



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
May 31, 2006

Sharon Katz, Esq.
Davis Polk & Wardwell
450 Lexington Avenue
New York, N.Y. 10017

Re: In the Matter of Certain Auction Practices File No. HO-9954
**Bank of America Corporation – Waiver Request of Ineligible Issuer Status
under Rule 405 of the Securities Act**

Dear Ms. Katz:

This is in response to your letter dated April 19, 2006, written on behalf of Bank of America Corporation (Company) and its subsidiary Bank of America Securities (BAS) and constituting an application for relief from the Company and BAS being considered “ineligible issuers” under Rule 405(1)(vi) of the Securities Act of 1933 (Securities Act). The Company and BAS each request relief from being considered an “ineligible issuer” under Rule 405, due to the entry on May 31, 2006, of a Commission Order (Order) pursuant to Section 8A of the Securities Act and Section 15(b) of the Securities Exchange Act of 1934, naming BAS as a respondent. The Order finds, among other things, that BAS violated Section 17(a)(2) of Securities Act and requires that BAS cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act.

Based on the facts and representations in your letter, and assuming the Company and BAS will comply with the Order, the Commission, pursuant to delegated authority has determined that the Company and BAS have made a showing of good cause under Rule 405(2) and that the Company and BAS will not be considered ineligible issuers by reason of the entry of the Order. Specifically, we determined under these facts and representations that the Company and BAS have shown that the terms of the Order were agreed to in a settlement prior to December 1, 2005. Accordingly, the relief described above from the Company and BAS being ineligible issuers under Rule 405 of the Securities Act is hereby granted. Any different facts from those represented or non-compliance with the Order might require us to reach a different conclusion.

Sincerely,

A handwritten signature in cursive script that reads "Mary Kostelitz".

Mary Kostelitz

Chief, Office of Enforcement Liaison
Division of Corporation Finance

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SHARON KATZ
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April 19, 2006

Re: **In the Matter of Certain Auction Rate Securities Practices, File No. HO-09954**

Mary Kosterlitz, Esq.
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-7553

Dear Ms. Kosterlitz:

We submit this revised letter on behalf of Bank of America Corporation (“**BAC**”), a reporting company registered under Section 12 of the Securities Exchange Act of 1934, as amended, and its affiliate Banc of America Securities LLC (“**BAS**”), a wholly owned subsidiary of BAC. We hereby respectfully request a waiver of any “ineligible issuer” status that may arise pursuant to Rule 405 (“**Rule 405**”) under the Securities Act of 1933 (as amended, the “**Securities Act**”) in connection with the anticipated administrative action by the Commission against BAS in the above-captioned matter.

As amended by the recent Securities Offering Reform Act, the Securities Act provides certain benefits for “well-known seasoned issuers” in connection with the registration process. The Securities Act also permits certain issuers to use a “free writing prospectus” after a registration statement is filed to communicate information about a registered offering of securities. *See* Rule 164 and Rule 433 under the Securities Act. These benefits, however, are unavailable to issuers defined as “ineligible issuers” pursuant to Rule 405.

Rule 405 defines an “ineligible issuer” to include an issuer whose subsidiary was the subject of any administrative decree or order that “[p]rohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws” or that requires the person to “cease and desist from violating the anti-fraud provisions of the federal securities laws.” BAS understands that its settlement with the Commission may subject BAS and its parent company, BAC, which is an SEC Registrant, to “ineligible

issuer" status (the "**Disqualification**"). For the reasons provided below, BAS and BAC hereby request that the Commission waive the Disqualification to the extent that it may apply to BAS and BAC, effective upon entry of the Settlement Order discussed below. It is our understanding that the Division of Enforcement does not object to the grant of the requested waivers by the Division of Corporation Finance.¹

BACKGROUND

The Commission Staff and BAS have entered into a settlement in connection with the above-referenced matter. This agreement provides for a Cease and Desist Order (the "**Settlement Order**"). The Settlement Order alleges that, in connection with BAS's auction rate securities practices, BAS violated Section 17(a)(2) of the Securities Act. BAS has consented to the entry of such order, while neither admitting nor denying the allegations in such order (apart from jurisdiction). Additionally, BAS will pay seven hundred fifty thousand dollars in settlement of the matters addressed in the Settlement Order, and comply with the undertakings set forth therein.

DISCUSSION

BAS understands that entry into the Settlement Order could render it and BAC "ineligible issuers" in accordance with Rule 405 of the Securities Act and subject them to the Disqualification. The Commission has the authority to waive the "ineligible issuer" classification upon a showing of good cause that such classification is not necessary under the circumstances.

For the following reasons, BAS and BAC hereby request a waiver, effective upon entry of the Settlement Order, of any Disqualification that may arise under Rule 405 as a result of the entry of the Settlement Order:

1. BAS and the staff had agreed in principle to a settlement prior to December 1, 2005 (the effective date of Rule 405). We understand that the Division of Enforcement concurs.
2. Under such circumstances, BAS should be treated as if it were the subject of an order to a settlement prior to December 1, 2005.

In light of the foregoing considerations, there is good cause to determine that neither BAC nor BAS should be considered an "ineligible issuer" within the

¹ We understand that the Commission has delegated authority to grant this waiver to the Division of Corporation Finance.

Mary Kosterlitz, Esq.

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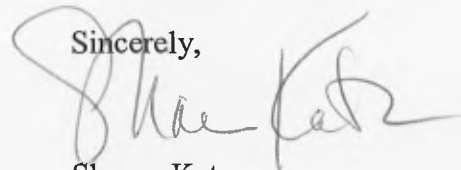
April 19, 2006

meaning of Rule 405. *See MetLife, Inc.*, 2006 SEC No-Action Letter, LEXIS 239 (Feb. 21, 2006).

* * * * *

If you have any questions concerning this request, please feel free to call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Katz".

Sharon Katz

cc: Kenneth R. Lench, Esq.
Assistant Director
Division of Enforcement
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-8549