UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549-4561

DIVISION OF
CORPORATION FINANCE

February 29, 2012

Andrew A. Gerber
K&L Gates LLP
andrew.gerber@klgates.com

Re: Bank of America Corporation
Incoming letter dated January 6, 2012

Dear Mr. Gerber:

This is in response to your letters dated January 6, 2012, February 2, 2012, and February 10, 2012 concerning the shareholder proposal submitted to Bank of America by Trillium Asset Management Corporation on behalf of Stephen M. Schewel. We also have received letters on behalf of the proponent dated January 29, 2012 and February 8, 2012. Copies of all of the correspondence on which this response is based will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Ted Yu
Senior Special Counsel

Enclosure

cc: Jonas Kron
Trillium Asset Management, LLC
jkron@trilliuminvest.com

February 29, 2012

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Bank of America Corporation
Incoming letter dated January 6, 2012

The proposal requests that the board adopt a policy prohibiting the use of corporate funds for any political election or campaign.

We are unable to concur in your view that Bank of America may exclude the proposal under rules 14a-8(b) and 14a-8(f). In this regard, we note that the proof of ownership statement was provided by a broker that provides proof of ownership statements on behalf of its affiliated DTC participant. Accordingly, we do not believe that Bank of America may omit the proposal from its proxy materials in reliance on rules 14a-8(b) and 14a-8(f).

We are unable to concur in your view that Bank of America may exclude the proposal under rule 14a-8(i)(7). In our view, the proposal focuses primarily on Bank of America's general political activities and does not seek to micromanage the company to such a degree that exclusion of the proposal would be appropriate. Accordingly, we do not believe that Bank of America may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(7).

Sincerely,

Brandon Hill
Attorney-Adviser

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.

TRILLIUM ASSET MANAGEMENT*
Investing for a Better World® Since 1982

Trillium Asset Management, LLC
www.trilliuminvest.com

January 29, 2012

VIA e-mail: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Bank of America Corporation January 6, 2012 Request to Exclude Shareholder Proposal of Steven M. Schewel, filed on their behalf by Trillium Asset Management, LLC

Dear Sir/Madam:

This letter is submitted on behalf of Steven M. Schewel by Trillium Asset Management, LLC, as his designated representative in this matter (hereinafter referred to as "Proponent"), who is beneficial owners of shares of common stock of Bank of America Corporation (hereinafter referred to as "Company"), and who have submitted a shareholder proposal (hereinafter referred to as "the Proposal") to the Company, to respond to the letter dated January 6, 2012 sent to the Office of Chief Counsel by the Company, in which it contends that the Proposal may be excluded from the Company's 2012 proxy statement under Rules 14a-8(b), (f) and (i)(7).

I have reviewed the Proposal and the Company's letter, and based upon the foregoing, as well as upon a review of Rule 14a-8, it is my opinion that the Proposal must be included in the Company's 2012 proxy statement because (1) the proof of ownership provided by the Proponent satisfies the eligibility requirements of Rules 14a-8(b) and (2) the subject matter of the Proposal transcends the ordinary business of the Company by focusing on a significant social policy issue confronting the Company. Therefore, we respectfully request that the Staff not issue the no-action letter sought by the Company.

Pursuant to Staff Legal Bulletin 14D (November 7, 2008) we are filing our response via e-mail in lieu of paper copies and are providing a copy to the Company's counsel Andrew A. Gerber, Esq. via e-mail at Andrew.gerber@klgates.com.

The Proposal

The Proposal requests "the board of directors adopt a policy prohibiting the use of corporate funds for any political election or campaign."

The Proponent's Proof of Ownership Satisfies the Requirements of Rule 14a-8

The Company first argues that the TD Ameritrade proof of ownership letter does not provide direct indication that the Proponent is the actual owner of the account which holds Company shares. We believe, however, that it is clear to anyone reading the letter that account ending 8451 belongs to the Proponent. The Company has made note of another letter from TD Ameritrade that makes reference to "your" and "you" as evidence that the use of those pronouns associates the account with the recipient of the letter. If that is indeed the standard, the TD Ameritrade letter to the Proponent meets the standard without a doubt. The letter, which is addressed to the Proponent, states "Because this information may differ from *your* TD Ameritrade monthly statement, *you* should rely only on the TD Ameritrade monthly statement as the official record of *your* TD Ameritrade account." (emphasis added) That is, the information in this letter to the Proponent about his account 8451 may be different that his monthly statement. Clearly, the letter contemplates that the Proponent's account is the reference account which the letter addresses, account ending 8451, and the letter is addressed to the Proponent as the holder of that account. Consequently, we urge the Staff to reject this argument from the Company.

With respect to the Company's second argument, that TD Ameritrade, Inc. is not the same as DTC member TD Ameritrade Clearing, Inc. we contend that this distinction unreasonably elevates form over substance. As described in TD Ameritrade Holding Corporation's ("TD Holding") November 2011 10-K at page 7 (http://www.amtd.com/investors/secfiling.cfm?filingID=950123-11-99534&CIK=1173431), TD Holding has two subsidiaries that work hand-in-glove to provide complete client services: TD Ameritrade, Inc., is described as "our introducing broker-dealer subsidiary" ("TD Broker") and TD Ameritrade Clearing, Inc. ("TD Clearing") "provides clearing and execution services to TD Ameritrade, Inc." – i.e. TD Broker. Clearly the two entities work side by side and for the purposes of documenting ownership they operate essentially as a single entity. TD Clearing exists to serve TD Broker and undoubtedly relies entirely on TD Broker for the information upon which it conducts its functions. For the purposes of documenting ownership there is no meaningful distinction under Rule 14a-8 – TD Clearing and TD Broker are functionally the same entity. Finally there is no policy goal to be achieved in making such a distinction given that TD Broker and TD Clearing operate within the same corporate entity. To do so would create significant concern about the impact and application of the rule, particularly for the investing public that may lack experience in these matters As such, we request the Staff not concur with the Company on this point.

As for the Company's third argument that there may have been a break in ownership on April 21, 2011, we respectfully contend the argument is preposterous. As demonstrated above, both letters provide proof of ownership from December 3, 2009 through the filing of the proposal on December 1, 2011. Yes, there was a change in custody on April 21, 2011, but there is no reason to conclude that ownership was broken on that day. Changing brokers occurs everyday and to require a higher level of proof or additional documentation when this common event has happened in order to overcome unsupported speculation that there "may have been a break in ownership" would create an onerous and unreasonable burden on shareholders seeking to exercise their rights.

In sum, the Company has created unwarranted uncertainty and doubt in a letter from a large and well-respected brokerage that has absolutely no reason to help perpetuate an unsubstantiated alleged fraud. In fact, TD Ameritrade has every reason to provide accurate and reliable information on investor holdings. As demonstrated above, the letters clearly indicate that the Proponent's account is the account ending in 8451 and that account held the Company shares since April 21, 2011. Finally, the letter was from a sister subsidiary of TD Clearing and, without a doubt, accurately reflects the Proponents ownership of the shares.

The Proposal Focuses on a Significant Policy Issue – Political Spending – and is Therefore Appropriate for Investor Consideration

The Company argues that the Proposal should be excluded because it addresses both the Company's political activities and the Company's risk and reputation management. The Company reasons that because the Company's risk and reputation management is an ordinary business concern of the Company that it taints the Proposal such that it must be excluded.

To begin, the Company has mischaracterized the Proposal by conflating the supporting whereas clauses with the resolved clause. While the Proposal clearly raises the risk and reputation issues that political spending raises in order to put forth a persuasive argument in support of the proposal, the Proposal is *not* asking the Company to adjust its risk or reputation management systems. In fact, the structure of the Proposal avoids any interference in the Company's risk or reputation management system by suggesting that the Company simply remove a potentially risky practice with reputational implications.

But beyond this misrepresentation of the text of the Proposal, the Company's argument fails to properly read Staff Legal Bulletin 14E (October 27, 2009) (SLB 14E). In SLB 14E the Staff point out that:

> Indeed, as most corporate decisions involve some evaluation of risk, the evaluation of risk should not be viewed as an end in itself, but rather, as a means to an end. In addition, we have become increasingly cognizant that the adequacy of risk management and oversight can have major consequences for a company and its shareholders.

The Staff goes on to state that:

> similar to the way in which we analyze proposals asking for the preparation of a report, the formation of a committee or the inclusion of disclosure in a Commission-prescribed document — where we look to the underlying subject matter of the report, committee or disclosure to determine whether the proposal relates to ordinary business — we will consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company.

SLB 14E even concludes by recognizing that:

> there is widespread recognition that the board's role in the oversight of a company's management of risk is a significant policy matter regarding the governance of the corporation. In light of this recognition, a proposal that focuses on the board's role in the oversight of a company's management of risk may transcend the day-to-day business matters of a company and raise policy issues so significant that it would be appropriate for a shareholder vote.

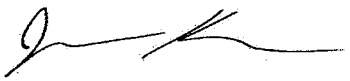
If anything the Company has taken the analysis and principles articulated in SLB 14E and turned them on their head. There is no argument from the Company that the subject matter of the Proposal – political spending – is not a significant policy issue. Nor does the Company claim that the form of the Proposal's request – a policy prohibiting political spending – constitutes micro-management. Rather it claims that the risk and reputation arguments made in support of the resolved clause somehow infect the Proposal such that it is excludable. SLB 14E made it abundantly clear that this kind of reasoning is not applicable to Rule 14a-8(i)(7) and we urge the Staff to dismiss this argument.

Conclusion

In conclusion, we respectfully request the Staff to inform the Company that Rule 14a-8 requires a denial of the Company's no-action request. As demonstrated above, the Proposal is not excludable under Rule 14a-8. The Proposal raise a significant social policy issue facing the Company. In addition, the Proponent's proof of ownership satisfies the Rule's eligibility requirements. In the event that the Staff should decide to concur with the Company and issue a no-action letter, we respectfully request the opportunity to speak with the Staff in advance.

Please contact me at (503) 592-0864 or jkron@trilliuminvest.com with any questions in connection with this matter, or if the Staff wishes any further information.

Sincerely,



Jonas Kron

cc: Andrew A. Gerber, Esq. (Andrew.gerber@klgates.com)
K&L Gates LLP

K&L|GATES

K&L Gates LLP
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February 2, 2012

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andrew.gerber@klgates.com

VIA E-MAIL
Securities and Exchange Commission
Office of Chief Counsel
Division of Corporation Finance
100 F Street, N.E.
Washington, DC 20549

Re: Stockholder Proposal Submitted by Stephen M. Schewel

Ladies and Gentlemen:

By letter dated January 6, 2012 (the "Initial Letter"), on behalf of Bank of America Corporation (the "Corporation"), we requested confirmation that the staff of the Division of Corporation Finance (the "Division") would not recommend enforcement action if the Corporation omitted a proposal (the "Proposal") submitted by Trillium Asset Management Corp. ("Trillium") on behalf of its client Stephen M. Schewel (the "Proponent") from its proxy materials for the Corporation's 2012 Annual Meeting of Stockholders (the "2012 Annual Meeting") for the reasons set forth therein. In response to the Initial Letter, the Proponent submitted a letter (the "Trillium Letter") dated January 29, 2012 to the Division indicating its view that the Proposal may not be omitted from the proxy materials for the 2012 Annual Meeting. The Trillium Letter is attached hereto as **Exhibit A**.

As counsel to the Corporation, we hereby supplement the Initial Letter and request confirmation that the Division will not recommend enforcement action if the Corporation omits the Proposal from its proxy materials for the 2012 Annual Meeting. This letter is intended to supplement, but does not replace, the Initial Letter. While we believe the arguments set forth in the Initial Letter meet the necessary burden of proof to support the exclusion of the Proposal as provided therein, the Corporation would like to address the matters raised in the Trillium Letter. A copy of this letter is also being sent to Trillium, as the Proponent's representative.

DISCUSSION

It is unclear that the Proponent is the actual owner of the shares attested by the TD Letter.

Trillium repeatedly asserts that the TD Ameritrade account ending in 8451 ("Account 8451") belongs to the Proponent yet fails to provide clear evidence that this is indeed the case. Assertions alone are insufficient to establish the Proponent's ownership of the shares in question. While the letter dated December 9, 2011 from TD Ameritrade (the "TD Letter") states, "[p]ursaunt to your request," indicating that the Proponent (as the letter's addressee) made a request, there is no express reference to the Proponent being the beneficial or other owner of Account 8451 as is found in other letters issued by TD Ameritrade, such as that attached as Exhibit D to the Initial Letter. As discussed in the Initial Letter, the TD Letter has a generic Re: line ("Re: TD Ameritrade account ending in 8451") and salutation ("To Whom It May Concern") and never references the account as the Proponent's but ambiguously refers to it as "account ending in 8451." The Proponent's sole argument that the TD Letter establishes the Proponent's ownership rests on the generic use of the pronouns "you" and "your" found in boilerplate, postscript language written in small font –

> This information is furnished as part of a general information service and TD Ameritrade shall not be liable for any damages arising out of any inaccuracy in the information. Because this information may differ from your TD Ameritrade monthly statement, you should rely only on the TD Ameritrade monthly statement as the official record of your TD Ameritrade account.

Such boilerplate language, which is found in other TD Ameritrade letters (see Exhibit D to the Initial Letter), fails to provide the ownership connection required between the Proponent and Account 8451 under Rule 14a-8(b).

TD Ameritrade is not a DTC participant and, therefore, does not qualify as a record holder.

Trillium argues that because TD Ameritrade, Inc.'s sister entity, TD Ameritrade Clearing, Inc., is a DTC participant, the Corporation is elevating "form over substance" in failing to view TD Ameritrade, Inc. as a valid record holder. Trillium quotes TD Ameritrade Holding Corporation's 2011 Form 10-K as evidence that TD Ameritrade, Inc. and TD Ameritrade Clearing, Inc. are "essentially a single entity." The facts remain, however, that TD Ameritrade Clearing, Inc. is not mentioned in the TD Letter and that TD Ameritrade, Inc. is not listed as a DTC participant in DTC's official list referenced by the Division in *Staff Legal Bulletin No. 14(F)* (October 18, 2011) ("*SLB 14F*"). Trillium argues that viewing the two TD entities separately would be a great hardship on "the investing public that may lack experience in these matters" but fails to acknowledge that the DTC participant requirement,

including the website where DTC participants may easily be confirmed, was delivered and thoroughly explained to it in a letter dated December 6, 2011 from the Corporation (the "Defect Letter"). More importantly, the Division's guidance set forth in Section B.3 of *SLB 14F* is clear - for Rule 14a-8(b)(2)(i) purposes, DTC participants alone should be viewed as record holders. The TD Letter is not from a DTC participant and otherwise fails to identify a record holder. It is therefore deficient. Further, the Proponent failed to timely cure such defect following receipt of the Defect Letter.

There is not sufficient evidence of continuous ownership of shares.

Trillium states that requiring "proof or additional documentation" of continuous ownership when shares are moved among brokers "would create an onerous and unreasonable burden on shareholders." The Corporation believes that such proof is required under Rule 14a-8. Notwithstanding this fact, proof of continuous ownership is not an "onerous and unreasonable burden" as Trillium suggests but is a requirement that can be satisfied by providing a broker's letter that explains account movement and timing. The Corporation should not be required, as Trillium seeks, to make assumptions regarding movements of shares and whether there has been a break in ownership. Rule 14a-8 requires specific documentary evidence of continuous ownership from the record holder(s), not merely representations from the Proponent or his representative.

Conclusion.

Trillium would have one believe that the Corporation has created "unwarranted uncertainty and doubt" regarding the validity of the TD Letter. The Corporation is simply following the well established rules of the Securities Exchange Act of 1934, as amended, and Division guidance. Through the Defect Letter, the Corporation clearly outlined the defects in the Proponent's submission. The Proponent failed to timely cure such defects. Under Rule 14a-8, the Proponent has 14 days to cure its ownership defects with the required documentary evidence. It has now been almost two months and the Proponent's ownership status continues to remain uncertain and in doubt because neither the Proponent nor his representative, Trillium, have complied with the requirements set forth under Rule 14a-8 and described in detail in the Defect Letter.

****

On the basis of the foregoing and on behalf of the Corporation, we respectfully request the concurrence of the Division that the Proposal may be excluded from the Corporation's proxy materials for the 2012 Annual Meeting. Based on the Corporation's timetable for the 2012

Annual Meeting, a response from the Division by February 3, 2012 would be of great assistance.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at 704-331-7416 or, in my absence, Craig T. Beazer, Deputy General Counsel of the Corporation, at 646-855-0892. Thank you for your prompt attention to this matter.

Very truly yours,

/s/ Andrew A. Gerber

Andrew A. Gerber

cc: Shelley Alpern, Trillium Asset Management
Jonas Kron, Trillium Asset Management
Craig T. Beazer

K&L|GATES

EXHIBIT A

See attached

TRILLIUM ASSET MANAGEMENT
Investing for a Better World® Since 1982

Trillium Asset Management, LLC
www.trilliuminvest.com

January 29, 2012

VIA e-mail: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Bank of America Corporation January 6, 2012 Request to Exclude Shareholder Proposal of Steven M. Schewel, filed on their behalf by Trillium Asset Management, LLC

Dear Sir/Madam:

This letter is submitted on behalf of Steven M. Schewel by Trillium Asset Management, LLC, as his designated representative in this matter (hereinafter referred to as "Proponent"), who is beneficial owners of shares of common stock of Bank of America Corporation (hereinafter referred to as "Company"), and who have submitted a shareholder proposal (hereinafter referred to as "the Proposal") to the Company, to respond to the letter dated January 6, 2012 sent to the Office of Chief Counsel by the Company, in which it contends that the Proposal may be excluded from the Company's 2012 proxy statement under Rules 14a-8(b), (f) and (i)(7).

I have reviewed the Proposal and the Company's letter, and based upon the foregoing, as well as upon a review of Rule 14a-8, it is my opinion that the Proposal must be included in the Company's 2012 proxy statement because (1) the proof of ownership provided by the Proponent satisfies the eligibility requirements of Rules 14a-8(b) and (2) the subject matter of the Proposal transcends the ordinary business of the Company by focusing on a significant social policy issue confronting the Company. Therefore, we respectfully request that the Staff not issue the no-action letter sought by the Company.

Pursuant to Staff Legal Bulletin 14D (November 7, 2008) we are filing our response via e-mail in lieu of paper copies and are providing a copy to the Company's counsel Andrew A. Gerber, Esq. via e-mail at Andrew.gerber@klgates.com.

The Proposal

The Proposal requests "the board of directors adopt a policy prohibiting the use of corporate funds for any political election or campaign."

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The Company first argues that the TD Ameritrade proof of ownership letter does not provide direct indication that the Proponent is the actual owner of the account which holds Company shares. We believe, however, that it is clear to anyone reading the letter that account ending 8451 belongs to the Proponent. The Company has made note of another letter from TD Ameritrade that makes reference to "your" and "you" as evidence that the use of those pronouns associates the account with the recipient of the letter. If that is indeed the standard, the TD Ameritrade letter to the Proponent meets the standard without a doubt. The letter, which is addressed to the Proponent, states "Because this information may differ from *your* TD Ameritrade monthly statement, *you* should rely only on the TD Ameritrade monthly statement as the official record of *your* TD Ameritrade account." (emphasis added) That is, the information in this letter to the Proponent about his account 8451 may be different that his monthly statement. Clearly, the letter contemplates that the Proponent's account is the reference account which the letter addresses, account ending 8451, and the letter is addressed to the Proponent as the holder of that account. Consequently, we urge the Staff to reject this argument from the Company.

With respect to the Company's second argument, that TD Ameritrade, Inc. is not the same as DTC member TD Ameritrade Clearing, Inc. we contend that this distinction unreasonably elevates form over substance. As described in TD Ameritrade Holding Corporation's ("TD Holding") November 2011 10-K at page 7 (http://www.amtd.com/investors/secfiling.cfm?filingID=950123-11-99534&CIK=1173431), TD Holding has two subsidiaries that work hand-in-glove to provide complete client services: TD Ameritrade, Inc., is described as "our introducing broker-dealer subsidiary" ("TD Broker") and TD Ameritrade Clearing, Inc. ("TD Clearing") "provides clearing and execution services to TD Ameritrade, Inc." – i.e. TD Broker. Clearly the two entities work side by side and for the purposes of documenting ownership they operate essentially as a single entity. TD Clearing exists to serve TD Broker and undoubtedly relies entirely on TD Broker for the information upon which it conducts its functions. For the purposes of documenting ownership there is no meaningful distinction under Rule 14a-8 – TD Clearing and TD Broker are functionally the same entity. Finally there is no policy goal to be achieved in making such a distinction given that TD Broker and TD Clearing operate within the same corporate entity. To do so would create significant concern about the impact and application of the rule, particularly for the investing public that may lack experience in these matters As such, we request the Staff not concur with the Company on this point.

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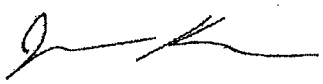
Conclusion

In conclusion, we respectfully request the Staff to inform the Company that Rule 14a-8 requires a denial of the Company's no-action request. As demonstrated above, the Proposal is not excludable under Rule 14a-8. The Proposal raise a significant social policy issue facing the Company. In addition, the Proponent's proof of ownership satisfies the Rule's eligibility requirements. In the event that the Staff should decide to concur with the Company and issue a no-action letter, we respectfully request the opportunity to speak with the Staff in advance.

Please contact me at (503) 592-0864 or jkron@trilliuminvest.com with any questions in connection with this matter, or if the Staff wishes any further information.

Sincerely,



Jonas Kron

cc: Andrew A. Gerber, Esq. (Andrew.gerber@klgates.com)
K&L Gates LLP

TRILLIUM ASSET MANAGEMENT*
Investing for a Better World® Since 1982

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February 8, 2012

VIA e-mail: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

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Pursuant to Staff Legal Bulletin 14D (November 7, 2008) we are filing our response via e-mail in lieu of paper copies and are providing a copy to the Company's counsel Andrew A. Gerber, Esq. via email at Andrew.gerber@klgates.com and Janet Lowder via email at janet.lowder@klgates.com.

In order to put to rest any doubts as to Mr. Schewel's beneficial ownership of the Company's shares, while not conceding to the Company's arguments, we are providing the Staff and the Company with two new letters (attached) re-confirming that Mr. Schewel is the account holder of TD Ameritrade account ending in 8451. These letters are from TD Ameritrade, Inc (the introducing broker-dealer subsidiary) and DTC member TD Ameritrade Clearing, Inc.

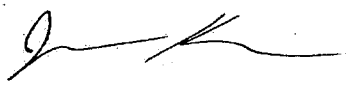
While we are providing these additional proof of ownership letters out of an abundance of caution, we maintain that the original letter dated December 9, 2011 meets the requirements of the rule. In support of this position, we are also providing an email from TD Ameritrade (attached) explaining that "TD Ameritrade Inc. is the introducing broker and TD Ameritrade Clearing, Inc , is used as the clearing broker. While the two are separate portions within TD Ameritrade Holding corp., TD Ameritrade Inc. provides all written correspondence on behalf of TD Ameritrade Clearing."

Conclusion

In conclusion, we respectfully request the Staff to inform the Company that Rule 14a-8 requires a denial of the Company's no-action request. As demonstrated above and in our January 29, 2012 letter that we incorporate herein, the Proposal is not excludable under Rule 14a-8. The Proposal raises a significant social policy issue facing the Company. In addition, the Proponent's proof of ownership satisfies the Rule's eligibility requirements. In the event that the Staff should decide to concur with the Company and issue a no-action letter, we respectfully request the opportunity to speak with the Staff in advance.

Please contact me at (503) 592-0864 or jkron@trilliuminvest.com with any questions in connection with this matter, or if the Staff wishes any further information.

Sincerely,



Jonas Kron

cc: Andrew A. Gerber, Esq. (Andrew.gerber@klgates.com)
K&L Gates LLP

enclosures

TD Ameritrade

February 3, 2012

Stephen M. Schewel

*** FISMA & OMB Memorandum M-07-16 ***

Re: TD Ameritrade account ending in *** FISMA & OMB Memorandum M-07-16 ***

Dear Stephen Schewel

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that Mr. Stephen Schewel's account ending in *** FISMA & OMB Memorandum M-07-16 *** continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011.

If you have any further questions, please contact 800-669-3900 to speak with a TD Ameritrade Client Services representative, or e-mail us at clientservices@tdameritrade.com. We are available 24 hours a day, seven days a week.

Sincerely,

Kathy Hagen

Kathy Hagen
Resource Specialist
TD Ameritrade

TD Ameritrade

February 3, 2012

Stephen M. Schewel

*** FISMA & OMB Memorandum M-07-16 ***

Re: TD Ameritrade account ending in *** FISMA & OMB Memorandum M-07-16 ***

Dear Stephen Schewel

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that Mr. Stephen Schewel's account ending in *** FISMA & OMB Memorandum M-07-16 *** continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011 with TD Ameritrade Clearing, Inc., DTC # 0188.

If you have any further questions, please contact 800-669-3900 to speak with a TD Ameritrade Client Services representative, or e-mail us at clientservices@tdameritrade.com. We are available 24 hours a day, seven days a week.

Sincerely,

Kathy Hagen

Kathy Hagen
Resource Specialist
TD Ameritrade

From: TD Ameritrade Client Services <clientservices@tdameritrade.com>
Subject: TD Ameritrade Clearing (KMM73538582V19765L0KM)
Date: February 8, 2012 9:04:57 AM PST
To: Tauby Warriner <TWarriner@trilliuminvest.com>, Jonas Kron <JKron@trilliuminvest.com>

Dear Mr. Kron,

Hello, per our conversation earlier today this letter is being sent to further clarify TD Ameritrade and TD Ameritrade Clearing. TD Ameritrade Inc. is the introducing broker and TD Ameritrade Clearing, Inc , is used as the clearing broker. While the two are separate portions within TD Ameritrade Holding corp., TD Ameritrade Inc. provides all written correspondence on behalf of TD Ameritrade Clearing.

If you have any other questions, you may reply to this message or contact Client Services at 800-669-3900. We are available 24 hours a day, seven days a week. For faster service, please enter your account number or UserID when prompted, so that we can direct your call to a representative best suited to service your request.

Katherine Hagen
Senior Resource Specialist
TD Ameritrade
Division of TD Ameritrade, Inc.

K&L|GATES

K&L Gates LLP
Hearst Tower, 47th Floor
214 North Tryon Street
Charlotte, NC 28202

T 704.331.7400 www.klgates.com

February 10, 2012

Andrew A. Gerber
D 704.331.7416
F 704.353.3116
andrew.gerber@klgates.com

VIA E-MAIL
Securities and Exchange Commission
Office of Chief Counsel
Division of Corporation Finance
100 F Street, N.E.
Washington, DC 20549

Re: Stockholder Proposal Submitted by Stephen M. Schewel

Ladies and Gentlemen:

By letters dated January 6, 2012 and February 2, 2012 (together, the "Initial Letters"), on behalf of Bank of America Corporation (the "Corporation"), we requested confirmation that the staff of the Division of Corporation Finance (the "Division") would not recommend enforcement action if the Corporation omitted a proposal (the "Proposal") submitted by Trillium Asset Management Corp. ("Trillium") on behalf of its client Stephen M. Schewel (the "Proponent") from its proxy materials for the Corporation's 2012 Annual Meeting of Stockholders (the "2012 Annual Meeting") for the reasons set forth therein. In response to the Initial Letters, the Proponent submitted a letter dated January 29, 2012 and a second letter dated February 8, 2012 (the "Second Trillium Letter") to the Division indicating its view that the Proposal may not be omitted from the proxy materials for the 2012 Annual Meeting. The Second Trillium Letter is attached hereto as **Exhibit A**.

As counsel to the Corporation, we hereby supplement the Initial Letters and request confirmation that the Division will not recommend enforcement action if the Corporation omits the Proposal from its proxy materials for the 2012 Annual Meeting. This letter is intended to supplement, but does not replace, the Initial Letters. While we believe the arguments set forth in the Initial Letters meet the necessary burden of proof to support the exclusion of the Proposal as provided therein, the Corporation would like to address the matters raised in the Trillium Letter. A copy of this letter is also being sent to Trillium, as the Proponent's representative.

DISCUSSION

Rule 14a-8 defects must be cured within 14 days; the Proponent failed to meet this bright line requirement.

It is well established under Rule 14a-8 that the Proponent has 14 days to cure its ownership defects with the required documentary evidence. The requirements under Rule 14a-8 were thoroughly explained to the Proponent in a letter dated December 6, 2011 from the Corporation (the "Defect Letter"). The defects the Proponent has cured have been untimely, and the Proponent has still not cured all defects.

While we agree that the evidence provided in the Second Trillium Letter appears to establish that (i) the Proponent is the actual owner of the account that holds the shares attested to by the record holder and (ii) the record holder of the shares is a qualified DTC participant (namely TD Ameritrade Clearing, Inc.), this evidence was not timely provided under Rule 14a-8(f). The Division has consistently applied a strict interpretation to the procedural and timeliness requirements of Rule 14a-8(b) and Rule 14a-8(f)(1). *See e.g. .Nabors Industries Ltd.* (March 8, 2005) and *Time Warner Inc.* (January 21, 2005). In the instant case, the Proponent is untimely in curing this defect as the evidence was provided almost two months after the deadline.

The Proponent has not provided sufficient evidence of continuous ownership of shares.

The Second Trillium Letter fails to address or resolve the "continuous ownership" issue raised in the Initial Letters. As discussed in the Initial Letters, the Corporation continues to believe that the Proponent has not clearly proven that he has continuously held the Corporation's common stock for one year prior to the submission of his Proposal. Specifically, there may have been a break in ownership on April 21, 2011. Based on all the evidence provided by the record holders, no evidence has been provided to rule out a break in continuous ownership on April 21, 2011. The Corporation should not be required, as Trillium seeks, to make assumptions regarding transfers of shares and whether there has been a break in ownership. Rule 14a-8 requires specific documentary evidence of continuous ownership from the record holder(s), not representations from the Proponent or his representative.

****

On the basis of the foregoing and on behalf of the Corporation, we respectfully request the concurrence of the Division that the Proposal may be excluded from the Corporation's proxy materials for the 2012 Annual Meeting. Based on the Corporation's timetable for the 2012 Annual Meeting, a prompt response from the Division would be greatly appreciated.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at 704-331-7416 or, in my absence, Craig T. Beazer, Deputy General Counsel of the Corporation, at 646-855-0892. Thank you for your prompt attention to this matter.

Very truly yours,

/s/ Andrew A. Gerber

Andrew A. Gerber

cc: Shelley Alpern, Trillium Asset Management
Jonas Kron, Trillium Asset Management
Craig T. Beazer

EXHIBIT A

See attached

TRILLIUM ASSET MANAGEMENT*
Investing for a Better World® Since 1982

Trillium Asset Management, LLC
www.trilliuminvest.com

February 8, 2012

VIA e-mail: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Bank of America Corporation January 6, 2012 Request to Exclude Shareholder Proposal of Steven M. Schewel, filed on their behalf by Trillium Asset Management, LLC

Dear Sir/Madam:

This letter is submitted on behalf of Steven M. Schewel by Trillium Asset Management, LLC, as his designated representative in this matter (hereinafter referred to as "Proponent"), who is beneficial owners of shares of common stock of Bank of America Corporation (hereinafter referred to as "Company"), and who have submitted a shareholder proposal (hereinafter referred to as "the Proposal") to the Company, to respond to the letter dated February 2, 2012 sent to the Office of Chief Counsel by the Company, in which it contends that the Proposal may be excluded from the Company's 2012 proxy statement under Rules 14a-8(b), (f) and (i)(7).

Pursuant to Staff Legal Bulletin 14D (November 7, 2008) we are filing our response via e-mail in lieu of paper copies and are providing a copy to the Company's counsel Andrew A. Gerber, Esq. via email at Andrew.gerber@klgates.com and Janet Lowder via email at janet.lowder@klgates.com.

In order to put to rest any doubts as to Mr. Schewel's beneficial ownership of the Company's shares, while not conceding to the Company's arguments, we are providing the Staff and the Company with two new letters (attached) re-confirming that Mr. Schewel is the account holder of TD Ameritrade account ending in 8451. These letters are from TD Ameritrade, Inc (the introducing broker-dealer subsidiary) and DTC member TD Ameritrade Clearing, Inc.

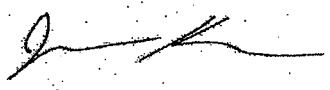
While we are providing these additional proof of ownership letters out of an abundance of caution, we maintain that the original letter dated December 9, 2011 meets the requirements of the rule. In support of this position, we are also providing an email from TD Ameritrade (attached) explaining that "TD Ameritrade Inc. is the introducing broker and TD Ameritrade Clearing, Inc , is used as the clearing broker. While the two are separate portions within TD Ameritrade Holding corp., TD Ameritrade Inc. provides all written correspondence on behalf of TD Ameritrade Clearing."

Conclusion

In conclusion, we respectfully request the Staff to inform the Company that Rule 14a-8 requires a denial of the Company's no-action request. As demonstrated above and in our January 29, 2012 letter that we incorporate herein, the Proposal is not excludable under Rule 14a-8. The Proposal raises a significant social policy issue facing the Company. In addition, the Proponent's proof of ownership satisfies the Rule's eligibility requirements. In the event that the Staff should decide to concur with the Company and issue a no-action letter, we respectfully request the opportunity to speak with the Staff in advance.

Please contact me at (503) 592-0864 or jkron@trilliuminvest.com with any questions in connection with this matter, or if the Staff wishes any further information.

Sincerely,



Jonas Kron

cc: Andrew A. Gerber, Esq. (Andrew.gerber@klgates.com)
K&L Gates LLP

enclosures

TD Ameritrade

February 3, 2012

Stephen M. Schewel

*** FISMA & OMB Memorandum M-07-16 ***

Re: TD Ameritrade account ending in *** FISMA & OMB Memorandum M-07-16 ***

Dear Stephen Schewel

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that Mr. Stephen Schewel's account ending in *** FISMA & OMB Memorandum M-07-16 *** continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011.

If you have any further questions, please contact 800-669-3900 to speak with a TD Ameritrade Client Services representative, or e-mail us at clientservices@tdameritrade.com. We are available 24 hours a day, seven days a week.

Sincerely,

Kathy Hagen

Kathy Hagen
Resource Specialist
TD Ameritrade

TD Ameritrade

February 3, 2012

Stephen M. Schewel

*** FISMA & OMB Memorandum M-07-16 ***

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Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that Mr. Stephen Schewel's account ending in *** FISMA & OMB Memorandum M-07-16 *** continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011 with TD Ameritrade Clearing, Inc., DTC # 0188.

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Sincerely,

Kathy Hagen

Kathy Hagen
Resource Specialist
TD Ameritrade

From: TD Ameritrade Client Services <clientservices@tdameritrade.com>
Subject: TD Ameritrade Clearing (KMM73538582V19765L0KM)
Date: February 8, 2012 9:04:57 AM PST
To: Tauby Warriner <TWarriner@trilliuminvest.com>, Jonas Kron <JKron@trilliuminvest.com>

Dear Mr. Kron,

Hello, per our conversation earlier today this letter is being sent to further clarify TD Ameritrade and TD Ameritrade Clearing. TD Ameritrade Inc. is the introducing broker and TD Ameritrade Clearing, Inc , is used as the clearing broker. While the two are separate portions within TD Ameritrade Holding corp., TD Ameritrade Inc. provides all written correspondence on behalf of TD Ameritrade Clearing.

If you have any other questions, you may reply to this message or contact Client Services at 800-669-3900. We are available 24 hours a day, seven days a week. For faster service, please enter your account number or UserID when prompted, so that we can direct your call to a representative best suited to service your request.

Katherine Hagen
Senior Resource Specialist
TD Ameritrade
Division of TD Ameritrade, Inc.

K&L GATES

K&L Gates LLP
Hearst Tower, 47th Floor
214 North Tryon Street
Charlotte, NC 28202

T 704.331.7400 www.klgates.com

January 6, 2012

Andrew A. Gerber
D 704.331.7416
F 704.353.3116
andrew.gerber@klgates.com

VIA E-MAIL
Securities and Exchange Commission
Office of Chief Counsel
Division of Corporation Finance
100 F Street, N.E.
Washington, DC 20549

Re: Stockholder Proposal Submitted by Stephen M. Schewel

Ladies and Gentlemen:

Pursuant to Rule 14a-8 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and as counsel to Bank of America Corporation, a Delaware corporation (the "Corporation"), we request confirmation that the staff of the Division of Corporation Finance (the "Division") will not recommend enforcement action if the Corporation omits from its proxy materials for the Corporation's 2012 Annual Meeting of Stockholders (the "2012 Annual Meeting") the proposal described below for the reasons set forth herein. The statements of fact included herein represent our understanding of such facts.

GENERAL

On December 1, 2011, the Corporation received a proposal and supporting statement dated November 30, 2011 (the "Proposal") from Trillium Asset Management Corp. ("Trillium") on behalf of its client Stephen M. Schewel (the "Proponent") for inclusion in the proxy materials for the 2012 Annual Meeting. The Proposal is attached hereto as **Exhibit A**. The 2012 Annual Meeting is scheduled to be held on or about May 9, 2012. The Corporation intends to file its definitive proxy materials with the Securities and Exchange Commission (the "Commission") on or about March 28, 2012.

Pursuant to Rule 14a-8(j) promulgated under the Exchange Act, enclosed are:

1. An explanation of why the Corporation believes that it may exclude the Proposal; and

2. A copy of the Proposal.

A copy of this letter is also being sent to Trillium, on behalf of the Proponent, as notice of the Corporation's intent to omit the Proposal from the Corporation's proxy materials for the 2012 Annual Meeting.

THE PROPOSAL

"The shareholders request that the board of directors adopt a policy prohibiting the use of corporate funds for any political election or campaign."

REASONS FOR EXCLUSION OF PROPOSAL

The Corporation believes that the Proposal may be properly omitted from the proxy materials for the 2012 Annual Meeting pursuant to Rules 14a-8(f) and (b) and Rule 14a-8(i)(7). The Proposal may be excluded pursuant to Rule 14a-8(f) because the Proponent has failed to satisfy the eligibility requirements set forth under Rule 14a-8(b). The Proposal may also be excluded pursuant to Rule 14a-8(i)(7) because it deals with a matter relating to the ordinary business of the Corporation.

1. **The Proposal may be excluded pursuant to Rule 14a-8(f) because the Proponent has failed to satisfy the eligibility requirements set forth under Rule 14a-8(b).**

Background and Request for Documentary Evidence. On December 1, 2011, the Corporation received the Proposal and supporting statement from the Proponent. The Proposal was submitted by Trillium, on behalf of the Proponent, and indicated that the Proponent "holds more than $2,000 of Bank of America Corporation common stock, acquired more than one year prior to today's date and held continuously for that time." The Corporation's stockholder records did not reflect that the Proponent was a record holder. The cover letter of the Proposal instructed the Corporation to "direct any communications" to Shelley Alpern at Trillium. Accordingly, by letter dated December 6, 2011 (the "Defect Letter"), a copy of which is attached hereto as **Exhibit B**, the Corporation requested the required documentary support of the Proponent's ownership in the Corporation as provided by Rule 14a-8(b). The Defect Letter was sent by overnight delivery to Ms. Alpern at Trillium and was received by Ms. Alpern on December 8, 2011. Evidence of Ms. Alpern's receipt of the Defect Letter is attached hereto as part of **Exhibit B**. The Defect Letter specifically referenced the 14-day deadline and provided a copy of Rule 14a-8 as well as information regarding the Division's recent guidance concerning proof of record ownership under Rule 14a-8.

K&L|GATES

On December 15, 2011, the Corporation received a letter dated December 14, 2011, on behalf of the Proponent, from Ms. Alpern (the "Proponent Response Letter"). The Proponent Response Letter is attached hereto as **Exhibit C**. Among other things, the Proponent Response Letter contained two record holder letters, one from TD Ameritrade, Inc. (the "TD Letter") and one from Charles Schwab & Co. (the "Schwab Letter"). To date, other than the Proponent Response Letter, no other documentary support has been provided by or on behalf of the Proponent.

The TD Letter states "this letter is to confirm that account ending in ***FISMA & OMB Memorandum M-07-16*** continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011." The "Re:" line in the TD Letter states "TD Ameritrade account ending in ***FISMA & OMB Memorandum M-07-16***." The TD Letter, although addressed to the Proponent, does not provide any direct indication that the Proponent is the owner of the account ending in ***FISMA & OMB Memorandum M-07-16***

The Schwab Letter states this "letter is to confirm that Charles Schwab & Co. holds as custodian for the above account 3611 shares of common stock Bank of America. These 3611 shares have been held in this account continuously since April 21, 2011." The "Re:" line in the Schwab Letter states "Stephen Matthew Schewel/Account ***FISMA & OMB Memorandum M-07-16***." Unlike the TD Letter, the Schwab Letter directly links the Proponent to the account that holds the shares.

The Corporation has received no other response to the Defect Letter. Since the deadline for responding to the Defect Letter has passed, any additional response submitted at this point would be untimely.

Discussion and Application of Rules 14a-8(b) and 14a-8(f). Pursuant to Rule 14a-8(b), a proponent must have continuously held at least $ 2,000 in market value of voting securities for at least one year prior to submitting a proposal and must continue to hold these securities through the date of the company's annual meeting. Pursuant to Rule 14a-8(f), a registrant must request documentary support of the proponent's ownership within 14 calendar days of its receipt of a proposal, and the proponent must furnish such support within 14 calendar days of his or her receipt of the registrant's request. The burden of proof with respect to ownership is on the proponent, and the Division has stated that "[i]n the event that the shareholder is not the registered holder, the shareholder is responsible for proving his or her eligibility to submit a proposal to the company." *See Staff Legal Bulletin No. 14* (July 13, 2001).

As noted above, and as set forth in **Exhibit B** hereto, the Defect Letter clearly stated the requirements of Rule 14a-8, including the relevant deadlines, and provided a copy of the relevant parts of Rule 14a-8. The Defect Letter also provided information regarding the

Division's recent guidance concerning proof of record ownership under Rule 14a-8. After examination of the Proponent Response Letter, including the TD Letter and the Schwab Letter, the Corporation does not believe that the Proponent has satisfied the requirements of Rule 14a-8(b). We believe the Proponent Response Letter has several fatal flaws under Rule 14a-8(b): (1) the TD Letter (included with the Proponent Response Letter) does not provide clear evidence that the Proponent is the owner of the shares attested by TD Ameritrade, as record holder, (2) "TD Ameritrade" is not a record holder on the DTC Participant list, and (3) the Proponent Response Letter does not provide evidence that removes the possibility of a break in the continuity of ownership on April 21, 2011.

Ownership of Shares Held by TD Ameritrade, Inc. is Unclear.

As noted above, the TD Letter, although addressed to the Proponent, does not provide any direct indication that the Proponent is the actual owner of the account ending in ***FISMA & OMB Memorandum M-07-16*** Rather than attributing share ownership expressly to the Proponent, the TD Letter merely references in two places that the shares are held in the "account ending in ***FISMA & OMB Memorandum M-07-16***". The Proponent's name, unlike the Schwab Letter, is never expressly associated with the "account ending in ***FISMA & OMB Memorandum M-07-16***". Further, the TD Letter uses curiously vague language on who actually owns the shares by stating "this letter is to confirm that **account ending in ***FISMA & OMB Memorandum M-07-16*** continuously held** 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011." (emphasis added) The TD Letter never states that the Proponent is the beneficial (or other) owner of the shares of the Corporation. Based on the TD Letter, the Proponent has not provided evidence of his beneficial ownership or control over the "account ending in ***FISMA & OMB Memorandum M-07-16***". The Corporation, therefore, is being asked to assume this key requirement under Rule 14a-8(b).

By contrast, attached as **Exhibit D**, is another letter from TD Ameritrade (the "Sample TD Letter") provided on behalf of an unrelated proponent of an unrelated stockholder proposal. The Sample TD Letter, addressed to Mr. Kenneth Steiner, has essentially the same "Re" line as the TD Letter ("TD Ameritrade account ending in ***FISMA & OMB Memorandum M-07-16***"). However, and of critical distinction, the Sample TD Letter states "[p]ursuant to **your request**, this letter is to confirm that **you** have continuously held no less than 500 shares . . . of . . . Bank of America Corporation (BAC) . . . since November 03, 2010." (emphasis added) Finally, unlike the TD Letter, the greeting in the Sample TD Letter is "Dear Kenneth Steiner." *See also*, *AT&T Inc.* (incoming letter dated December 14, 2011 posted on www.sec.gov) (broker letter from TD Ameritrade specifically identifying the proponent as the owner of the shares) and *NYSE Euronext* (incoming letter dated December 13, 2011 posted on www.sec.gov) (similar Sample TD Letter). Further, looking at numerous recent no-action letters, the record holder letters are explicit with respect to who owns the subject shares. *See e.g., General Electric*

Company (incoming letter dated December 13, 2011 posted on www.sec.gov) (broker letter specifically identifying the proponent as the owner of the shares); *Deere & Company* (November 16, 2011) (broker letter used to "confirm that [the proponent] has continuously held 210 shares" and that the "account is registered to [the Proponent]); and *Deere & Company* (November 16, 2011) (broker letter "to verify that [the proponent] has beneficial ownership of a [SIC] least $2,000 in market value"). Unlike a typical broker or record holder letter (including other similar letters from TD Ameritrade), the TD Letter does not provide clear evidence that the Proponent is the beneficial (or other) owner of the shares of the Corporation. Therefore, the Proponent has failed to provide, in a timely manner, evidence of his continuous ownership of the Corporation's common stock, and the Corporation believes that it may omit the Proposal from the proxy materials for its 2012 Annual Meeting pursuant to Rules 14a-8(b) and 14a-8(f)(1).

TD Ameritrade, Inc. is Not on the DTC Participant List.

In Section B.3 of *Staff Legal Bulletin No. 14(F)* (October 18, 2011) ("*SLB 14F*"), the Division took the view that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as record holders. The Division indicated that stockholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/downloads/membership/directories/dtclalpha.pdf. This information was explained and provided to the Proponent as part of the Defect Letter. Specifically, the Defect Letter informed the Proponent of (1) the requirement for a written statement from the record holder of the shares, (2) the requirement that the broker or bank be a DTC participant, (3) how to determine whether a broker or bank is a DTC participant and (4) the requirement, where necessary, that two ownership statements be submitted – one from the stockholder's broker or bank confirming the stockholder's ownership and the other from the DTC participant confirming the broker or bank's ownership.

The TD Letter is signed by Jennifer Gatlin in her capacity as Resource Specialist of TD Ameritrade. The fine print indicates that TD Ameritrade is a trademark and that the TD Letter is from TD Ameritrade, Inc., member FINRA/SIPC/NFA. However, TD Ameritrade, Inc. does not appear on the DTC participant list, and consequently, TD Ameritrade, Inc. is not a DTC participant. In contrast, the Sample TD Letter referred to above specifically states that the shares held by Mr. Steiner are held "in the TD Ameritrade Clearing, Inc., DTC #0188, account . . . ." The fact remains that the required record holder evidence is not contained within the TD Letter.

We note that the DTC participant list contains the names TD Ameritrade Clearing, Inc. and TD Ameritrade Trust Company, but the TD Letter is not from either of these entities. Because the TD Letter is not from a DTC participant, it is not a written statement from the record holder of the Proponent's shares. Therefore, the Corporation believes that it may omit the Proposal from the proxy materials for its 2012 Annual Meeting pursuant to Rules 14a-8(b) and 14a-8(f)(1).

Break In Continuous Ownership on April 21, 2011.

Assuming the Division finds that the Proponent's proof of ownership is not flawed based on the prior two discussions (i.e., the account ownership is unclear and that TD Ameritrade, Inc. is not a DTC participant), the Corporation believes that the Proponent has not clearly proven that he has continuously held the Corporation's common stock for one year prior to the submission of his Proposal. Specifically, we believe that there may have been a break in ownership on April 21, 2011. As noted above, the TD Letter states "this letter is to confirm that account ending in [illegible] Memorandum continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011." The Schwab Letter states this "letter is to confirm that Charles Schwab & Co. holds as custodian for the above account 3611 shares of common stock Bank of America. These 3611 shares have been held in this account continuously since April 21, 2011."

Read together, the TD Letter (assuming that the Proponent is the beneficial owner of the shares in the TD Ameritrade, Inc. account) and the Schwab Letter raise several unanswered questions that cast significant doubt and uncertainly on the Proponent's "continuous ownership" of the Corporation's common stock. These questions include:

- What happened to the Proponent's shares of the Corporation's common stock on April 21, 2011?
- Did the Proponent liquidate his TD Ameritrade, Inc. account on April 21, 2011?
- Did the Proponent establish his account by purchasing new shares at Charles Schwab & Co.?
- Did the Proponent transfer his shares from TD Ameritrade, Inc. to Charles Schwab & Co. on April 21, 2011?
- Are the 3,611 shares held at Charles Schwab & Co. included in the 23,811 shares that were held at TD Ameritrade, Inc.? What happened to the other 20,200 shares?

- If the TD Ameritrade, Inc. account was liquidated, at what time of day did the liquidation occur? Were shares purchased into the Charles Schwab & Co. account prior to the TD Ameritrade, Inc. account being liquidated?

None of these questions are answered by the Proponent Response Letter, including the TD Letter or the Schwab Letter. Consequently, there is simply no way to rule out a break in continuous ownership on April 21, 2011. The Proponent could have liquidated his TD Ameritrade, Inc. account on April 21, 2011 and then several hours later purchased shares of the Corporation for his Charles Schwab & Co. account, causing an impermissible break, however brief, in continuous ownership. Therefore, the Corporation believes that it may omit the Proposal from the proxy materials for its 2012 Annual Meeting pursuant to Rules 14a-8(b) and 14a-8(f)(1).

Division Precedent under Rule 14a-8(b) and (f) Applies a Bright-Line.

The Division has consistently interpreted the procedural requirements under Rule 14a-8(b) and Rule 14a-8(f) in permitting the exclusion of a stockholder proposal based on a proponent's failure to provide satisfactory evidence of eligibility under such rules. In *Eastman Kodak Company* (February 19, 2002) ("*Eastman Kodak*"), a proposal submitted on November 14, 2001 was excludable[1] under Rule 14a-8(f) where a proponent failed to prove his shares were continuously owned. In *Eastman Kodak*, the proponent sent broker letters from Merrill Lynch and Salomon Smith Barney to establish continuous ownership. The proponent noted that his shares were transferred to Salomon Smith Barney on September 28, 2001 and stated "[i]n my Salomon Smith Barney account I now hold 86 shares, 79 of which I have continuously held for at least one year." Although the proponent argued, that the "only reason why there was any confusion was because there was a change in brokers, but there was never any change or gap in ownership of the stock," the Division concurred that the evidence provided by the proponent within the initial 14-day deadline did not satisfy the requirements of Rule 14a-8(b) and (f).

In *USEC Inc.* (July 19, 2002) ("*USEC*"), a proposal submitted on May 15, 2002, was excludable under Rule 14a-8(f) where a proponent failed to prove his shares were continuously owned. The proponent in this instance sent broker letters from Datek Online Financial Services ("Datek") and TD Waterhouse Investor Services, Inc. ("TDW") to establish continuous ownership. The TDW letter verified ownership from August 17, 2001 through June 3, 2002. The Datek letter showed the number of shares bought or sold by the

[1] In this no-action letter, the proponent was given an extra seven calendar days to prove his ownership because the company's request for documentary evidence under Rule 14a-8 was defective.

proponent on six dates and the aggregate number of shares held on each transaction date. Neither the TDW letter nor the Datek letter provided proof of continuous ownership from May 15, 2001 to August 17, 2001. In *USEC*, the company appropriately argued, "Rule 14a-8(b)(2)(i) is designed to avoid the need to speculate as to whether a proponent, who does not hold his shares of record, did or did not hold sufficient shares continuously throughout the applicable period." This is precisely the issue with the Proponent's purported evidence of continuous ownership. *See also, Intel Corporation* (February 3, 2010) (broker letter from TD Ameritrade only established the proponent's holdings of stock on specific dates but was "not able to determine which shares are in [the proponent's] account" and proposal was excludable) and *Motorola, Inc.* (January 10, 2005) (broker's "Statement of Holdings," among other things, did not indicate if the proponent was the registered holder or beneficial owner of shares identified on statement and proposal was excludable).

In *Bank of America Corporation* (January 7, 2011), a broker's letter stated that the 1,551 shares were held "as of both December 31, 2006 and November 29, 2010." However, the broker's letter did not state that the shares had been continuously held or whether the shares were owned on the date the proposal was submitted, November 16, 2010. The Division concurred with the exclusion of the proposal under Rule 14a-8(b) and Rule 14a-8(f). *See also, Bank of America Corporation* (February 24, 2009) (proposal excludable where proponent provided evidence of ownership from December 1, 2008 (the date of the broker's letter) but not for one year prior to November 18, 2008 (the date the proposal was submitted)); *OCA, Inc.* (February 24, 2005) (proposal excludable where proponent submitted a statement of ownership stating he had held shares "continuously since January 8, 2004," rather than showing ownership from January 4, 2004, one year prior to the date of the proposal's submission); *Unocal Corporation* (February 25, 2004) (proposal excludable where proponent submitted a statement of ownership stating she held shares continuously from December 27, 2002 and not from December 9, 2003, the date of the proposal's submission); *AutoNation, Inc.* (March 14, 2002) (proposal excludable where proponent submitted a statement of ownership stating that he had continuously held his shares since December 12, 2000, rather than showing ownership from December 10, 2000, one year prior to the date of the proposal's submission); *Nabors Industries Ltd.* (March 8, 2005) (proposal excludable where proponent's compliance was eight days late); and *Time Warner Inc.* (January 21, 2005) (proposal excludable where proponent's compliance was one day late).

As noted above and expressed consistently through Division precedent, Rules14a-8(b) and (f) are designed to avoid the need to speculate as to whether a proponent, who does not hold their shares of record, did or did not hold sufficient shares continuously throughout the applicable period. Based on the foregoing, and given that the Proponent failed to provide the required documentary support of his stock ownership within the required14-day period, he

has failed to comply with the requirements of Rules 14a-8(b) and 14a-8(f). Accordingly, the Proposal may properly be omitted from the Corporation's proxy materials for the 2012 Annual Meeting.

2. The Corporation may omit the Proposal pursuant to Rule 14a-8(i)(7) because it deals with a matter relating to the Corporation's ordinary business operations.

Rule 14a-8(i)(7) permits the omission of a stockholder proposal that deals with a matter relating to the ordinary business of a company. The core basis for exclusion under Rule 14a-8(i)(7) is to protect the authority of a company's board of directors to manage the business and affairs of the company. In the adopting release to the amended stockholder proposal rules, the Commission stated that the "general underlying policy of this exclusion is consistent with the policy of most state corporate laws: to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." *Exchange Act Release No. 34-40018* (May 21, 1998) ("*1998 Release*").

In evaluating proposals under Rule 14a-8, one must consider the subject matter of the proposal. Proposals are considered as dealing with ordinary business and excludable if they deal with matters "so fundamental to management's ability to run a company on a day-to-day basis that they could not, as practical matter, be subject to direct shareholder oversight." *1998 Release*. Additionally, one must consider the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which the stockholders, as group, would not be in position to make an informed judgment. "This consideration may come into play in a number of circumstances, such as where the proposal involves intricate detail . . . or methods for implementing complex policies." *Id.* As discussed below, the Proposal runs afoul of both of these considerations. Further, in order to constitute "ordinary business," the proposal must not involve a significant policy issue that would override its "ordinary business" subject matter, which the Proposal does not.

On its face, the Proposal purports to relate to the use of corporate funds for political activities. However, reading the Proposal together with the supporting statement, it is clear that the Proponent's primary concern is risk management, including the reputational and other risks associated with the Corporation's involvement in political activities. To the extent that the Proposal relates to the management of risk, the Proposal addresses matters that are at the heart of the day-to-day business operations of the Corporation. Accordingly, the Company believes that the Proposal may be excluded pursuant to Rule 14a-8(i)(7). *See e.g.*, *Morgan Stanley* (February 17, 2011) (finding a proposal excludable under Rule 14a-8(i)(7), the Division stated, "we note that the proposal relates to the manner in which [the company]

manages risk").

In Staff Legal Bulletin No. 14E (CF) (October 27, 2009) ("*SLB 14E*"), the Division stated that, in connection with the application of Rule 14a-8(i)(7) to proposals related to risk, it would no longer focus on whether a proposal relates to the company engaging in an evaluation of risk and instead would "consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company." *SLB 14E* provides that proposals related to risk are not excludable if the underlying subject matter transcends the day-to-day business of the company and raises policy issues so significant that it would be appropriate for stockholder vote, as long as a sufficient nexus exists between the nature of the proposal and the company. The Corporation does not believe that the Proposal raises issues so significant to the Corporation that it would be appropriate for a stockholder vote. Instead, the Corporation's risk and reputational management are ordinary business matters identified, evaluated and acted upon on a day-to-day basis.

A significant part of the Proposal's supporting statement addresses risk management and the risks that could result from the Corporation's political activities. For example, the supporting statement includes the following statements:

- "Political spending . . . is a highly contentious issue";
- "we expect even more media and public attention to corporate spending";
- "polls highlight the public's disapproval" of political spending;
- "corporations 'have too much influence over the political system . . .'";
- "political contributions can backfire on a corporation's reputation and bottom line";
- political contributions can bring "unwanted attention, consumer boycotts, and protests";
- customers "would shop elsewhere" if they disagreed with the political spending; and
- "[g]iven the risks and potential negative impact on shareholder value . . . ."

The Corporation recognizes that proposals relating to "general political activities" have not been found excludable by the Division. S*ee, e.g. Archer-Daniels-Midland Company* (August 18, 2010). However, where a portion of a proposal relates to matters that are both ordinary business and non-ordinary business, the Division has concurred that the entire proposal may be excludable under Rule 14a-8(i)(7). *See e.g., Medallion Financial Corp.* (May 11, 2004) (proposal requested the company to engage an investment bank to evaluate alternatives to enhance shareholder value related to "both extraordinary transactions and non-extraordinary transactions"); *E*Trade Group, Inc.* (October 31, 2000) (two out of four requests in the proposal related to ordinary business operations); *General Electric Co.* (February 10, 2000) (part of proposal related to choice of accounting methods was related to the company's

ordinary business operations); and *Wal-Mart Stores, Inc.* (March 15, 1999) (the Division noted that "although the proposal appears to address matters outside the scope of ordinary business, [one of the five paragraphs describing] matters to be included on the report relates to ordinary business operations").

Like the precedent above, the Proposal and supporting statement have a significant ordinary business component. While some parts of the Proposal and supporting statement relate to the Corporation's general political activities, other parts relate to the Company's ordinary business operations (i.e., risk and reputational management), and, thus, the entire Proposal is excludable under Rule 14a-8(i)(7). The Corporation believes that the Proposal read together with the supporting statement clearly address matters of risk and reputational management. Risk management is core to nearly all aspects of the Corporation's business. Indeed, the Corporation's management and employees deal with risk management on a day-to-day basis. The Corporation has an established Enterprise Risk Committee of its Board of Directors that is responsible for exercising oversight of senior management's identification of the material risks facing the Corporation and, except as allocated by the Board of Directors to another committee of the Board, oversight of senior management's management of, and planning for, the Corporation's material risks, including market risk, interest rate risk, liquidity risk, operational risk and reputational risk. The Enterprise Risk Committee's charter can be found online at the Investor Relations section of the Corporation's website: www.bankofamerica.com.

For the reasons stated above, the Corporation believes that the Proposal relates to activities central to the ordinary operations of the Corporation, and, therefore, is excludable under Rule 14a-8(i)(7).

CONCLUSION

On the basis of the foregoing and on behalf of the Corporation, we respectfully request the concurrence of the Division that the Proposal may be excluded from the Corporation's proxy materials for the 2012 Annual Meeting. Based on the Corporation's timetable for the 2012 Annual Meeting, a response from the Division by February 3, 2012 would be of great assistance.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at 704-331-7416 or, in my absence, Craig T. Beazer, Deputy General Counsel of the Corporation, at 646-855-0892. Thank you for your prompt attention to this matter.

Very truly yours,

/s/ Andrew A. Gerber

Andrew A. Gerber

cc: Shelley Alpern, Trillium Asset Management
Craig T. Beazer

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EXHIBIT A

See attached.

TRILLIUM ASSET MANAGEMENT
Investing for a Better World® Since 1982

Trillium Asset Management Corporation
www.trilliuminvest.com

November 30, 2011

Bank of America Corporation
Att'n: Corporate Secretary
Hearst Tower
214 North Tryon Street
NC1-027-20-05
Charlotte, NC 28255

Dear Secretary:

Trillium Asset Management Corp. ("Trillium") is an investment firm based in Boston specializing in socially responsible asset management. We currently manage approximately $900 million for institutional and individual clients.

I am hereby authorized to notify you of our intention to file the enclosed shareholder resolution with Bank of America Corporation on behalf of our client Stephen M. Schewel. Trillium submits this shareholder proposal for inclusion in the 2012 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8). Per Rule 14a-8, Stephen M. Schewel holds more than $2,000 of Bank of America Corporation common stock, acquired more than one year prior to today's date and held continuously for that time. Our client will remain invested in this position continuously through the date of the 2012 annual meeting. We will forward verification of the position separately. We will send a representative to the stockholders' meeting to move the shareholder proposal as required by the SEC rules.

We would welcome discussion with Bank of America Corporation about the contents of our proposal.

Please direct any communications to me at (617) 292-8026 ext. 248; Trillium Asset Management, 711 Atlantic Ave., Boston, MA 02111; or via email at salpern@trilliuminvest.com.

We would appreciate receiving a confirmation of receipt of this letter via email.

Sincerely,

Shelley Alpern
Director of Shareholder Advocacy
Trillium Asset Management, LLC

Cc: Brian T. Moynihan, President and Chief Executive Officer

Enclosures

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Larkspur, California 94939-1741
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800-933-4806

PROHIBIT POLITICAL SPENDING FROM CORPORATE TREASURY FUNDS

WHEREAS:

Political spending and corporate money in politics is a highly contentious issue, made more prominent in light of the 2010 *Citizens United* Supreme Court case that affirmed companies' rights to make unlimited political expenditures to independent groups. In the 2012 election year, we expect even more media and public attention to corporate spending to influence elections. Experts predict that an unprecedented amount of money will be spent in the 2012 election season.

Recent polls highlight the public's disapproval. In a June 2010 Harris poll, 85% of voters said that corporations "have too much influence over the political system today...." In February 2010, an ABC News/Washington Post poll found that 80% opposed *Citizens United*, noting, "the bipartisan nature of these views is striking in these largely partisan times."

Corporate political contributions can backfire on a corporation's reputation and bottom line. In 2010, Target and Valero received unwanted attention, consumer boycotts, and protests for their support of controversial candidates and ballot measures. In a Harris Poll released in October 2010, a sizable portion (46)% of respondents indicated that if there were option, they would shop elsewhere if they learned that a business they patronized had contributed to a candidate or a cause that they oppose.

According to the Institute for Money in State Politics, Bank of America's political spending on the state and federal levels totaled over $2.1 million in 2007-2008. However, this figure does not include payments to trade associations or other tax-exempt organizations that may channel corporate money to political ends.

Many trade associations that receive corporate contributions spend vast sums in electoral politics; these payments are not required to be disclosed. For example, the U.S. Chamber of Commerce pledged to spend between $50 and $75 million in the 2010 election season, and announced that it would work to unseat any member of Congress who voted for healthcare reform. According to Public Citizen, only 32% of groups broadcasting electioneering communications in the 2010 primary season revealed the identities of donors in their Federal Election Commission filings, down from nearly 100 percent in the 2004 and 2006 cycles.

Increasingly, companies such as IBM, Colgate Palmolive, Wells Fargo and others are adopting policies prohibiting spending of political funds directly or indirectly to influence elections.

Given the risks and potential negative impact on shareholder value, the proponents believe Bank of America should adopt a policy to refrain from using treasury funds in the political process.

RESOLVED:

The shareholders request that the board of directors adopt a policy prohibiting the use of corporate funds for any political election or campaign.

SUPPORTING STATEMENT:

We believe this policy should include any direct or indirect contribution that is intended to influence the outcome of an election or referendum. It should also prohibit the use of trade associations or non-profit corporations from channeling our company's contributions or membership dues to influence the outcome of any election or referendum.

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EXHIBIT B

See attached.

Legal Department

December 6, 2011

VIA OVERNIGHT DELIVERY

Ms. Shelly Alpern
Director of Shareholder Advocacy
Trillium Asset Management, LLC
711 Atlantic Avenue
Boston, MA 02111

Re: Shareholder Proposal of Stephen M. Schewel to Bank of America Corporation (the "Corporation")

Dear Ms. Alpern,

On December 1, 2011, we received your request on behalf of your client Stephen M. Schewel to include a stockholder proposal in the Corporation's 2012 annual proxy statement. In order to properly consider your request, and in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, as amended ("Rule 14a-8"), we hereby inform you of certain eligibility or procedural defects in your submission, as described below. For your convenience, I have included a copy of Rule 14a-8 with this letter. We note your request that all communications regarding Mr. Schewel's proposal be directed to you.

Although your cover letter indicates that Mr. Schewel owns more than $2,000 of the Corporation's common stock, his name does not appear on the books and records of the Corporation as a "record" owner. In accordance with applicable rules of the Securities and Exchange Commission ("SEC"), please send a written statement from the "record" holder of Mr. Schewel's shares verifying that at the time you submitted Mr. Schewel's proposal he held at least $2,000 in market value of the Corporation's common stock and had held such stock continuously for at least one year. Please note that the SEC's Division of Corporation Finance (the "Division") recently issued guidance regarding brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8. The Division's guidance states that only Depository Trust Company ("DTC") participants should be viewed as "record" holders of securities that are deposited at DTC. Please see the attached "Additional Information Regarding Proof of Ownership for Beneficial Owners." Please note that if we do not receive such documentation **within 14 calendar days of your receipt of this letter**, we may properly exclude Mr. Schewel's proposal from our proxy statement.

In asking you to provide the foregoing information on behalf of Mr. Schewel, the Corporation does not relinquish its right to later object to including Mr. Schewel's proposal on related or different grounds pursuant to applicable SEC rules.

Please send the requested documentation and revisions to my attention: Craig T. Beazer, Deputy General Counsel, Bank of America, 50 Rockefeller Plaza, New York, NY 10020. If you would like to discuss this matter with me, please call me at (646) 855-0892.

Sincerely,

Craig T. Beazer
Deputy General Counsel

Attachment

Additional Information Regarding Proof of Ownership for Beneficial Owners

The Securities and Exchange Commission's Division of Corporation Finance (the "Division") recently issued guidance regarding brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8. Beneficial owners generally hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders.

The Division stated that "[b]ecause of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC."

The Division's complete guidance can be found at: http://sec.gov/interps/legal/cfslb14f.htm. For your convenience, set forth below are relevant portions of the Division's guidance.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/downloads/membership/directories/dtc/alpha.pdf.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank. In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. The clearing broker will generally be a DTC participant

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d–101), Schedule 13G (§240.13d–102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a–8 and provide you with a copy under Question 10 below, §240.14a–8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

Note to paragraph (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S–K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a–21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a–21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific

factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a–6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010]

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EXHIBIT C

See attached.

TRILLIUM ASSET MANAGEMENT
Investing for a Better World® Since 1982

Trillium Asset Management Corporation
www.trilliuminvest.com

December 14, 2011

Via FedEx

OFFICE OF THE
DEC 15 2011
CORPORATE SECRETARY

Bank of America Corporation
Att'n: Corporate Secretary
Hearst Tower
214 North Tryon Street
NC1-027-20-05
Charlotte, NC 28255

Re: Request for verification

Dear Secretary:

Per your request and in accordance with the SEC Rules, please find the attached authorization letter from Stephen M. Schewel as well as letters from Charles Schwab Advisor Services and TD Ameritrade verifying Stephen M. Schewel's ownership of the position.

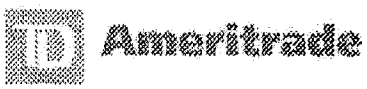
Please contact me if you have any questions at (617) 292-8026 ext. 248; Trillium Asset Management Corp. 711 Atlantic Ave., Boston, MA 02111; or via email at salpern@trilliuminvest.com.

Sincerely,

Shelley Alpern
Director of Shareholder Advocacy
Trillium Asset Management, LLC

Cc: Brian T. Moynihan, President and Chief Executive Officer

Enclosures



December 9, 2011

Stephen M. Schewel

FISMA & OMB Memorandum M-07-16

Re: TD Ameritrade account ending in ***FISMA & OMB Memorandum M-07-16***

To Whom It May Concern,

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that account ending in ***FISMA & OMB Memorandum M-07-16*** continuously held 23,811 shares of Bank of America (BAC) from December 03, 2009 to April 21, 2011.

If you have any further questions, please contact 800-669-3900 to speak with a TD Ameritrade Client Services representative, or e-mail us at clientservices@tdameritrade.com. We are available 24 hours a day, seven days a week.

Sincerely,

Jennifer Gatlin
Resource Specialist
TD Ameritrade

charles SCHWAB
ADVISOR SERVICES

1958 Summit Park Dr. Orlando, FL 32810

December 13, 2011

Re: Stephen Matthew Schewel Account ***OMB Memorandum M-07-16***

This letter is to confirm that Charles Schwab & Co. holds as custodian for the above account 3611 shares of common stock Bank of America. These 3611 shares have been held in this account continuously since April 21, 2011.

These shares are held at Depository Trust Company under the nominee name of Charles Schwab and Company.

This letter serves as confirmation that the shares are held by Charles Schwab & Co, Inc.

Sincerely,

Darrell Pass
Director

November 30, 2011

Shelley Alpern
Director of Shareholder Advocacy
Trillium Asset Management, LLC.
711 Atlantic Avenue
Boston, MA 02111

Fax: 617 482 6179

Dear Ms. Alpern:

I hereby authorize Trillium Asset Management Corporation to file a shareholder resolution on my behalf at Bank of America Corporation.

I am the beneficial owner of more than $2,000 worth of common stock in Bank of America Corporation that I have held continuously for more than one year. I intend to hold the aforementioned shares of stock through the date of the company's annual meeting in 2012.

I specifically give Trillium Asset Management Corporation full authority to deal, on my behalf, with any and all aspects of the aforementioned shareholder resolution. I understand that my name may appear on the corporation's proxy statement as the filer of the aforementioned resolution.

Sincerely,

Stephen M. Schewel
c/o Trillium Asset Management Corporation
711 Atlantic Avenue, Boston, MA 02111

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EXHIBIT D

See attached.

TD Ameritrade

Post-it® Fax Note 7671	Date 12-12-11	# of pages ▶
To Craig Bauer	From John Cheruiyot	
Co./Dept.	Co.	
Phone #	Phone ***FISMA & OMB Memorandum M-07-16***	
Fax # 704-409-0119	Fax #	

December 12, 2011

Kenneth Steiner

FISMA & OMB Memorandum M-07-16

Re: TD Ameritrade account ending in ***FISMA & OMB Memorandum M-07-16***

Dear Kenneth Steiner,

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that you have continuously held no less than 600 shares each of:

Allstate Corporation (ALL)
Bank of America Corporation (BAC)
JP Morgan Chase & Co. (JPM)
American International Group, Inc. (AIG)
Comcast Corporation (CMCSA)
Liz Claiborne, Inc. (LIZ)

in the TD Ameritrade Clearing, Inc., DTC # 0188, account ending in ***FISMA & OMB Memorandum M-07-16*** since November 03, 2010.

If you have any further questions, please contact 800-669-3900 to speak with a TD Ameritrade Client Services representative, or e-mail us at clientservices@tdameritrade.com. We are available 24 hours a day, seven days a week.

Sincerely,

Dan Siffring
Research Specialist
TD Ameritrade