day*” means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 DD Preferred Stock during the Floating Rate Period (as defined below).

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series DD Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series DD Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series DD Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series DD Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series DD Preferred Stock is outstanding.

“*Depository 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 DD 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) 6.500% Non-Cumulative Preferred Stock, Series Y, (p) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (q) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series AA, (r) 6.200% Non-Cumulative Preferred Stock, Series CC, (s) Floating Rate Non-Cumulative Preferred Stock, Series 1, (t) Floating Rate Non-Cumulative Preferred Stock, Series 2, (u) 6.375% Non-Cumulative Preferred Stock, Series 3, (v) Floating Rate Non-Cumulative Preferred Stock, Series 4, (w) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (x) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series DD 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 London interbank offered rates 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 DD 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 DD 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 and identified 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 and identified 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 and identified by the Corporation to provide quotations are 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 DD Preferred Stock upon request and will be final and binding in the absence of manifest error.

#### **Section 4. Dividends.**

(a) **Rate.** Holders of Series DD Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series DD Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on March 10 and September 10 of each year, beginning on September 10, 2016, and (y) for the Floating Rate Period, quarterly in arrears on each March 10, June 10, September 10 and December 10, beginning on June 10, 2026; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to March 10, 2026, without any interest or other payment in respect of such delay, and (ii) after March 10, 2026, with dividends accruing to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). The period from, and including, the date of issuance of the Series DD 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 DD Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to (1) 6.300%, for each Dividend

Period from the issue date to, but excluding, March 10, 2026 (the “*Fixed Rate Period*”), and (2) thereafter, Three-Month LIBOR plus a spread of 4.553%, for each Dividend Period from, and including, March 10, 2026 (the “*Floating Rate Period*”). The record date for payment of dividends on the Series DD Preferred Stock shall be the fifteenth day of the calendar month preceding the month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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. Dollar amounts resulting from that calculation shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series DD Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series DD Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 DD Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 DD 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 DD 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 DD 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 DD Preferred Stock for the immediately preceding 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 DD 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 DD Preferred Stock for the immediately preceding 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 DD 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 DD 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 DD 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 DD 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series DD 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 DD Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 DD 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 DD 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 DD Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series DD 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 DD 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 DD 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series DD Preferred Stock at the time outstanding, at any time on or after March 10, 2026, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series DD Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series DD 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 DD Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series DD Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series DD 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 DD 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 DD Preferred Stock at the time outstanding, the shares of Series DD Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series DD Preferred Stock in proportion to the number of Series DD Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 DD 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 funds, 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 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, 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 DD Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series DD Preferred Stock or any other class or series of preferred stock that ranks on parity with Series DD 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 shall be increased by two, and the holders of the Series DD 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series DD Preferred Stock and any other class or series of preferred stock that ranks on parity with Series DD Preferred Stock as to payment of dividends 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 DD Preferred Stock and any other class or series of the Corporation’s stock that ranks on parity with Series DD 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 DD 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 DD Preferred Stock and any other class or series of preferred stock that ranks on parity with Series DD 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 to elect the Preferred Directors 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 DD Preferred Stock may (at the Corporation’s 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 the Corporation’s 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 DD 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 DD Preferred Stock and any other class or series of preferred stock that ranks on parity with Series DD 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 DD 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 DD 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).

**(c) Other Voting Rights.** So long as any shares of the Series DD Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66 $\frac{2}{3}$ % of the voting power of the Series DD Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series DD Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series DD Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66 $\frac{2}{3}$ % of the shares of the Series DD Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series DD Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series DD Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series DD Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series DD Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series DD Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series DD Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series DD Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series DD Preferred



Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series DD Preferred Stock shall not have any rights of preemption or rights to convert such Series DD 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series DD Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series DD Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 DD 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 DD Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 10th day of March, 2016.

**BANK OF AMERICA CORPORATION**

By: /s/ Ross E. Jeffries, Jr.

Ross E. Jeffries, Jr.

Deputy General Counsel and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**6.000% NON-CUMULATIVE PREFERRED STOCK, SERIES EE**  
**OF**  
**BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the New Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on April 18, 2016, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 12, 2015, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “6.000% Non-Cumulative Preferred Stock, Series EE” (the “*Series EE Preferred Stock*”). Each share of Series EE Preferred Stock shall be identical in all respects to every other share of Series EE Preferred Stock. Series EE 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 EE Preferred Stock shall be 36,000. 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 EE Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series EE Preferred Stock.

### Section 3. Definitions.

As used herein with respect to Series EE 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.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series EE Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series EE Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series EE Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series EE Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series EE Preferred Stock is outstanding.

“*Depository 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 EE 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) 6.500% Non-Cumulative Preferred Stock, Series Y, (p) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (q) Fixed-to-Floating Rate Non-Cumulative Preferred

Stock, Series AA, (r) 6.200% Non-Cumulative Preferred Stock, Series CC, (s) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series DD, (t) Floating Rate Non-Cumulative Preferred Stock, Series 1, (u) Floating Rate Non-Cumulative Preferred Stock, Series 2, (v) 6.375% Non-Cumulative Preferred Stock, Series 3, (w) Floating Rate Non-Cumulative Preferred Stock, Series 4, (x) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (y) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series EE 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 EE 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 EE Preferred Stock*” shall have the meaning set forth in Section 1 hereof.

#### **Section 4. Dividends.**

(a) **Rate.** Holders of Series EE Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series EE Preferred Stock, and no more, payable quarterly in arrears on January 25, April 25, July 25 and October 25 of each year, beginning on July 25, 2016; 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), 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 EE 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 EE Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to 6.000%. The record date for payment of dividends on the Series EE Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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 shall be rounded to the nearest cent, with one-half cent being rounded upward.

(b) **Non-Cumulative Dividends.** Dividends on shares of Series EE Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series EE Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 EE Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 EE 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 EE 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 EE 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 EE Preferred Stock for the immediately preceding 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 EE 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 EE Preferred Stock for the immediately preceding 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 EE 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 EE 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 EE 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 EE 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series EE 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 EE Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 EE 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 EE 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 EE Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series EE 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 EE 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 EE 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series EE Preferred Stock at the time outstanding, at any time on or after April 25, 2021 or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series EE Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series EE 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 EE Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series EE Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series EE 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 EE 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 EE Preferred Stock at the time outstanding, the shares of Series EE Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series EE Preferred Stock in proportion to the number of Series EE Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 EE 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 funds, 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 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, 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 EE Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

### **(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series EE Preferred Stock or any other class or series of preferred stock that ranks on parity with Series EE 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 six or more quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors shall be increased by two, and the holders of the Series EE 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series EE Preferred Stock and any other class or series of preferred stock that ranks on parity with Series EE Preferred Stock as to payment of dividends 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 EE Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series EE 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 EE 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 EE Preferred Stock and any other class or series of preferred stock that ranks on parity with Series EE 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 to elect the Preferred Directors 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 EE Preferred Stock may (at the Corporation's 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 the Corporation's 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 EE 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 EE Preferred Stock and any other class or series of preferred stock that ranks on parity with Series EE Preferred Stock as to payment of dividends, if any, for the equivalent of at least four quarterly Dividend Periods, then the right of the holders of Series EE 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 EE 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).

**(c) Other Voting Rights.** So long as any shares of the Series EE Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66 $\frac{2}{3}$ % of the voting power of the Series EE Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series EE Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series EE Preferred Stock remain

outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66% of the shares of the Series EE Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series EE Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series EE Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series EE Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series EE Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series EE Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series EE Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series EE Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series EE Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series EE Preferred Stock shall not have any rights of preemption or rights to convert such Series EE 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series EE Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series EE Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 EE 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 EE Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 25th day of April, 2016.

**BANK OF AMERICA CORPORATION**

By: /s/ Ross E. Jeffries, Jr.

Ross E. Jeffries, Jr.

Deputy General Counsel and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS  
OF  
FIXED-TO-FLOATING RATE  
NON-CUMULATIVE PREFERRED STOCK, SERIES FF  
OF  
BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on March 8, 2018, in accordance with Section 141(f) of the General Corporation Law:

**RESOLVED**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 31, 2018, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series FF” (the “*Series FF Preferred Stock*”). Each share of Series FF Preferred Stock shall be identical in all respects to every other share of Series FF Preferred Stock. Series FF 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 FF Preferred Stock shall be 94,000. 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 FF Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series FF Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series FF Preferred Stock:

“*Business Day*” means, for the Fixed Rate Period, 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; and, for the Floating Rate Period, 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 and is a London Banking Day.

“*Calculation Agent*” shall mean The Bank of New York Mellon 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 FF Preferred Stock during the Floating Rate Period.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series FF Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series FF Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series FF Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series FF Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series FF Preferred Stock is outstanding.

“*Depository 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 FF 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual

Convertible Preferred Stock, Series L, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series M, (j) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (m) 6.625% Non-Cumulative Preferred Stock, Series W, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (o) 6.500% Non-Cumulative Preferred Stock, Series Y, (p) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (q) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series AA, (r) 6.200% Non-Cumulative Preferred Stock, Series CC, (s) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series DD, (t) 6.000% Non-Cumulative Preferred Stock, Series EE, (u) Floating Rate Non-Cumulative Preferred Stock, Series 1, (v) Floating Rate Non-Cumulative Preferred Stock, Series 2, (w) 6.375% Non-Cumulative Preferred Stock, Series 3, (x) Floating Rate Non-Cumulative Preferred Stock, Series 4, (y) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (z) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series FF 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 London interbank offered rates 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 FF 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 FF 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 London interbank 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” at approximately 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 no offered rate appears on Reuters Screen Page “LIBOR01” on the relevant Dividend Determination Date at approximately 11:00 a.m., London time, then the Corporation will select and identify to the Calculation Agent four major banks in the London interbank market, and the Calculation Agent will request the principal London offices of each of such banks to provide a quotation of the rate at which three-month deposits in U.S. dollars in amounts of at least \$1,000,000 are offered by it to prime banks in the London interbank market, on that date and at that time. If at least two quotations are provided, Three-Month LIBOR will be the arithmetic average (rounded upward if necessary to the nearest .00001 of 1%) of the quotations provided. If less than two quotations are provided, the Corporation will select and identify to the Calculation Agent three major banks in New York City, and the Calculation Agent will request each of such banks to provide a quotation of the rate offered by it at approximately 11:00 a.m., New York City time, on the Dividend Determination Date for loans in U.S. dollars to leading European banks for a three-month period for the applicable Dividend Period in an amount of at least \$1,000,000. If three quotations are provided, Three-Month LIBOR will be the arithmetic average of the quotations provided. Otherwise, Three-Month LIBOR for that Dividend Period will be equal to Three-Month LIBOR in effect for the then-current 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.

Notwithstanding the foregoing, if the Calculation Agent determines on or prior to the relevant Dividend Determination Date, after consultation with the Corporation, that Three-Month LIBOR has been



discontinued, then the Corporation will appoint in its sole discretion an investment bank of national standing, which may be an affiliate of the Corporation, to determine whether there is a substitute or successor base rate to Three-Month LIBOR that is consistent with accepted market practice. If such investment bank of national standing determines that there is such a substitute or successor base rate, the Calculation Agent shall use such substitute or successor base rate. In such case, the Calculation Agent will implement changes to the business day convention, the definition of Business Day, the Dividend Determination Date and any method for obtaining the substitute or successor base rate if such rate is unavailable on the relevant Business Day, in a manner that is consistent with industry accepted practices for such substitute or successor base rate, all as directed by the investment bank of national standing. If the investment bank of national standing determines that there is no such substitute or successor base rate as so provided above, Three-Month LIBOR for that Dividend Period will be determined in accordance with the steps provided in the immediately preceding paragraph.

#### **Section 4. Dividends.**

**(a) Rate.** Holders of Series FF Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series FF Preferred Stock, and no more, payable (x) for the Fixed Rate Period, semi-annually in arrears on March 15 and September 15 of each year, beginning on September 15, 2018, and (y) for the Floating Rate Period, quarterly in arrears on each March 15, June 15, September 15 and December 15, beginning on June 15, 2028; 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, for the Fixed Rate Period, that day falls in the next calendar year or, for the Floating Rate Period, that day falls in the next calendar month, then in each such case payment of such dividend will occur on the immediately preceding Business Day) (i) on or prior to March 15, 2028, without any interest or other payment in respect of such delay, and (ii) after March 15, 2028, with dividends accruing to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). The period from, and including, the date of issuance of the Series FF 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 FF Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to (1) 5.875%, for each Dividend Period from the issue date to, but excluding, March 15, 2028 (the “*Fixed Rate Period*”), and (2) thereafter, Three-Month LIBOR plus a spread of 2.931%, for each Dividend Period from, and including, March 15, 2028 (the “*Floating Rate Period*”). The record date for payment of dividends on the Series FF Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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. Dollar amounts resulting from that calculation shall be rounded to the nearest cent, with one-half cent being rounded upward. 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 FF Preferred Stock upon request and will be final and binding in the absence of manifest error.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series FF Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series FF Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 FF Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 FF 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 FF 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 FF 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 FF Preferred Stock for the immediately preceding 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 FF 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 FF Preferred Stock for the immediately preceding 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 FF 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 FF 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 FF 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 FF 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series FF 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 FF Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 FF 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 FF 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 FF Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series FF 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 FF 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 FF 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series FF Preferred Stock at the time outstanding, at any time on or after March 15, 2028, or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series FF Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series FF 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 calendar days and not more than 60 calendar 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 FF Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series FF Preferred Stock. Each notice shall state (i) the redemption

date; (ii) the number of shares of Series FF 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 FF 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 FF Preferred Stock at the time outstanding, the shares of Series FF Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series FF Preferred Stock in proportion to the number of Series FF Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 FF 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 funds, 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 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, 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 FF Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

#### **(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series FF Preferred Stock or any other class or series of preferred stock that ranks on parity with Series FF 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 shall be increased by two, and the holders of the

Series FF 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series FF Preferred Stock and any other class or series of preferred stock that ranks on parity with Series FF Preferred Stock as to payment of dividends 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 FF Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series FF 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 FF 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 FF Preferred Stock and any other class or series of preferred stock that ranks on parity with Series FF 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 to elect the Preferred Directors 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 FF Preferred Stock may (at the Corporation's 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 the Corporation's 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 FF 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 FF Preferred Stock and any other class or series of preferred stock that ranks on parity with Series FF 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 FF 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 FF 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).

**(c) Other Voting Rights.** So long as any shares of the Series FF Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66⅔% of the voting power of the Series FF Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series FF Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series FF Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66⅔% of the shares of the Series FF Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series FF Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series FF Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series FF Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series FF Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series FF Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series FF Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series FF Preferred Stock, with proper notice and sufficient funds having been set aside for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series FF Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series FF Preferred Stock shall not have any rights of preemption or rights to convert such Series FF 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series FF Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series FF Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 FF 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 FF Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 15<sup>th</sup> day of March, 2018.

**BANK OF AMERICA CORPORATION**

By: /s/ ROSS E. JEFFRIES, JR.

Name: Ross E. Jeffries, Jr.

Title: Corporate Secretary and Deputy General Counsel



**CERTIFICATE OF DESIGNATIONS  
OF  
6.000% NON-CUMULATIVE PREFERRED STOCK, SERIES GG  
OF  
BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on May 7, 2018, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 31, 2018, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “6.000% Non-Cumulative Preferred Stock, Series GG” (the “*Series GG Preferred Stock*”). Each share of Series GG Preferred Stock shall be identical in all respects to every other share of Series GG Preferred Stock. Series GG 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 GG Preferred Stock shall be 55,200. 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 GG Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series GG Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series GG 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.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series GG Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series GG Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series GG Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series GG Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series GG Preferred Stock is outstanding.

“*Depository 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 GG 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) 6.625% Non-Cumulative Preferred Stock, Series I, (g) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (h) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (i) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (j) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (k) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (l) 6.625% Non-Cumulative Preferred Stock, Series W, (m) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (n) 6.500% Non-Cumulative Preferred Stock, Series Y, (o) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (p) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series AA, (q) 6.200% Non-Cumulative Preferred Stock, Series CC, (r) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series DD, (s) 6.000% Non-Cumulative Preferred Stock, Series EE, (t) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series FF, (u) Floating Rate Non-Cumulative Preferred Stock, Series 1, (v) Floating Rate Non-Cumulative Preferred Stock, Series 2, (w) 6.375% Non-Cumulative Preferred Stock, Series 3, (x) Floating Rate Non-Cumulative Preferred Stock, Series 4, (y) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (z) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series GG 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 GG 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 GG Preferred Stock” shall have the meaning set forth in Section 1 hereof.

#### Section 4. Dividends.

(a) **Rate.** Holders of Series GG Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series GG Preferred Stock, and no more, payable quarterly in arrears on February 16, May 16, August 16 and November 16 of each year, beginning on August 16, 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), 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 GG 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 GG Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to 6.000%. The record date for payment of dividends on the Series GG Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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 shall be rounded to the nearest cent, with one-half cent being rounded upward.

(b) **Non-Cumulative Dividends.** Dividends on shares of Series GG Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series GG Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 GG Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 GG 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 GG 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 GG 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 GG Preferred Stock for the immediately preceding 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 GG 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 GG Preferred Stock for the immediately preceding 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 GG 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 GG 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 GG 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 GG 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series GG 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 GG Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 GG 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 GG 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 GG Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series GG 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 GG 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 GG 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series GG Preferred Stock at the time outstanding, at any time on or after May 16, 2023 or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series GG Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series GG 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 calendar days and not more than 60 calendar 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 GG Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series GG Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series GG 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 GG 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 GG Preferred Stock at the time outstanding, the shares of Series GG Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series GG Preferred Stock in proportion to the number of Series GG Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 GG 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 funds, 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 or any duly authorized committee of the Board of Directors (the "*Depository 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, 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 the Corporation or such bank or trust company at any time after the redemption date from the funds so set aside or 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 set aside or 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 GG Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series GG Preferred Stock or any other class or series of preferred stock that ranks on parity with Series GG 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 six or more quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors shall be increased by two, and the holders of the Series GG 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series GG Preferred Stock and any other class or series of preferred stock that ranks on parity with Series GG Preferred Stock as to payment of dividends 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 GG Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series GG 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 GG 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 GG Preferred Stock and any other class or series of preferred stock that ranks on parity with Series GG 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 to elect the Preferred Directors 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 GG Preferred Stock may (at the Corporation's 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 the Corporation's 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 GG 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 GG Preferred Stock and any other class or series of preferred stock that ranks on parity with Series GG Preferred Stock as to payment of dividends, if any, for the equivalent of at least four quarterly Dividend Periods, then the right of the holders of Series GG 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 GG 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).

**(c) Other Voting Rights.** So long as any shares of the Series GG Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66 $\frac{2}{3}$ % of the voting power of the Series GG Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series GG Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series GG Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66 $\frac{2}{3}$ % of the shares of the Series GG Preferred Stock, amend, alter or repeal any provision of this Certificate of

Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series GG Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series GG Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series GG Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series GG Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series GG Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series GG Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series GG Preferred Stock, with proper notice and sufficient funds having been set aside or deposited for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series GG Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series GG Preferred Stock shall not have any rights of preemption or rights to convert such Series GG 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series GG Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series GG Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 GG 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 GG Preferred Stock are not subject to the operation of a sinking fund

**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 16<sup>th</sup> day of May, 2018.

**BANK OF AMERICA CORPORATION**

By:	<u>/s/ ROSS E. JEFFRIES, JR.</u>
Name:	Ross E. Jeffries, Jr.
Title:	Deputy General Counsel and Corporate Secretary

**CERTIFICATE OF DESIGNATIONS OF  
5.875% NON-CUMULATIVE PREFERRED STOCK, SERIES HH  
OF  
BANK OF AMERICA CORPORATION**

Bank of America Corporation, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), hereby certifies that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, which authorize the issuance of not more than 100,000,000 shares of preferred stock, par value \$0.01 per share, and pursuant to authority conferred upon the Preferred Stock Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on July 17, 2018, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that, pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 31, 2018, the provisions of the Amended and Restated Certificate of Incorporation, the By-laws 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, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**Section 1. Designation.**

The designation of the series of preferred stock shall be “5.875% Non-Cumulative Preferred Stock, Series HH” (the “*Series HH Preferred Stock*”). Each share of Series HH Preferred Stock shall be identical in all respects to every other share of Series HH Preferred Stock. Series HH 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 HH Preferred Stock shall be 34,160. 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 HH Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors or any duly authorized committee of the Board of Directors and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series HH Preferred Stock.

**Section 3. Definitions.**

As used herein with respect to Series HH 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.

“*Capital Treatment Event*” means the good faith determination by the Corporation that, as a result of any: (i) amendment to, clarification of, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of the Series HH Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series HH Preferred Stock; or (iii) official administrative

decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced or becomes effective after the initial issuance of any shares of the Series HH Preferred Stock, there is more than an insubstantial risk that the Corporation shall not be entitled to treat an amount equal to the full liquidation preference of all shares of the Series HH Preferred Stock then outstanding as “additional Tier 1 capital” (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the Board of Governors of the Federal Reserve System or other appropriate federal banking agency, as then in effect and applicable, for as long as any share of the Series HH Preferred Stock is outstanding.

“*Depository 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 HH 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 the Corporation’s (a) 7% Cumulative Redeemable Preferred Stock, Series B, (b) 6.204% Non-Cumulative Preferred Stock, Series D, (c) Floating Rate Non-Cumulative Preferred Stock, Series E, (d) Floating Rate Non-Cumulative Preferred Stock, Series F, (e) Adjustable Rate Non-Cumulative Preferred Stock, Series G, (f) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series K, (g) 7.25% Non-Cumulative Perpetual Convertible Preferred Stock, Series L, (h) 6% Non-Cumulative Perpetual Preferred Stock, Series T, (i) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series U, (j) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series V, (k) 6.625% Non-Cumulative Preferred Stock, Series W, (l) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series X, (m) 6.500% Non-Cumulative Preferred Stock, Series Y, (n) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series Z, (o) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series AA, (p) 6.200% Non-Cumulative Preferred Stock, Series CC, (q) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series DD, (r) 6.000% Non-Cumulative Preferred Stock, Series EE, (s) Fixed-to-Floating Rate Non-Cumulative Preferred Stock, Series FF, (t) 6.000% Non-Cumulative Preferred Stock, Series GG, (u) Floating Rate Non-Cumulative Preferred Stock, Series 1, (v) Floating Rate Non-Cumulative Preferred Stock, Series 2, (w) 6.375% Non-Cumulative Preferred Stock, Series 3, (x) Floating Rate Non-Cumulative Preferred Stock, Series 4, (y) Floating Rate Non-Cumulative Preferred Stock, Series 5, and (z) any other class or series of stock of the Corporation hereafter authorized that ranks on a par with the Series HH 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 HH 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 HH Preferred Stock*” shall have the meaning set forth in Section 1 hereof.

#### **Section 4. Dividends.**

(a) **Rate.** Holders of Series HH Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors or any duly authorized committee of the Board of Directors, but only out of funds legally available for the payment of dividends, non-cumulative cash dividends based on the liquidation preference of \$25,000 per share of Series HH Preferred Stock, and no more, payable quarterly in arrears on January 24, April 24, July 24 and October 24 of each year, beginning on October 24, 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), 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 HH 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 HH Preferred Stock will accrue on the liquidation preference of \$25,000 per share at a rate *per annum* equal to 5.875%. The record date for payment of dividends on the Series HH Preferred Stock shall be the first day of the calendar month in which the Dividend Payment Date falls or such other record date fixed by the Board of Directors or a duly authorized committee of the Board of Directors that is not more than 60 days nor less than 10 days prior to such Dividend Payment Date. 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 shall be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series HH Preferred Stock shall be non-cumulative. To the extent that any dividends on the shares of Series HH Preferred Stock with respect to any Dividend Period are not declared and paid, in full or otherwise, on the Dividend Payment Date for such Dividend Period, 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 HH Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on or 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 HH 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 HH 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 *pro rata* portion, of the Series HH 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 HH Preferred Stock for the immediately preceding 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 HH 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 HH Preferred Stock for the immediately preceding 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 HH 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 HH 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 HH 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 HH 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 or any duly authorized committee of the Board of Directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series HH 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 HH Preferred Stock shall be entitled, out of assets legally available for distribution to stockholders of the Corporation, 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 HH 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 HH 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 HH Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series HH 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 HH 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 HH 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, may redeem out of funds legally available therefor, (i) in whole or in part, the shares of Series HH Preferred Stock at the time outstanding, at any time on or after July 24, 2023 or (ii) in whole but not in part, at any time within 90 days after a Capital Treatment Event, in each case upon notice given as provided in Section 6(b) below. The redemption price for shares of Series HH Preferred Stock redeemed pursuant to (i) or (ii) of the preceding sentence shall be \$25,000 per share plus (except as otherwise provided below) dividends that have accrued but have not been paid for the then-current Dividend Period to but excluding the redemption date, without accumulation of any undeclared dividends. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to the 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 record date relating to the Dividend Payment Date as provided in Section 4 above.

(b) **Notice of Redemption.** Notice of every redemption of shares of Series HH 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 calendar days and not more than 60 calendar 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 HH Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series HH Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series HH 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 HH 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 HH Preferred Stock at the time outstanding, the shares of Series HH Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series HH Preferred Stock in proportion to the number of Series HH Preferred Stock held by such holders or by lot. Subject to the provisions of this Section 6, the Board of Directors 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 HH 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 funds, 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 or any duly authorized committee of the Board of Directors (the “*Depository 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, 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 the Corporation or such bank or trust company at any time after the redemption date from the funds so set aside or deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository 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 set aside or 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 HH Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraphs 7(b) and 7(c) below or as required by law.

**(b) Special Voting Right.**

**(i) Voting Right.** If and whenever dividends on the Series HH Preferred Stock or any other class or series of preferred stock that ranks on parity with Series HH 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 six or more quarterly Dividend Periods (whether consecutive or not), the number of directors constituting the Board of Directors shall be increased by two, and the holders of the Series HH 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 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 shall at no time include more than two such directors. Each such director elected by the holders of shares of Series HH Preferred Stock and any other class or series of preferred stock that ranks on parity with Series HH Preferred Stock as to payment of dividends 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 HH Preferred Stock and any other class or series of the Corporation's stock that ranks on parity with Series HH 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 HH 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 HH Preferred Stock and any other class or series of preferred stock that ranks on parity with Series HH 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 to elect the Preferred Directors 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 HH Preferred Stock may (at the Corporation's 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 the Corporation's 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 HH 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 HH Preferred Stock and any other class or series of preferred stock that ranks on parity with Series HH Preferred Stock as to payment of dividends, if any, for the equivalent of at least four quarterly Dividend Periods, then the right of the holders of Series HH 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 HH 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).

**(c) Other Voting Rights.** So long as any shares of the Series HH Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote or consent of the holders of at least 66 $\frac{2}{3}$ % of the voting power of the Series HH Preferred Stock and the holders of any other Parity Stock entitled to vote thereon, voting together as a single class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, authorize, create or issue any capital stock ranking senior to the Series HH Preferred Stock as to dividends or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized

capital stock into any such shares of such capital stock or issue any obligation or security convertible into or evidencing the right to purchase any such shares of capital stock. Further, so long as any shares of the Series HH Preferred Stock remain outstanding, the Corporation shall not, without the affirmative vote of the holders of at least 66⅔% of the shares of the Series HH Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations or the Certificate of Incorporation of the Corporation, including by merger, consolidation or otherwise, so as to adversely affect the powers, preferences or special rights of the Series HH Preferred Stock.

Notwithstanding the foregoing, (i) any increase in the amount of authorized common stock or authorized preferred stock, or any increase or decrease in the number of shares of any series of preferred stock, or the authorization, creation and issuance of other classes or series of capital stock, in each case ranking on a parity with or junior to the shares of the Series HH Preferred Stock as to dividends and distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to adversely affect such powers, preferences or special rights and (ii) a merger or consolidation of the Corporation with or into another entity in which the shares of the Series HH Preferred Stock (A) remain outstanding or (B) are converted into or exchanged for preference securities of the surviving entity or any entity, directly or indirectly, controlling such surviving entity and such new preference securities have powers, preferences or special rights that are not materially less favorable than the Series HH Preferred Stock shall not be deemed to adversely affect the powers, preferences or special rights of the Series HH Preferred Stock.

**(d) No Vote if Shares Redeemed.** No vote or consent of the holders of the Series HH Preferred Stock shall be required pursuant to Section 7(b) or 7(c) if, at or prior to the time when the act with respect to such vote or consent would otherwise be required shall be effected, the Corporation shall have redeemed or shall have called for redemption all outstanding shares of Series HH Preferred Stock, with proper notice and sufficient funds having been set aside or deposited for such redemption, in each case pursuant to Section 6 above.

**(e) Procedures for Voting and Consents.** Other than as set forth in Section 7(b), the rules and procedures for calling and conducting any meeting of the holders of Series HH Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such 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 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 Certificate of Incorporation and By-laws of the Corporation and to applicable law.

**Section 8. Preemption and Conversion.** The holders of Series HH Preferred Stock shall not have any rights of preemption or rights to convert such Series HH 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 or any authorized committee of the Board of Directors, without the vote of the holders of the Series HH Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

**Section 10. Repurchase.** Subject to the limitations imposed herein, the Corporation may purchase and sell Series HH Preferred Stock from time to time to such extent, in such manner, and upon such terms as the Board of Directors or any duly authorized committee of the Board of Directors 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 HH 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 HH Preferred Stock are not subject to the operation of a sinking fund.



**IN WITNESS WHEREOF**, Bank of America Corporation has caused this Certificate of Designations to be executed by its duly authorized officer on this 24<sup>th</sup> day of July, 2018.

**BANK OF AMERICA CORPORATION**

By:	<u>/s/ ROSS E. JEFFRIES, JR.</u>
Name:	Ross E. Jeffries, Jr.
Title:	Deputy General Counsel and Corporate Secretary

**AMENDED AND RESTATED AIRCRAFT TIME SHARING AGREEMENT**  
(Multiple Aircraft)

Dated as of the 26<sup>th</sup> day of June, 2018,

between

**Bank of America, NA,**  
as Time Share Lessor,

and

**Brian T. Moynihan,**  
as Time Share Lessee,

\* \* \*

**INSTRUCTIONS FOR COMPLIANCE WITH  
"TRUTH IN LEASING" REQUIREMENTS UNDER FAR § 91.23**

***Within 24 hours after execution of this Agreement:***

mail a copy of the executed document to the  
following address via certified mail, return receipt requested:

Federal Aviation Administration  
Aircraft Registration Branch  
ATTN: Technical Section  
P.O. Box 25724  
Oklahoma City, Oklahoma 73125

***At least 48 hours prior to the first flight of each Aircraft to be conducted under this Agreement:***

provide notice, using the FSDO Notification Letter in Exhibit A,  
of the departure airport and proposed time of departure of the  
first flight, by facsimile, to the Flight Standards  
District Office located nearest the departure airport.

***Carry a copy of this Agreement in each Aircraft at all times.***

\* \* \*

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This **AMENDED AND RESTATED AIRCRAFT TIME SHARING AGREEMENT** (the "Agreement") is made and effective as of the 26<sup>th</sup> day of June, 2018 (the "Effective Date"), by and between **Bank of America, NA**, a national banking association ("Time Share Lessor"), and **Brian T. Moynihan** ("Time Share Lessee"), and amends and restates that certain Aircraft Time Sharing Agreement by and between Time Share Lessor and Time Share Lessee dated as of February 24, 2011, as previously amended.

**W I T N E S S E T H :**

**WHEREAS**, Time Share Lessee desires to lease each Aircraft, with a flight crew, on a non-exclusive basis, from Time Share Lessor on a time sharing basis as defined in Section 91.501(c)(1) of the FAR;

**WHEREAS**, Time Share Lessor is willing to lease each Aircraft, with a flight crew, on a non-exclusive basis, to Time Share Lessee on a time sharing basis; and

**WHEREAS**, during the Term of this Agreement, each Aircraft will be subject to use by Time Share Lessor and may be subject to use by one or more other third-parties.

**NOW, THEREFORE**, in consideration of the mutual promises herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** The following terms shall have the following meanings for all purposes of this Agreement:

"**Aircraft**" means, individually and collectively as the context may require, each of the Aircraft identified in Exhibit B.

"**Aircraft Documents**" means all flight records, maintenance records, historical records, modification records, overhaul records, manuals, logbooks, authorizations, drawings and data relating to any specific Airframe, any specific Engine, or any Part associated with any specific Airframe or Engine, or that are required by Applicable Law to be created or maintained with respect to the maintenance and/or operation of any specific Aircraft.

"**Applicable Law**" means, without limitation, all applicable laws, treaties, international agreements, decisions and orders of any court, arbitration or governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority, including, without limitation, the FAR and 49 U.S.C. § 41101, *et seq.*, as amended.

"**Business Day**" means any day of the year during which Time Share Lessor's headquarters offices in the State of North Carolina are open for business.

"**DOT**" means the United States Department of Transportation or any successor agency.

"**FAA**" means the Federal Aviation Administration or any successor agency.

"**FAR**" means collectively the Aeronautics Regulations of the FAA and the DOT, as codified at Title 14, Parts 1 to 399 of the United States Code of Federal Regulations.

"**Operating Base**" means Charlotte Douglas International Airport, in the City of Charlotte, State of North Carolina.

"**Operational Control**" has the same meaning given the term in Section 1.1 of the FAR.

"**Parts**" means all appliances, components, parts, instruments, appurtenances, accessories, furnishings or other equipment of whatever nature (other than complete Engines or engines) which may from time to time be incorporated or installed in or attached to any Airframe or any Engine and includes replacement parts.

"**Pilot in Command**" has the same meaning given the term in Section 1.1 of the FAR.

"**Schedule Keeper**" means the person designated by the Time Share Lessor to maintain the scheduling log of the Aircraft. The name, address, telephone number, and other contact information for the Schedule Keeper are set forth

in Section 27.

"**Taxes**" means commercial air transportation excise taxes pursuant to Section 4261 of the Internal Revenue Code of 1986, as amended, regardless of whether any flight is considered "noncommercial" under the FAR.

"**Term**" means the entire period from the Effective Date to the date this Agreement is terminated pursuant to Section 3.

2. **Agreement to Lease.**

- 2.1 **General.** Time Share Lessor agrees to lease each Aircraft to Time Share Lessee from time to time on an "as needed and as available" basis, and to provide a fully qualified flight crew for all Time Share Lessee's flight operations, in accordance with the terms and conditions of this Agreement.
- 2.2 **Aircraft Changes.** Individual aircraft may be added and become subject to this Agreement, and/or may be removed from the applicability of this Agreement, from time to time by Time Share Lessor by (a) replacing Exhibit B with an updated list of Aircraft that are subject to this Agreement, (b) mailing a copy of said updated list of Aircraft to the Technical Section of the FAA Civil Aircraft Registry at the address provided on the cover of this Agreement, and (c) providing a copy of said updated list of Aircraft to Time Share Lessee.
- 2.3 **Automatic Removal of Aircraft.** Without limiting the generality of Section 2.2, in the event Time Share Lessor from time to time sells any individual Aircraft listed on Exhibit B, such Aircraft shall, upon the transfer of title to such Aircraft, be deemed immediately removed from the applicability of this Agreement regardless of whether such Aircraft is specifically removed from Exhibit B.
- 2.4 **FSDO Notice.** Anytime a new Aircraft is added to Exhibit B and becomes subject to this Agreement, at least 48 hours prior to the first flight of such newly added Aircraft to be conducted under this Agreement, Time Share Lessee shall complete a FSDO Notice, substantially in the form attached hereto as Exhibit A with respect to such Aircraft, and shall deliver the completed FSDO Notice by facsimile to the FAA Flight Standards District Office located nearest to the departure airport of said first flight of such Aircraft. Thereafter, Time Share Lessee shall provide copies of the FSDO Notice and the fax confirmation sheet to Time Share Lessor.

3. **Term.**

- 3.1 **Initial Term.** The initial term of this Agreement shall commence on the Effective Date and continue for a period of one (1) year.
- 3.2 **Renewal.** At the end of the initial one (1) year term or any subsequent one (1) year term, this Agreement shall automatically be renewed for an additional one (1) year term.
- 3.3 **Termination.**
- 3.3.1 Each party shall have the right to terminate this Agreement at any time with or without cause on thirty (30) days written notice to the other party.
- 3.3.2 Time Share Lessor shall have the right to terminate this Agreement at any time in accordance with Section 16 upon any breach by Time Share Lessee under said Section 16.
- 3.3.3 This Agreement shall terminate automatically and without further notice on the date the Time Share Lessee no longer serves as the Time Share Lessor's Chief Executive Officer.

4. **Applicable Regulations.** The parties hereto intend that this Agreement shall constitute, and this Agreement shall be interpreted as, a *Time Sharing Agreement* as defined in Section 91.501(c)(1) of the FAR. The parties agree that for all flights under this Agreement, the Aircraft used for the flight shall be operated under the pertinent provisions of Subpart F of Part 91 of the FAR. If any provision of this Agreement is determined to be inconsistent with any of the requirements of the provisions of Subpart F of Part 91 of the FAR, such provision shall be deemed amended in any respect necessary to bring it into compliance with such requirements.

5. **Non-Exclusivity.** Time Share Lessee acknowledges that each Aircraft is leased to Time Share Lessee hereunder on a non-exclusive basis, and that all Aircraft will also be subject to use by Time Share Lessor, and may also be subject to non-exclusive leases and lease to others during the Term.
6. **Flight Charges.** Time Share Lessee shall pay Time Share Lessor an amount determined by Time Share Lessor, not to exceed the direct operating costs for the Aircraft used for any flight conducted under this Agreement; provided, however, that the foregoing shall be subject to the further limitation that in no event shall Time Share Lessee pay an amount for any flight conducted under this Agreement in excess of the maximum amount of expense reimbursement permitted in accordance with Section 91.501(d) of the FAR, which expenses include and are limited to:
  - 6.1 fuel, oil, lubricants, and other additives;
  - 6.2 travel expenses of the crew, including food, lodging and ground transportation;
  - 6.3 hangar and tie down costs away from the Aircraft's Operating Base;
  - 6.4 insurance obtained for the specific flight;
  - 6.5 landing fees, airport taxes and similar assessments;
  - 6.6 customs, foreign permit, and similar fees directly related to the flight;
  - 6.7 in-flight food and beverages;
  - 6.8 passenger ground transportation;
  - 6.9 flight planning and weather contract services; and
  - 6.10 an additional charge equal to 100% of the expenses listed in Section 6.1.
7. **Invoices and Payment.** Quarterly, in arrears, Time Share Lessor shall provide an invoice to Time Share Lessee for an amount determined by Time Share Lessor in accordance with Section 6 above. Time Share Lessee shall remit the full amount of any such invoice, together with any applicable Taxes under Section 8, to Time Share Lessor promptly by the earlier of (i) the fifteenth (15<sup>th</sup>) day after the invoice date, or (ii) the last Business Day of the calendar year during which the flight was conducted.
8. **Taxes.** No payments to be made by Time Share Lessee under Section 6 of this Agreement include any Taxes which may be assessed or levied as a result of the lease of the various Aircraft to Time Share Lessee, or the use of the various Aircraft by Time Share Lessee, or the provision of a taxable transportation service to Time Share Lessee using the various Aircraft. Time Share Lessee shall be responsible for, shall indemnify and hold harmless Time Share Lessor against, and shall remit to Time Share Lessor all such Taxes together with each payment made pursuant to Section 7.
9. **Scheduling Flights.**
  - 9.1 **Submitting Flight Requests.** Time Share Lessee shall submit requests for flight time and proposed flight schedules to the Schedule Keeper as far in advance of any given flight as possible. Time Share Lessee shall provide at least the following information for each proposed flight prior to scheduled departure: departure airport; destination airport; date and time of departure; the names of all passengers; purpose of the flight for each passenger; the nature and extent of luggage and/or cargo to be carried; the date and time of return flight, if any; and any other information concerning the proposed flight that may be pertinent or required by Time Share Lessor or Time Share Lessor's flight crew.
  - 9.2 **Approval of Flight Requests.** Each use of an Aircraft by Time Share Lessee shall be subject to the Schedule Keeper's prior approval. Schedule Keeper may approve or deny any flight scheduling request in Schedule Keeper's sole discretion. Schedule Keeper shall be under no obligation to approve any flight request submitted by Time Share Lessee, and shall have final authority over the scheduling of all Aircraft.
  - 9.3 **Subordinated Use of Aircraft.** Time Share Lessee's rights to schedule use of the various Aircraft during the Term of this Agreement shall at all times be subordinate to the Aircraft use requirements of Time Share Lessor, and Time Share Lessor shall at all times be entitled to preempt any scheduled, unscheduled, and anticipated use of any Aircraft by Time Share Lessee, notwithstanding any prior approval by Schedule Keeper of a request by Time Share Lessee to schedule a flight.
1. **Title and Registration.** Time Share Lessor has exclusive legal and equitable title to each Aircraft. Time Share Lessee acknowledges that title to each Aircraft shall remain vested in Time Share Lessor. Time Share Lessee undertakes, to the extent permitted by Applicable Law, to do all such further acts, deeds, assurances or things as, in the reasonable

opinion of Time Share Lessor, may be necessary or desirable in order to protect or preserve Time Share Lessor's title to the various Aircraft.

11. **Aircraft Maintenance and Flight Crew.** Time Share Lessor shall be solely responsible for maintenance, preventive maintenance and required or otherwise necessary inspections of each Aircraft, and shall take such requirements into account in scheduling the Aircraft. No period of maintenance, preventative maintenance, or inspection shall be delayed or postponed for the purpose of scheduling the Aircraft, unless said maintenance or inspection can be safely conducted at a later time in compliance with all Applicable Laws and regulations, and within the sound discretion of the Pilot in Command.
12. **Flight Crews.** Time Share Lessor shall provide to Time Share Lessee a qualified flight crew for each flight conducted in accordance with this Agreement. The members of the flight crew may be either employees or independent contractors of Time Share Lessor. In either event, the flight crew shall be and remain under the exclusive command and control of Time Share Lessor in all phases of all flights conducted hereunder.
13. **Operational Control.** THE PARTIES EXPRESSLY AGREE THAT TIME SHARE LESSOR SHALL HAVE AND MAINTAIN OPERATIONAL CONTROL OF ALL AIRCRAFT FOR ALL FLIGHTS OPERATED UNDER THIS AGREEMENT, AND THAT THE INTENT OF THE PARTIES IS THAT THIS AGREEMENT CONSTITUTE A "TIME SHARING AGREEMENT" AS SUCH TERM IS DEFINED IN SECTION 91.501(C)(1) OF THE FAR. TIME SHARE LESSOR shall exercise exclusive authority over initiating, conducting, or terminating any flight conducted ON BEHALF OF TIME SHARE LESSEE pursuant to this Agreement.-
14. **Authority of Pilot In Command.** Notwithstanding that Time Share Lessor shall have Operational Control of the Aircraft during any flight conducted pursuant to this Agreement, Time Share Lessor and Time Share Lessee expressly agree that the Pilot in Command, in his or her sole discretion, may terminate any flight, refuse to commence any flight, or take any other flight-related action which in the judgment of the Pilot in Command is necessary to ensure the safety of the Aircraft, the flight crew, the passengers, and persons and property on the ground. The Pilot in Command shall have final and complete authority to postpone or cancel any flight for any reason or condition that in his or her judgment would compromise the safety of the flight. No such action of the Pilot in Command shall create or support any liability of Time Share Lessor to Time Share Lessee for loss, injury, damage or delay.
15. **Passengers and Baggage.** Time Share Lessee may carry on the Aircraft on all flights under this Agreement such passengers and baggage/cargo as Time Share Lessee in its sole but reasonable discretion shall determine; provided, however, that the passengers to be carried on such flights shall be limited to those permitted under the pertinent provisions of Part 91 of the FAR, and that the number of such passengers shall in no event exceed the number of passenger seats legally available in the Aircraft being used for a particular flight, and the total load, including fuel and oil in such quantities as the Pilot in Command shall determine to be required, shall not exceed the maximum allowable load for the Aircraft.
16. **Prohibited Items.** Time Share Lessee shall not cause or permit to be carried on board any Aircraft, and shall not cause or permit any passenger to carry on board any Aircraft, any contraband, prohibited dangerous goods, or prohibited controlled substances on any Aircraft at any time. Upon any breach of this Section 16, Time Share Lessor shall have the right to terminate this Agreement immediately upon delivery to Time Share Lessee of a written notice of termination. Time Share Lessee shall indemnify and hold Time Share Lessor harmless from and against any claims, fines, penalties, costs and expenses (including reasonable attorneys' fees) incurred as a result of any breach of this Section 16. The indemnity and hold harmless obligations of Time Share Lessee arising under this Section 16 shall survive any termination or expiration of this Agreement.
17. **Force Majeure.** Time Share Lessor shall not be liable for delay or failure to furnish any Aircraft and/or flight crew pursuant to this Agreement when such failure is caused by government regulation or authority, mechanical difficulty, war, civil commotion, strikes or labor disputes, weather conditions, acts of God or other unforeseen or unanticipated circumstances.

18. **Insurance.**
- 18.1 **Liability.** Time Share Lessor shall maintain, or cause to be maintained, bodily injury and property damage, liability insurance in an amount no less than Five Hundred Million United States Dollars (US\$500,000,000.00) Combined Single Limit for the benefit of itself, and Time Share Lessee in connection with the use of any Aircraft. Said policy shall be an occurrence policy naming Time Share Lessor as Named Insured, and Time Share Lessee as an Additional Insured.
- 18.2 **Hull.** Time Share Lessor shall maintain, or cause to be maintained, all risks aircraft hull insurance for each Aircraft in amounts determined from time to time by agreement of Time Share Lessor and the provider of the insurance, and such insurance shall name Time Share Lessor and any first lien security interest holder as loss payees as their interests may appear.
- 18.3 **Additional Insurance.** Time Share Lessor will use reasonable efforts to provide such additional insurance coverage as Time Share Lessee shall request or require, provided, however, that the cost of such additional insurance shall be borne by Time Share Lessee as set forth in Section 6.4 of this Agreement.
- 18.4 **Insurance Certificates.** If requested, Time Share Lessor will provide Time Share Lessee with a copy of its Certificate of Insurance.
19. **Representations and Warranties.** Time Share Lessee represents and warrants that:
- 19.1 Time Share Lessee will use the various Aircraft solely for his own use and the use of his family and guests, and Time Share Lessee will not use any Aircraft for the purpose of providing transportation of passengers or cargo for compensation or hire.
- 19.2 Time Share Lessee shall refrain from incurring any mechanic's or other lien in connection with inspection, preventative maintenance, maintenance or storage of the various Aircraft, whether permissible or impermissible under this Agreement, nor shall there be any attempt by Time Share Lessee to convey, mortgage, assign, lease, sublease, or any way alienate any Aircraft or create any kind of lien or security interest involving any Aircraft or do anything or take any action that might mature into such a lien.
- 19.3 During the Term of this Agreement, Time Share Lessee will abide by and conform to all Applicable Laws, governmental and airport orders, rules and regulations, as shall from time to time be in effect relating in any way to the operation and use of any Aircraft by a time sharing Time Share Lessee.
20. **No Assignments** Neither this Agreement nor any party's interest herein shall be assignable to any other party whatsoever.
21. **Modification.** This Agreement may not be modified, altered, or amended except by written agreement executed by both parties.
22. **Prohibited or Unenforceable Provisions.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibitions or unenforceability in any jurisdiction. To the extent permitted by Applicable Law, each of Time Share Lessor and Time Share Lessee hereby waives any provision of Applicable Law which renders any provision hereof prohibited or unenforceable in any respect.
23. **Binding Effect.** This Agreement, including all agreements, covenants, representations and warranties, shall be binding upon and inure to the benefit of, and may be enforced by Time Share Lessor and its successors and assigns, and Time Share Lessee.
24. **Headings.** The section headings in this Agreement are for convenience of reference only and shall not modify, define, expand, or limit any of the terms or provisions hereof.
25. **Amendments.** No term or provision of this Agreement may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by both parties.

26. **No Waiver.** No delay or omission in the exercise or enforcement or any right or remedy hereunder by either party shall be construed as a waiver of such right or remedy. All remedies, rights, undertakings, obligations, and agreements contained herein shall be cumulative and not mutually exclusive, and in addition to all other rights and remedies which either party possesses at law or in equity.
27. **Notices.** All communications, declarations, demands, consents, directions, approvals, instructions, requests and notices required or permitted by this Agreement shall be in writing and shall be deemed to have been duly given or made when delivered personally or transmitted electronically by e-mail or facsimile, receipt acknowledged, or in the case of documented overnight delivery service or registered or certified mail, return receipt requested, delivery charge or postage prepaid, on the date shown on the receipt therefor, in each case at the address set forth below:
- If to Time Share Lessor:** Bank of America, NA           Tel: 704-819-8609  
100 North Tryon Street           Fax: 704-409-0968  
Charlotte, NC 28255  
Attn: General Counsel
- With a copy to:** GKG, Law, P.C.           Tel: 202-342-5251  
1055 Thomas Jefferson Street, N.W.   Fax: 202-342-5219  
Suite 500  
Washington, D.C. 20007  
Attn: Keith G. Swirsky, Esq.
- If to Time Share Lessee:** To Time Share Lessee's home address  
and/or telephone number on file with  
Time Share Lessor at the time of the notice.
- If to Schedule Keeper:** Bank of America Aircraft Scheduling   Tel: 800-238-3151  
5416 Airport Drive           Fax: 704-683-7321  
Charlotte, NC 28208-5734  
Attn: Senior Vice President, Aviation Executive
28. **Governing Law.** This Agreement has been negotiated and delivered in the State of North Carolina and shall in all respects be governed by, and construed in accordance with, the laws of the State of North Carolina including all matters of construction, validity and performance, without giving effect to its conflict of laws provisions.
29. **Jurisdiction and Venue.** Exclusive jurisdiction and venue over any and all disputes between the parties arising under this Agreement shall be in, and for such purpose each party hereby submits to the jurisdiction of, the state and federal courts serving the State of North Carolina.
30. **DISCLAIMER.** Each Aircraft is being leased by the Time Share Lessor to the Time Share Lessee hereunder on a completely "as is, where is," basis, which is acknowledged and agreed to by the Time Share Lessee. The warranties and representations set forth in this Agreement are exclusive and in lieu of all other representations or warranties whatsoever, express or implied, and Time Share Lessor has not made and shall not be considered or deemed to have made (whether by virtue of having leased any Aircraft under this Agreement, or having acquired any Aircraft, or having done or failed to do any act, or having acquired or failed to acquire any status under or in relation to this Agreement or otherwise) any other representation or warranty whatsoever, express or implied, with respect to any Aircraft or to any part thereof, and specifically, without limitation, in this respect Time Share Lessor disclaims all representations and warranties concerning the title, airworthiness, value, condition, design, merchantability, compliance with specifications, construction and condition of the Aircraft, or fitness for a particular use of any Aircraft and as to the absence of latent and other defects, whether or not discoverable, and as to the absence of any infringement or the like, hereunder of any patent, trademark or copyright, and as to the absence of obligations based on strict liability in tort, or as to the quality of the material or workmanship of any Aircraft or any part thereof or any other representation or warranty whatsoever, express or implied (including any implied warranty arising from a course of performance or dealing or usage of trade), with respect to any Aircraft or any part thereof. Time Share Lessee hereby waives, releases, disclaims and renounces all expectation of or reliance upon any such and other warranties, obligations and liabilities of Time Share Lessor and rights, claims and remedies of Time Share Lessee against Time Share Lessor, express or implied, arising by law or otherwise, including but not limited to (i) any implied warranty of merchantability of fitness for any particular use, (ii) any implied warranty arising from course of performance, course of dealing or usage of trade,



(iii) any obligation, liability, right, claim or remedy in tort, whether or not arising from the negligence of Time Share Lessor, actual or imputed, and (iv) any obligation, liability, right, claim or remedy for loss of or damage to any Aircraft, for loss of use, revenue or profit with respect to any Aircraft, or for any other direct, indirect, incidental or consequential damages.

31. **INDEMNITY.** (a) Except as provided in Sections 31(b) and (c) below, Time Share Lessee hereby releases, and shall defend, indemnify and hold harmless Time Share Lessor and Time Share Lessor's shareholders, members, directors, officers, managers, employees, successors and assigns, from and against, any and all claims, damages, losses, liabilities, demands, suits, judgments, causes of action, civil and criminal legal proceedings, penalties, fines, and other sanctions, and any attorneys' fees and other reasonable costs and expenses, directly or indirectly arising from this Agreement, and/or the operation or use of any aircraft under this Agreement by Time Share Lessee, and/or the carriage or presence on board any aircraft of any contraband, prohibited dangerous goods, or prohibited controlled substances, except to the extent arising from the gross negligence or willful misconduct of Time Share Lessor or the flight crew. In no event shall Time Share Lessor be liable to Time Share Lessee or any person claiming by or through Time Share Lessee for any indirect, incidental, special, consequential, or punitive damages of any kind or nature.

(a) Notwithstanding the provisions of Section 31(a) above, Time Share Lessor agrees to accept the proceeds of the hull and liability insurance required by this Agreement as its sole recourse against Time Share Lessee in the event of any claim by Time Share Lessee relating to any type of injury, death or property damage for which such insurance is being provided under this Agreement.

(c) The limitations provided for in Section 31(b) will not operate against Time Share Lessor to the extent that insurance proceeds are withheld or reduced due to the actions or inactions of Time Share Lessee.

32. **Counterparts.** This Agreement may be executed by the parties hereto in two (2) or more separate counterparts, each and all of which when so executed and delivered shall be an original, and all of which shall together constitute but one and the same instrument.

33. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties as of the Effective Date and supersedes all prior or independent, oral or written agreements, understandings, statements, representations, commitments, promises, and warranties made with respect to the subject matter of this Agreement.

34. **TRUTH IN LEASING.**

WITHIN THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THIS AGREEMENT, EACH AIRCRAFT HAS BEEN INSPECTED AND MAINTAINED IN ACCORDANCE WITH THE PROVISIONS OF FAR 91.409.

THE PARTIES HERETO CERTIFY THAT DURING THE TERM OF THIS AGREEMENT AND FOR OPERATIONS CONDUCTED HEREUNDER, EACH AIRCRAFT WILL BE MAINTAINED AND INSPECTED IN ACCORDANCE WITH THE PROVISIONS OF FAR 91.409.

TIME SHARE LESSOR ACKNOWLEDGES THAT WHEN IT OPERATES ANY AIRCRAFT ON BEHALF OF TIME SHARE LESSEE UNDER THIS AGREEMENT, TIME SHARE LESSOR SHALL BE KNOWN AS, CONSIDERED, AND IN FACT WILL BE THE OPERATOR OF SUCH AIRCRAFT. EACH PARTY HERETO CERTIFIES THAT IT UNDERSTANDS THE EXTENT OF ITS RESPONSIBILITIES, SET FORTH HEREIN, FOR COMPLIANCE WITH APPLICABLE FEDERAL AVIATION REGULATIONS.

AN EXPLANATION OF FACTORS BEARING ON OPERATIONAL CONTROL AND PERTINENT FEDERAL AVIATION REGULATIONS CAN BE OBTAINED FROM THE NEAREST FEDERAL AVIATION ADMINISTRATION FLIGHT STANDARDS DISTRICT OFFICE.

THE PARTIES HERETO CERTIFY THAT A TRUE COPY OF THIS AGREEMENT SHALL BE CARRIED ON EACH AIRCRAFT AT ALL TIMES, AND SHALL BE MADE AVAILABLE FOR INSPECTION UPON REQUEST BY AN APPROPRIATELY CONSTITUTED IDENTIFIED REPRESENTATIVE OF THE ADMINISTRATOR OF THE FAA.

IN WITNESS WHEREOF, the parties have executed this **AMENDED AND RESTATED AIRCRAFT TIME SHARING AGREEMENT** as of the date and year first written above.

**TIME SHARE LESSOR:**

**Bank of America, NA**

By: /s/ David G. Leitch

Print: David G. Leitch

Title: Global General Counsel

**TIME SHARE LESSEE:**

/s/ Brian T. Moynihan

**Brian T. Moynihan**

**EXHIBIT A**

to

**AMENDED AND RESTATED AIRCRAFT TIME SHARING AGREEMENT**

dated as of the 26<sup>th</sup> day of June, 2018,  
by and between Bank of America, NA ("Time Share Lessor"),  
and  
Brian T. Moynihan ("Time Share Lessee")

**FSDO Notification Letter**

Date: \_\_\_\_\_

**Via Facsimile**

Fax: \_\_\_\_\_

Federal Aviation Administration

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RE: FAR Section 91.23 FSDO  
Notification  
First Flight Under Time Sharing Agreement of Aircraft  
\_\_\_\_\_ model \_\_\_\_\_, s/n \_\_\_\_\_, N \_\_\_\_\_**

To whom it may concern:

Pursuant to the requirements of Federal Aviation Regulation Section 91.23(c)(3), please accept this letter as notification that the undersigned will acquire and take delivery of a leasehold interest in the above referenced aircraft on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, and that the first flight of the aircraft under the Time Sharing Agreement will depart from \_\_\_\_\_ Airport on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at approximately \_\_\_\_ (am / pm) local time.

Sincerely,

\_\_\_\_\_

**EXHIBIT B**

to  
**AMENDED AND RESTATED AIRCRAFT TIME SHARING AGREEMENT**

dated as of the 26<sup>th</sup> day of June, 2018,  
by and between Bank of America, NA ("Time Share Lessor"),  
and  
Brian T. Moynihan ("Time Share Lessee")

**Aircraft List Current as of June 26, 2018**

"**Aircraft 1**" means collectively that certain Gulfstream Aerospace G650ER aircraft bearing U.S. registration number N652BA and manufacturer's serial number 6130 ("Airframe 1"), together with two (2) Rolls-Royce BR700-725A1-12 engines bearing manufacturer's serial numbers 25373 & 25372 ("Aircraft 1 Engines"), and all Parts and Aircraft Documents associated with Aircraft 1. The Aircraft 1 Engines shall be deemed part of Aircraft 1 whether or not from time to time attached to Airframe 1 or removed from Airframe 1.

"**Aircraft 2**" means collectively that certain Gulfstream Aerospace G650ER aircraft bearing U.S. registration number N651BA and manufacturer's serial number 6287 ("Airframe 2"), together with two (2) Rolls-Royce BR700-725A1-12 engines bearing manufacturer's serial numbers 25683 & 25682 ("Aircraft 2 Engines"), and all Parts and Aircraft Documents associated with Aircraft 2. The Aircraft 2 Engines shall be deemed part of Aircraft 2 whether or not from time to time attached to Airframe 2 or removed from Airframe 2.

"**Aircraft 3**" means collectively that certain Gulfstream Aerospace G280 aircraft bearing U.S. registration number N228BA and manufacturer's serial number 2103 ("Airframe 3"), together with two (2) Honeywell AS907-2-1G engines bearing manufacturer's serial numbers P130323 & P130324 ("Aircraft 3 Engines"), and all Parts and Aircraft Documents associated with Aircraft 3. The Aircraft 3 Engines shall be deemed part of Aircraft 3 whether or not from time to time attached to Airframe 3 or removed from Airframe 3.

"**Aircraft 4**" means collectively that certain Gulfstream Aerospace G280 aircraft bearing U.S. registration number N283BA and manufacturer's serial number 2090 ("Airframe 4"), together with two (2) Honeywell AS907-2-1G engines bearing manufacturer's serial numbers P130297 & P130298 ("Aircraft 4 Engines"), and all Parts and Aircraft Documents associated with Aircraft 4. The Aircraft 4 Engines shall be deemed part of Aircraft 4 whether or not from time to time attached to Airframe 4 or removed from Airframe 4.

"**Aircraft 5**" means collectively that certain Gulfstream Aerospace G280 aircraft bearing U.S. registration number N285BA and manufacturer's serial number 2095 ("Airframe 5"), together with two (2) Honeywell AS907-2-1G engines bearing manufacturer's serial numbers P130313 & P130314 ("Aircraft 5 Engines"), and all Parts and Aircraft Documents associated with Aircraft 5. The Aircraft 5 Engines shall be deemed part of Aircraft 5 whether or not from time to time attached to Airframe 5 or removed from Airframe 5.

"**Aircraft 6**" means collectively that certain Gulfstream Aerospace G280 aircraft bearing U.S. registration number N286BA and manufacturer's serial number 2111 ("Airframe 6"), together with two (2) Honeywell AS907-2-1G engines bearing manufacturer's serial numbers P130340 & P130339 ("Aircraft 6 Engines"), and all Parts and Aircraft Documents associated with Aircraft 6. The Aircraft 6 Engines shall be deemed part of Aircraft 6 whether or not from time to time attached to Airframe 6 or removed from Airframe 6.

**Bank of America Corporation and Subsidiaries**  
**Ratio of Earnings to Fixed Charges**  
**Ratio of Earnings to Fixed Charges and Preferred Dividends**

**Exhibit 12**

(Dollars in millions)	Six Months Ended June 30, 2018	Year Ended December 31				
		2017	2016	2015	2014	2013
<b>Excluding Interest on Deposits</b>						
Income before income taxes	\$ 16,892	\$ 29,213	\$ 25,021	\$ 22,187	\$ 7,963	\$ 14,733
Equity in undistributed earnings (loss) of unconsolidated subsidiaries	(42)	(245)	(262)	(152)	(222)	(66)
Fixed charges:						
Interest expense	7,007	10,981	8,946	9,688	9,855	11,359
1/3 of net rent expense (1)	417	831	883	945	1,023	1,091
Total fixed charges	7,424	11,812	9,829	10,633	10,878	12,450
Preferred dividend requirements	920	2,528	2,361	2,068	1,506	1,746
Fixed charges and preferred dividends	8,344	14,340	12,190	12,701	12,384	14,196
<b>Earnings</b>	<b>\$ 24,274</b>	<b>\$ 40,780</b>	<b>\$ 34,588</b>	<b>\$ 32,668</b>	<b>\$ 18,619</b>	<b>\$ 27,117</b>
<b>Ratio of earnings to fixed charges</b>	<b>3.27</b>	<b>3.45</b>	<b>3.52</b>	<b>3.07</b>	<b>1.71</b>	<b>2.18</b>
<b>Ratio of earnings to fixed charges and preferred dividends</b>	<b>2.91</b>	<b>2.84</b>	<b>2.84</b>	<b>2.57</b>	<b>1.50</b>	<b>1.91</b>

(Dollars in millions)	Six Months Ended June 30, 2018	Year Ended December 31				
		2017	2016	2015	2014	2013
<b>Including Interest on Deposits</b>						
Income before income taxes	\$ 16,892	\$ 29,213	\$ 25,021	\$ 22,187	\$ 7,963	\$ 14,733
Equity in undistributed earnings (loss) of unconsolidated subsidiaries	(42)	(245)	(262)	(152)	(222)	(66)
Fixed charges:						
Interest expense	8,710	12,912	9,961	10,549	10,935	12,755
1/3 of net rent expense (1)	417	831	883	945	1,023	1,091
Total fixed charges	9,127	13,743	10,844	11,494	11,958	13,846
Preferred dividend requirements	920	2,528	2,361	2,068	1,506	1,746
Fixed charges and preferred dividends	10,047	16,271	13,205	13,562	13,464	15,592
<b>Earnings</b>	<b>\$ 25,977</b>	<b>\$ 42,711</b>	<b>\$ 35,603</b>	<b>\$ 33,529</b>	<b>\$ 19,699</b>	<b>\$ 28,513</b>
<b>Ratio of earnings to fixed charges</b>	<b>2.85</b>	<b>3.11</b>	<b>3.28</b>	<b>2.92</b>	<b>1.65</b>	<b>2.06</b>
<b>Ratio of earnings to fixed charges and preferred dividends</b>	<b>2.59</b>	<b>2.62</b>	<b>2.70</b>	<b>2.47</b>	<b>1.46</b>	<b>1.83</b>

(1) Represents an appropriate interest factor.

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002  
FOR THE CHIEF EXECUTIVE OFFICER**

I, Brian T. Moynihan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q 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: July 30, 2018

/s/ Brian T. Moynihan  
Brian T. Moynihan  
Chief Executive Officer

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002  
FOR THE CHIEF FINANCIAL OFFICER**

I, Paul M. Donofrio, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q 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: July 30, 2018

/s/ Paul M. Donofrio  
Paul M. Donofrio  
Chief Financial Officer

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Brian T. Moynihan, 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 Quarterly Report on Form 10-Q of the registrant for the quarter ended June 30, 2018 (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.

Date: July 30, 2018

/s/ Brian T. Moynihan  
Brian T. Moynihan  
Chief Executive Officer



**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Paul M. Donofrio, state and attest that:

1. I am the Chief Financial Officer of Bank of America Corporation (the registrant).
2. I hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:
  - the Quarterly Report on Form 10-Q of the registrant for the quarter ended June 30, 2018 (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.

Date: July 30, 2018

/s/ Paul M. Donofrio  
Paul M. Donofrio  
Chief Financial Officer