Bank of America

March 30, 2009

Mr. Russell Golden Technical Director Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116



LETTER OF COMMENT NO.

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Re: File Reference: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b

Dear Mr. Golden:

Bank of America appreciates the opportunity to comment on the Proposed FASB Staff Position No. FAS 115-a, FAS 124-a, and EITF 99-20-b, *Recognition and Presentation of Other-Than-Temporary Impairments (OTTI)* (the proposed FSP). Bank of America is one of the world's largest financial institutions providing a diverse range of financial services and products. Bank of America supports your mission to continue providing relevant and meaningful information to investors and other users of financial statements. We also commend your willingness to expedite the issuance of revised OTTI guidance given the impact that OTTI has on the reported financial results and capital of many financial services companies, the current state of the economy and the politically-charged environment.

Bank of America supports the proposed FSP and believes it represents an improvement to the accounting guidance for OTTI as it relates to debt securities. We believe that the proposed FSP makes a significant improvement in the OTTI guidance by requiring only that credit losses on debt securities be recognized in earnings when the entity does not intend to sell the security or it is more likely than not that it will not be required to sell such security. This approach brings the loss recognition criteria more in line with that of a loan which we believe results in better consistency in the accounting models for similar type instruments and is also more reflective of the true economics related to any expected losses on the underlying debt security. We also believe that the proposed FSP will be operational for debt securities.

The proposed FSP also includes equity securities within its scope but does not provide any significant guidance on such securities. Given this, we believe that some will conclude that the OTTI guidance for equity securities has not changed other than the replacement of the language related to the positive intent and ability to hold to recovery included in current guidance with the intent to sell or more likely than not that an entity will be required to sell the equity security language included in the proposed FSP. Others, however, will rely on the guidance included in paragraphs 11 to 18 (the standards section) of the proposed FSP which could lead to a conclusion that an entity is not required to recognize an OTTI if it does not plan on selling the security or it is more likely than not that the entity will not be required to sell the security. Additional clarity on the application of the OTTI guidance on equity securities would be helpful. Accordingly, we recommend that the Board consider integrating the SEC Staff Accounting Bulletin Topic 5M, Other Than Temporary Impairment of Certain Investments in Debt and Equity Securities, guidance into the proposed FSP which would allow the SEC staff to rescind that guidance in its entirety. As this is done, we would suggest that consideration be given for the need to provide additional guidance addressing the expected recovery period for an equity security. Currently, practice is somewhat mixed on this point but we believe most entities look generally to a recovery period of 12 to 24 months for purposes of determining whether an OTTI should be recorded on an equity security if certain other criteria are also met. Given the current market environment, we believe that the recovery period should include consideration of whether an impaired equity security will recover its value over a typical business cycle, which may be up to five years or more. For example, assume an entity purchased shares in all companies included in the S&P 500 in June of 2007. Based on current practice, that entity would most likely have to record an OTTI on substantially all those companies in 2009, even though common

sense would indicate that not all those companies are other-than-temporarily impaired, and the value declines are primarily related to stock market fluctuations. We support the proposed FSP because we believe it is principle-based and allows for reasonable judgment.

For a debt security that is being held-to-maturity (HTM), Bank of America disagrees with the requirement to include the non-credit component of an OTTI in accumulated other comprehensive income (AOCI). Otherwise, the carrying value of the security and the amount in AOCI on subsequent balance sheets represent non-meaningful information. Since the non-credit portion is considered temporary, we believe a more appropriate treatment is to not record that amount as a reduction in value of a HTM asset. Amortizing an AOCI portion will result in unnecessary bookkeeping that would merely be calculating and reporting an extraneous amount.

The proposed effective date is operational for Bank of America, and pending issuance of the final version, we intend to adopt it for our quarter ending on March 31, 2009. Nevertheless, we understand that the guidance may alter the valuation methodologies for other preparers. Therefore an effective date of periods ending after June 15, 2009 with earlier adoption permitted would provide flexibility to entities which are unable to implement the proposed FSP for the first quarter of 2009.

We understand the urgency to finalize this proposed FSP and acknowledge that all issues associated with OTTI cannot be addressed at this time. As the FASB works jointly with the IASB to reduce the complexity in accounting for financial instruments, we suggest convergence with IAS 39, *Financial Instruments*, paragraph 65, which permits the reversal of OTTI charges through earnings to the extent that fair value subsequently recovers.

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Bank of America appreciates the opportunity to express our views in this letter. Should you have any questions, please feel free to contact Randall Shearer at 980-388-8433 or me at 980-387-4997.

Sincerely,

John M. James

Senior Vice President and

Corporate Controller

cc: Craig R. Rosato, Chief Accounting Officer Randall J. Shearer, Accounting Policy Executive