October 7, 2019

Technical Director
File Reference No. 2019-770
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Re: Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting

Dear Technical Director:

We appreciate the opportunity to comment on the Proposed Accounting Standards Update, Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting (the Proposal). Bank of America Corporation provides a diverse range of banking and non-banking financial services and products domestically and internationally. As one of the world’s largest financial institutions, we are very focused on the efforts of the Financial Accounting Standards Board (the FASB or the Board) to ease the potential burden of accounting for the necessary actions needed to transition from LIBOR, or other reference rates, that are expected to be discontinued due to reference rate reform. As described in our responses to the questions put forth by the Board (refer to Appendix A), we are strongly in support of the proposed targeted and principles-based relief and commend the Board on its proactive approach to this topic.

We do believe the Board could provide enhanced language that emphasizes the Proposal should be applied using a principles-based approach. We are concerned there is potential that the application of the final standard could result in a form-based application based specifically on the examples provided therein, which would alleviate much of the relief the Proposal is trying to provide. We also expect that as transition activities advance that additional accounting and reporting issues may continue to arise that have not yet been contemplated and that the final standard should be written to allow preparers to account for those items without additional standard setting. Overall, our recommendations are intended to ensure that the final standard is based on a broad principles-based framework that can be continually applied as reference rate reform advances without the need to address all future issues through additional standard-setting.

We welcome the opportunity to express our views in this letter. Should you have any questions, please contact Chris Ackerlund (980.386.3025) or me (980.387.6061).

Sincerely,

Michael Tovey
Corporate Controller

Cc: Rudolf Bless, Chief Accounting Officer
    Chris Ackerlund, Accounting Policy Executive
Appendix A

The following are our responses to the questions posed by the FASB.

General

Question 1 – Costs and Complexities: Are the amendments in this proposed Update operable and auditable? If not, which proposed amendment(s) pose operability or auditability issues and why?

Yes, we agree that the amendments in the Proposal are operable and auditable. However, we believe that a stronger emphasis by the Board that the relief should be applied on a principles-based approach versus a form-based approach would further reduce preparer concerns. For example, there may be difficulty in determining whether certain changes in critical terms that occurred during transition are or are not solely related to reference rate reform, as described in ASC 848-20-15-5 and 15-6. While the Board has noted that the enumerated list of examples does not comprise an all-inclusive list, we believe that without the Board emphasizing its principles-based intent, preparers may face challenges in evidencing that certain changes are directly related to reference rate reform. Such challenges may still result in burdensome contract reviews and analysis which, in certain instances, would militate against the Board’s intended relief.

We believe that a principle could be incorporated within the guidance in ASC 848-20-15-5 through 15-6 such that the example terms listed are presumed to be related (or unrelated) to reference rate reform unless substantive evidence exists to the contrary. This presumption will increase the ease of application and the auditability while simplifying the documentation needed to support that the scoping criteria have been met for individual contracts. For cash products, it is expected that a risk spread will be added to reflect a change from LIBOR to the Secured Overnight Financing Rate (SOFR) and that the spread will differ from contract to contract for various reasons, e.g., timing of change, contract type, etc. Given the potential differences between individual contracts, auditors may require preparers to prove the new spreads are related solely to reference rate reform and do not contain any element of change in a counterparty’s credit spread. This has the potential to require quantitative analysis to substantiate small basis point differences to auditors that would be significantly burdensome to preparers.

Question 2 – Additional Issues: Are there additional accounting issues or optional expedients related to reference rate reform that the Board should consider? Please be as specific as possible and explain why those issues require consideration.

We are pleased with the Proposal and have not identified additional accounting issues or optional expedients that should be considered. However, as noted in our response to Question 1, we suggest the Board consider adjusting some of the wording in the Proposal to emphasize that the relief should be applied through a principles-based approach to ensure future issues that are not yet contemplated can be resolved expeditiously without requiring additional standard setting.
Contract Modifications

Question 3 - Expedients: Do you agree with the proposed expedients for the accounting for contract modifications? If not, please explain which proposed amendment(s) you disagree with and why.

Yes, we agree with the proposed expedients for the accounting for contract modifications. However, we would reiterate our responses above that a presumption-based principle be emphasized within the guidance. In addition to the considerations for related terms, this principle will allow for preparers in certain situations to overcome the presumption that the terms enumerated in ASC 848-20-15-6 are unrelated. These scenarios would include both minor changes as described in paragraph 30 of the Basis to Conclusion of the Proposal as well as a scenario where a term is initially believed to be unrelated, but subsequently determined to be related and documented as such.

Question 4 – Election Level: Do you agree that the optional expedients for contract modifications should be applied at the relevant Topic, Subtopic, or Industry Subtopic level? If not, what alternative do you suggest and why?

Yes, we agree that the proposed optional expedients for contract modifications should be applied at the relevant Topic, Subtopic, or Industry Subtopic level.

Hedge Accounting

Question 5 – Change in Critical Terms: Do you agree with the proposed exceptions to the requirement in Topic 815 to redesimize a hedging relationship for a change in critical terms of the hedging relationship? If not, please explain which proposed amendment(s) you disagree with and why.

Yes, we agree with the proposed exception to the requirement in Topic 815 to redesignate a hedging relationship for a change in critical terms of the hedging relationship. Such exception is critical to the principle of viewing contracts that have been updated as a result of reference rate reform as a continuation of the original contract.

Question 6 – Fair Value Hedges: Do you agree with the proposed optional expedients for fair value hedge accounting? If not, please explain which proposed amendment(s) you disagree with and why.

Yes, we agree with the proposed expedients for fair value hedge accounting.

Question 7 – Cash Flow Hedges: Do you agree with the proposed optional expedients for cash flow hedge accounting? If not, please explain which proposed amendment(s) you disagree with and why.

Yes, we agree with the proposed expedients for cash flow hedge accounting.
Question 8 - Election Level: Do you agree that the proposed exceptions and optional expedients related to hedge accounting should be applied on an individual hedging relationship basis? If not, please explain why.

Yes, we agree that the proposed exceptions and optional expedients related to hedge accounting should be applied on an individual hedging relationship basis.

Disclosures

Question 9 – Contracts or Holdings: What quantitative and qualitative disclosures should be provided to help users understand a reporting entity’s current contracts or holdings (as of the reporting date) that are affected by reference rate reform? For financial statement preparers, what costs would be incurred in providing these disclosures? For financial statement users, what alternative sources of information would be used if a reporting entity does not provide any quantitative and qualitative disclosures? What costs would be incurred to obtain quantitative and qualitative information to better understand a reporting entity’s exposure to reference rate reform? Should the quantitative and qualitative disclosures, if any, have a termination date after December 31, 2022? If not, when should such disclosures expire and why?

While we are supportive of the qualitative disclosures prescribed in the Proposal, we do not believe that providing quantitative disclosures surrounding a reporting entity’s inventory of current holdings that could be affected by reference rate reform would provide significant value to users of the financial statements. As the Proposal results in the change from IBOR to a new reference rate being an continuation of the accounting for the financial instruments, i.e., a continuation of business for the current holdings, we believe that users will be most interested in the impact of reference rate reform on an entity’s interest rate risk exposure and future earnings. We believe this information is more appropriate for and will be captured through the existing MD&A disclosure requirements pertaining to risks, including an entity’s interest rate sensitivity disclosures, and SAB 74 disclosures.

If a requirement was added to disclose quantitative information, including compiling all contracts and their notional balances in which the relief in the Proposal was applied, there would be costs associated with gathering and reconciling the information, creating internal control process and review procedures to ensure all applicable amounts were captured and auditable. As current financial reporting systems are not currently designed to wholly capture these types of amendments and change, it is likely that quantitative disclosure requirements could precipitate manual data capture and reporting processes that would require significant time investment. In addition, we do not know how a user would use this information in analyzing the impact of the reference rate reform on the reporting entity (for the reasons described above). As it is unclear how a user would benefit from the quantitative information, we believe the costs of providing such information would outweigh the value derived for the users and negate much of the benefit of the operational relief provided by the optional expedients.
**Question 10 – Hedge Accounting**: What quantitative and qualitative disclosures should be provided to help users understand the financial reporting effects of expedients elected by a reporting entity? For financial statement preparers, what costs would be incurred in providing these disclosures? For financial statement users, what costs would be incurred if a reporting entity does not provide any quantitative and qualitative disclosures to help financial statement users understand the financial reporting effects of any hedge accounting expedients elected?

We are supportive of the qualitative, transition disclosure as outlined in our response to Question 11. However, we do not believe any additional qualitative or quantitative disclosures would add significant value as they would be representative of business as usual results. As a reporting entity transitions to new reference rates, we would expect those rates to be incorporated in their ongoing interest rate risk management. Providing disclosures specific to the transitioned contracts would be presenting information on a portion of its ongoing activities and provide information to users that would be difficult to interpret. Given the nature and spirit of the relief, that IBOR impacted contracts or hedge relationships should be viewed as a continuation of the original contract. Further, we believe users would be most concerned with forward-looking risk-related disclosures, which are already required by SEC rules to be disclosed in the MD&A. Consistent with our response to Question 9, new quantitative disclosures would require significant costs to either reconfigure current reporting systems or implement manual processes that would need to be weighed against any perceived benefits from new disclosures.

**Question 11 - Transition**: Do the proposed transition disclosure requirements provide decision-useful information? If not, what would you recommend and why?

We believe that the transition-related disclosures of qualitatively discussing the nature and reason for electing the optional expedients, in conjunction with other SEC disclosure requirements, provide users with sufficient knowledge of the impact of transition on an entity.

**Transition and Termination Date**

**Question 12 - Transition**: Do you agree that the proposed optional expedients should be applied on a prospective basis upon election? If not, what alternative do you suggest and why?

Yes, we believe that the proposed optional expedients should be applied on a prospective basis when an entity elects the optional expedients.
Question 13 – Termination Date: Do you agree that the proposed amendments should not apply to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022? If not, when should the proposed amendments expire and why?

As noted in our remarks above, we appreciate and are very supportive of the Board providing broad-based relief to address the accounting impacts of reference rate reform. We understand that many Board members view a sunset provision as a check against any potential abuse of the relief provided. While a December 31, 2022 sunset provision may be sufficient from a USD LIBOR standpoint, there is still uncertainty surrounding the transition timing of other global interbank offered rates. As such, we believe a fixed sunset date may not allow the requisite flexibility and purpose of the transition relief, particularly for US GAAP reporting entities that have a global footprint. To address this concern, we recommend having a separate sunset provision for global IBORs that may have a later date. For example, a sunset provision of one year after the official retirement of a global IBOR. We acknowledge the Board’s statement in BC 9 and BC 85 that it will consider if any future developments warrant any changes to the proposed guidance, and applaud this commitment. We believe this commitment, in conjunction with separate sunset provisions for US and global rates, will provide the appropriate equilibrium of having broad, flexible relief while still having a balance check in place.