Bank of America

September 4, 2009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attn: Docket No. OP-1362

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 2-3
Washington, DC 20219
Attn: Docket ID OCC-2009-0009

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn: Comments

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn: ID OTS -2009-0011

Re: Proposed Interagency Guidance – Funding and Liquidity Risk Management

Ladies and Gentlemen:

Bank of America Corporation appreciates the opportunity to submit this comment letter regarding the Proposed Interagency Guidance – Funding and Liquidity Risk Management, recently published in the Federal Register (the "Proposed Guidance"). Bank of America is one of the world's largest financial institutions, serving individual consumers, small and middle market businesses, and large corporations with a full range of banking, investing, asset management and other financial and risk-management products and services. Bank of America provides unmatched convenience in the United States, serving more than 59 million consumer and small business relationships with more than 6,100 retail banking offices, nearly 18,700 ATMs and award-winning online banking with nearly 29 million active users. The Proposed Guidance is of great consequence to Bank of America and its customers. Over the past two years, market events have illustrated the importance of liquidity and the effects of stress events on individual financial institutions and global financial markets. We welcome and support the release of the Proposed Guidance and the emphasis that the addressees of this comment letter (the "Agencies") have ascribed to proper liquidity risk management.

a. Overview

We believe it is essential that financial institutions develop and implement sound liquidity risk management policies and practices. The Proposed Guidance articulates principles and objectives that are consistent with safe and sound funding and liquidity risk management. However, the final guidance from the Agencies should endorse an essential principle to prudent liquidity risk management: the ability of institutions to centralize liquidity pools at the parent or holding company. In addition, the guidance should encourage firms to adopt a more dynamic contingency planning process to accommodate responses to rapid market movements, such as those experienced during the past two years. Sections b.1. and b.2. below address these issues in greater detail and suggest changes to the Proposed Guidance.

b. Specific Issues and Comments

1. *Centralization of Liquidity Pools*

Large, complex financial institutions have many subsidiaries engaged in an array of businesses across various global markets, requiring centralized coordination and management. The overall liquidity needs of an institution must be determined by assessing the liquidity needs across all subsidiaries and must incorporate limitations on inter-company liquidity transfers, including the limitations imposed by Section 23A of the Federal Reserve Act and Regulation W. Accordingly, we agree with the first sentence in Paragraph 21. and the principles set forth in Paragraph 22. of the Proposed Guidance. However, we have serious concerns about the second sentence in Paragraph 21., which states that "[s]eparately regulated entities will need to maintain liquidity commensurate with their own risk profiles on a stand-alone basis." This language suggests that each regulated entity affiliated with a parent financial institution will be required to separately maintain its own cushion of liquid assets. This requirement could have several unintended consequences.

Most significantly, total liquidity available to the institution during a time of stress could be reduced if the institution were unable to access and deploy liquidity where it is needed most. Large, complex financial institutions generally manage and maintain liquidity at the parent or holding company level and deploy these funds to subsidiaries as needed. Further cushions of liquid assets may be held at certain subsidiaries to the extent necessary or appropriate for regulatory or operational considerations. This strategy requires an understanding of the contractual obligations, contingent risks and limitations on the transferability of liquidity across the organization and at each subsidiary. Centralization allows an institution to efficiently deploy liquidity across the enterprise and reduces the risk that liquid assets will become "trapped" in subsidiaries where they may not be needed. This risk can become particularly acute in times of stress. During recent periods of severe stress, centralized liquidity pools played a key role in enabling institutions to meet their obligations and maintain market confidence, providing substantial benefits to the financial system.

Bank of America

We also believe that, over time, stand-alone liquidity requirements would discourage the use of separate operating subsidiaries, potentially reducing both the number of markets in which large financial institutions choose to compete and their product offerings to customers. Furthermore, institutions may need to reorganize businesses to comply with these requirements, creating undue burden and additional risks to the financial system. On the other hand, there are several additional benefits to centralizing liquidity at the holding company. Investment policies are coordinated, tighter supervision and control over liquidity management and policy enforcement is achieved, and the overall cost of maintaining liquidity is reduced.

The option to maintain centralized liquidity pools is critical to ensuring that large financial institutions possess the flexibility to access and deploy liquidity. Centralized liquidity pools facilitate superior and cost-effective liquidity management, enhancing safety and soundness. Stand-alone liquidity requirements would undercut these practices.

2. *Dynamic Approach to Contingency Planning*

The Proposed Guidance identifies a number of valuable strategies, policies and procedures that should be adopted by financial institutions as components of sound liquidity risk management. These include, *inter alia,* regular reporting, stress testing and model validation, limit setting, identifying and testing alternative liquidity sources and monitoring early warning indicators. These practices equip management with a robust toolkit for understanding a financial institution's liquidity position, identifying vulnerabilities and reacting accordingly.

The Proposed Guidance also properly emphasizes contingency planning, a component of sound liquidity risk management, and recommends that each financial institution adopt a Contingency Funding Plan ("CFP"). We agree with this recommendation. However, we believe that certain elements of the Proposed Guidance concerning CFPs are overly detailed and prescriptive and, as such, are inconsistent with prudent liquidity risk management. For example, the second bulleted paragraph within Paragraph 35. states:

> "The CFP should delineate the various levels of stress severity that can occur during a contingent liquidity event and identify the different stages for each type of event. The events, stages and severity levels identified should include temporary disruptions, as well as those that might be more intermediate term or longer-term. Institutions can use the different stages or levels of severity identified to design early-warning indicators, assess potential funding needs at various points in a developing crisis, and specify comprehensive action plans."

This excerpt suggests that a CFP should include a detailed matrix of stress events, time horizons, and severity levels, with corresponding action plans prescribed for various combinations of potential circumstances. This approach assumes that future stress scenarios, and the appropriate responses, can be accurately predicted. We believe this assumption is unrealistic, as demonstrated by the events of the past two years. Detailed pre-determined action plans may

Bank of America

prevent a dynamic response to stress events by either restricting actions to a prescriptive CFP or requiring frequent waivers or amendments to the CFP.

In our opinion, the role of a CFP is to identify the institution's liquidity vulnerabilities, identify and establish a monitoring plan for stress events, and require management to assess those events and proactively respond. The final guidance should encourage financial institutions to adopt a CFP that requires regular stress modeling, identifies and tests sources of contingent liquidity, and provides management with flexibility to manage liquidity stress events in a dynamic fashion. A CFP should be updated periodically to reflect prevailing market conditions, company-specific business activities and the results of regular stress testing. We believe this approach is most consistent with safe and sound practices. We also believe that regulators and other constituents should gain comfort through these ongoing, robust processes.

We appreciate the opportunity to comment on the Proposed Guidance. If any of the Agencies or their respective staff have any questions regarding the comments contained herein, we would be happy to address them.

Sincerely,

Gregory A. Baer
Deputy General Counsel – Corporate Law