



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, DC 20551

LEGAL DIVISION

May 18, 2026

William W. Templeton, Esq.  
Associate General Counsel  
Bank of America Corporation  
100 North Tryon Street  
Charlotte, North Carolina 28202

Dear Mr. Templeton:

This is in response to the notice filed by Bank of America Corporation (“BAC”), Charlotte, North Carolina, a financial holding company (“FHC”), pursuant to section 4(k)(1)(B) of the Bank Holding Company Act (“BHC Act”) and section 225.89 of Regulation Y,<sup>1</sup> to trade in certain physical commodities, including entering into long-term electricity supply contracts.

In 2007, BAC received approval to engage, on a limited basis, in trading physical commodities and taking and making delivery of physical commodities to settle commodity derivatives transactions (collectively, “physical commodity trading”) as an activity complementary to BAC’s financial activity of engaging as principal in commodity derivatives transactions.<sup>2</sup> BAC’s approval was subject to certain conditions and commitments of a type the Board previously has imposed in connection with notices by other FHCs to engage in physical commodity trading. These included BAC’s commitment to trade only in commodities (i) for which derivative contracts have been authorized for trading on a U.S. futures exchange by the Commodity Futures Trading Commission (“CFTC”) (unless specifically excluded by the Board), or (ii) that have been specifically authorized by the Board (collectively, “permissible commodities”).<sup>3</sup>

Electricity is a permissible commodity because the CFTC has authorized trading in futures and options on futures contracts on electricity. The 2007 Approval for BAC to engage in physical commodity trading permits the firm to take a position in a permissible commodity, including electricity, and generally does not limit the duration of, or counterparties to, its contracts concerning a permissible commodity. Most permissible

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<sup>1</sup> 12 U.S.C. § 1843; 12 CFR 225.89.

<sup>2</sup> See Letter to Gregory A. Baer, Esq., Deputy General Counsel, Bank of America Corporation (April 24, 2007) (“2007 Approval”).

<sup>3</sup> See *id.*

commodities in which an FHC may trade under the physical commodity trading authority are, however, limited to the wholesale market. Electricity, by contrast, has a greater potential to be sold not only to wholesale end users but also to retail customers who are unlikely to be participants in the market for energy-related derivatives products.

Consistent with prior approvals, in order for trading in electricity to be complementary to the financial activity of engaging as principal in permissible commodity derivatives activities, an FHC may enter into long-term electricity supply contracts only with large industrial and commercial customers (including municipal customers) that consume electricity at a rate of at least (i) 800 megawatt-hours per year or (ii) the minimum consumption level for commercial and industrial customers under applicable state law, whichever is greater. This condition to contract only with customers that consume energy at such levels helps to ensure that the transactions are with financially sophisticated purchasers (and not with retail purchasers) and, thus, that the activity complements the FHC's energy-related derivatives activities. BAC has committed that its proposed activities will comply with this condition.

In view of the commitment made by BAC and the facts and representations described above, Board staff believes that entering into long-term electricity supply contracts as described above is permitted under BAC's existing physical commodity trading authority.

This opinion is limited solely to the permissibility of the above-described long-term electricity supply contracts under FHC physical commodity trading authority. Any material change in the facts and representations described above could result in a different conclusion and should be reported immediately to staff of the Federal Reserve Bank of Richmond.

If you have any questions regarding this matter, please contact Laura Bain at (202) 805-4347 or Lucy Chang at (202) 475-6331.

Sincerely,



Mark Van Der Weide  
General Counsel

cc: Federal Reserve Bank of Richmond