

Bank of America Corporation
Bank of America Corporate Center
100 North Tryon Street
Charlotte, NC 28255

December 11, 2008

Merrill Lynch & Co. Inc.
4 World Financial Center
250 Vesey Street
New York, NY 10080
Attention: Rosemary T. Berkery

Ladies and Gentlemen:

Reference is hereby made to the Agreement and Plan of Merger (the "Agreement") dated as of September 15, 2008 by and between Merrill Lynch & Co., Inc. ("Company") and Bank of America Corporation ("Parent"). Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Agreement.

Our understanding is that VICP awards in respect to performance year 2008 (including without limitation any guaranteed VICP awards for 2008 or any other pro rate or other 2008 VICP awards payable, paid or provided to terminating or former employees will not exceed \$3.57 billion in aggregate value (inclusive of cash bonuses and the grant date value of long-term incentive awards) less any 2008 incentive compensation value (other than any value in respect of any replacement cash or long-term incentive awards) in respect of the New Hire Cash Compensation Pool. We further understand that the 2008 expense associated with these awards will not exceed \$3.27 billion less any 2008 incentive compensation expense (other than any expense in respect of any replacement cash or long-term incentive awards) in respect of the New Hire Cash Compensation Pool. Assuming our understanding is correct, Parent hereby consents to the allocation of such awards between cash and stock at the ratio of 70% cash and 30% stock, provided that the awards shall conform with all other terms and conditions provided for in the Disclosure Schedules to Sections 5.2(b)(iii), 5.2(c)(i) and 5.2(c)(ii) of the Merger Agreement.

Very truly yours,

BANK OF AMERICA CORPORATION

By: _____
E. Randall Morrow
Senior Vice President