January 18, 2006

Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, DC 20551

Attention: Ms. Jennifer J. Johnson
Secretary

Docket No. R-1238

Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Attention: Public Information Room
Mail stop 1-5

Docket No. 05-16

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Attention: Robert E. Feldman
Executive Secretary

Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention: Regulation Comments
Chief Counsel's Office

No. 2005-40

Re: Joint Advance Notice of Proposed Rulemaking:
Possible Modifications to Risk-Based Capital Guidelines

I. Introduction

Bank of America (Bank) welcomes the opportunity to provide comments on the Joint Advanced Notice of Proposed Rulemaking (ANPR) issued on October 20, 2005, by the four US federal banking agencies, Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve, Federal Deposit Insurance Corporation and the Office of Thrift Supervision (Agencies). The framework proposed under the ANPR, commonly referred to as Basel IA, provides for various components to modernize the existing regulatory capital framework (Basel I) applicable to banking organizations that will not be required to adopt Basel II. The Bank supports the Agencies efforts to harmonize the Basel I standard with the updated international standards of Basel II. Bank of America is a member of the Risk Management Association and the Banker's Roundtable and has assisted in the preparation of their comment letters. With some minor differences, we endorse the comment letters of those organizations. Therefore, we have refrained from repeating many of the more technical comments common to Bank of America.

II. Background

Bank of America is currently updating its internal as well as regulatory capital processes. Bank of America's efforts to manage credit risk involve significantly

more complexity and greater costs than those of small to medium sized banks. The Bank's continuous refinements are a necessary feature of managing a notably larger portfolio of risk-diverse exposures in various international jurisdictions. It was for such reasons that the Agencies required Bank of America and other large internationally active domestic banks to adopt Basel II.

Concerns by non-Basel II banks about the implication of potential capital relief of one class of banks over another has lead to the reining in of the regulatory capital impact of Basel II while also addressing the desire to update the existing Basel I framework. The Agencies have addressed the former by the September 30, 2005, revisions to the transitional capital floors and continued use of the leverage ratio. The latter point, regarding competitive impacts on Basel I banks, is addressed by the current ANPR.

III. Overall Comments

The framework proposed under Basel IA provides for various components to modernize the existing regulatory capital framework applicable to banking organizations not required to implement the Basel II framework. Bank of America supports the Agencies efforts to harmonize Basel I with the updated international standards of Basel II. We endorse expanding the number of risk-weight categories, expanding the use of external credit ratings, and widening the range of collateral and guarantors that may qualify an exposure for a lower risk weight. Additionally, the Bank supports the need for greater risk sensitivity related to loans 90 days or more past due or in non-accrual status, commercial real estate, retail, multifamily, small business, and commercial exposures as well as the treatment of certain off-balance products.

We note that several of these items are already incorporated in the Standardized Approach to credit risk under Basel II. Both frameworks were designed to update the current risk-sensitivity of the Basel I framework while addressing the desire of financial institutions to maintain a simplified credit risk calculation. In light of the significant consultative dialogues and quantitative analysis already encapsulated in the Standardized Approach to credit risk, we encourage the Agencies to further align the Basel IA framework with the Standardized Approach.

The ANPR also seeks comments regarding Basel IA replacing Basel I as the mandatory transitional capital floor for Basel II banks in the United States. The Bank opposes the adoption of Basel IA as the transitional capital floor. Many of the concerns of the Agencies regarding the capital impact of Basel II have been addressed by the September 30th revisions. In light of this safeguard, the Bank views the mandatory adoption of a Basel IA as increasing implementation risk related to Basel II, adding to the Bank's regulatory burden and compliance cost as well as providing no additional safety and soundness benefit for the overall banking system.

A. Basel II Standardized Approach

In June 1999, the Basel Committee Capital Adequacy Framework was initially proposed. The framework addressed the concerns of large and small banks alike by providing a variety of credit risk calculation approaches with increasing complexities. For the most advanced banks, the Advanced-IRB and Foundation-IRB Approaches to credit risk were proposed to leverage internal risk systems. For less sophisticated banks, the Standardized Approach was developed. The latter approach was designed specifically to refine the risk-sensitivities set forth in the 1988 Basel I Accord. The three credit risk approaches identified under the Basel II Framework were further refined to ensure the less sophisticated credit risk methodology contain the greater capital charges.

Of the three approaches, the Standardized Approach to credit risk is most closely aligned to the current proposal of the Agencies. However, the Standardized Approach has considerably more analysis supporting its conclusions. The Standardized Approach was designed after several years of Quantitative Impact Studies (QIS) and consultative dialogues by industry participants. This refinement process has evolved into a unified credit risk framework that allows for more risk-sensitivity than the Basel I framework but with less implementation risk and cost than the more advanced credit risk approaches proposed under Basel II.

Significant conceptual similarities exist between the ANPR and Standardized Approach, however, the application of such concepts are not fully aligned. For example, the usage of the external ratings for credit and securitization exposures is a shared concept; however, the risk-bucket assignments of the ANPR are biased against ratings with lower credit scoring. Similar analogies can be made to the application of risk buckets for other commercial exposures.

It is noted that Bank of America is not recommending replacing Basel IA with the Standardized Approach; however, significant benefits are achieved by leveraging the conclusions of the Standardized Approach. The Agencies should support open dialogue into questions related to differences between the two methods and conduct quantitative impact studies into areas where perceived biases may be present. In such a manner, the Basel IA framework would avoid unexpected consequences for US banks while also remaining faithful to building a framework that harmonizes the US and international regulatory capital frameworks for banks.

B. Basel II Capital Floor

Under the initial Basel II rules applicable to Bank of America, the Bank will be required to compute their capital calculations under the Basel I and Basel II framework. The amount of capital reduction allowed under Basel II will be limited to a percentage of the existing Basel I calculation, hence creating a "floor" by

which the Basel II capital would be recognized. As of September 30, 2005, the floor calculation was further limited as a percentage of Basel I and extended over a longer period of time. The current ANPR is seeking comments on whether the revisions resulting from Basel IA should replace Basel I as the basis for the transitional capital floor.

The Bank objects to a mandatory requirement to adopt Basel IA as the transitional capital floor for Basel II. The management of an additional capital framework subject to various updates and refinements will complicate current implementation efforts for Basel II. The proposed Basel IA process represents a new methodology with newly defined data inputs. Management of these new processes will fall upon the same limited resources working to become Basel II compliant. As final rules have yet to be published by the Agencies for Basel II, significant implementation risks would exist if these limited resources would be required to run dual capital implementation efforts.

The Agencies imply cost would be minimal with respect to the inclusion of additional data attributes required under Basel IA. However, the Bank anticipates significant new compliance cost would be incurred in order to update the existing reporting systems and calculation engines supporting regulatory capital. Specific risk factors proposed by the ANPR, such as FICO score and external ratings, are not integrated into the current regulatory reporting process. The Bank would incur additional cost in order to ensure the calculation is Sarbanes-Oxley compliant.

IV. Conclusion

Bank of America supports the efforts of the Agencies to better align the current regulatory capital framework with Basel II. The proposals announced by the ANPR further harmonize the current Basel I framework with the Basel II framework. However, additional work is needed. The Bank suggests the Basel Committee's Standardized Approach to credit risk provides the appropriate rigor and industry review to further align the risk-sensitivity of the Basel IA framework. In leveraging the Standardized Approach as the basis for updates to the Basel IA proposal, many of the perceived biases in the current proposal would be eliminated. Through additional open dialogue and quantitative impact studies, the Basel IA proposal could be further refined to balance the unique needs of the thousands of non-Basell II Banks in the United States.

The Bank is confident the proposed Basel IA framework will evolve into a unified framework appropriate for non-Basel II Banks. However, the Bank respectively requests that Basel II banks not be required to replace Basel IA as the basis for the transitional capital floor under Basel II. Concerns related to the capital reduction of Basel II banks have already been addressed by the Agencies on September 30, 2005. Additionally, the operational risk of simultaneous implementation efforts along with the increased regulatory burden and

operational cost of the new framework do not justify the perceived safety and soundness improvements of replacing the temporary capital floor. It is the strong recommendation that the Agencies exclude Basel II banks from mandatory adoption of Basel IA as the transitional capital floor for the Basel II calculation.

Thank you for considering the views expressed by Bank of America. If you have any questions, please contact me at (704) 388-4529.

Sincerely,

/s/

Denise C. Sawyer
Senior Finance Manager
Regulatory Reporting

cc: John M. James, Corporate Controller
Randall J. Shearer, Accounting Policy Executive
John S. Walter, Risk Capital & Portfolio Analysis